

1 Tuesday, 18 July 2023

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 Good morning, everyone. Today we will conclude the testimony of
12 Witness 04746 and start the testimony of 02153.

13 I note that Mr. Thaci, Mr. Veseli, Mr. Selimi, and Mr. Krasniqi
14 are all present in court.

15 Madam Court Usher, please bring the witness in.

16 [The witness takes the stand]

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

18 Today, Witness, with some luck, we're going to finish your
19 testimony. I'm sure you're glad to hear that. We will begin with
20 the continuation of Judge Mettraux's questioning of you, and then we
21 will move on through the rest of the questions this morning. So
22 please give them your attention.

23 Judge Mettraux, you have the floor.

24 JUDGE METTRAUX: Thank you, Judge Smith.

25 WITNESS: W04746 [Resumed]

Witness: W04746 (Resumed) (Open Session)
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1 [Witness answered through interpreter]

2 Questioned by the Trial Panel: [Continued]

3 JUDGE METTRAUX: And good morning, Mr. Mustafa.

4 A. Good morning.

5 JUDGE METTRAUX: I have three areas of questioning that I still
6 want to go through with you. The first one is this.

7 I was a bit confused yesterday in respect of some of the
8 responses you gave about your understanding of the chain of command,
9 so I just want you to clarify things for me. The first one is this:
10 Do you accept that during the relevant period, 1998 to the summer of
11 1999, you were subordinated - you, being the zone - were being
12 subordinated to the General Staff. Do you accept this?

13 A. Yes.

14 JUDGE METTRAUX: And using, perhaps, your words, but do you
15 accept the suggestion that, in effect, the operational zone was the
16 second level in the chain of command subordinated to the first level
17 with -- which was the General Staff? Do you accept that?

18 A. Is the first operative level. And above it, it had the
19 General Staff, which was in the process of being consolidated.

20 JUDGE METTRAUX: Thank you.

21 Now I want to ask you about something else. That's a document
22 that you were shown last week on 12 July. That's page 5586, if
23 that's of assistance. And I'll ask the Registry to please bring it
24 up. That's SITF00069163, please. And the Albanian would be
25 SITF00243091 to SITF00243150. And the page for the Albanian version,

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1 maybe for the Registry, would be at 43130. Thank you.

2 Do you recall, sir, being shown this document last week?

3 A. Yes.

4 JUDGE METTRAUX: And it's a list of people who were in detention
5 within your zone during the relevant time. And if you look at it, in
6 the English or in the Albanian version, it has a number of columns
7 with information about each of these individuals - who brought them
8 in, when they were first detained, when they were released, and so on
9 and so forth. Do you see that?

10 A. Yes.

11 JUDGE METTRAUX: Now, I want to ask you specifically about one
12 page in this document. And in the English, it would be SITF00069167,
13 and in the Albanian version that would be ending with 3138, please.
14 Thank you.

15 If I can ask you first to focus on the individual under number
16 40, 4-0. If we can scroll a bit to the right in the Albanian
17 version, if it's possible. It's not very clear on the screen, sir,
18 but I'll tell you what the English says.

19 It says that number 40, 4-0, was brought by:

20 "A part of the KLA - Gollapit."

21 Could you tell us what that stands for?

22 A. This refers to the unit which brought the person in. This is
23 Brigade 153. So the person was brought in by members of Brigade 153
24 from the villages surrounding Prishtine in the area of Gallap.

25 JUDGE METTRAUX: Thank you. And the next ones, from 41 to 45,

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1 their detention was ordered by the information sector or the
2 intelligence sector of your zone; is that correct?

3 A. It reads here that, yes.

4 JUDGE METTRAUX: And if we go, please, to the right of number
5 41. And in the English as well. Thank you.

6 It says that the first of these individuals "came by
7 invitation." Does that mean in practice that he was served a summons
8 and that he came in response to that? Is that a correct
9 understanding?

10 A. It could -- it might have been a simple invitation for them to
11 report to the KLA base or at the closest KLA unit, the first one they
12 could find.

13 JUDGE METTRAUX: Does that mean that there were two types of
14 documents, invitation and summons, or is an invitation the same as a
15 summons?

16 A. It's the same thing. There were oral invitations transmitted
17 through a second person or other different persons, but these were
18 ordinary summonses or invitations that we sent to anyone we wanted to
19 see.

20 JUDGE METTRAUX: And the next four individuals under number 42,
21 43, 44, and 45, they were brought in by SHIK and the military police;
22 correct?

23 A. Yes, Your Honour. I indicated earlier that the staff command
24 members and everyone at the brigade level had the right to bring
25 people in.

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1 JUDGE METTRAUX: Now, I want to ask you about a last document.
2 And I'll ask the Registry to please bring up what is Exhibit P104.

3 So I'll let you acquaint yourself with the first page. I do not
4 think that you would know the first page, but just acquaint yourself
5 with it so that you know what the context is. And let me know when
6 you've finished reading it.

7 A. I read the document.

8 JUDGE METTRAUX: Can we please go to the next page now. And
9 then to the next one.

10 So now what we have here that was seized from SHIK, the state
11 security services of Kosovo, is a list of suspected or, actually, in
12 this case, cooperators, it's translated, from the area of
13 responsibility of your zone of Podujeve.

14 First up, maybe I'll ask you this: Do you know any of the
15 individuals on that list, in the sense that you recognise any names
16 on that list?

17 A. No, Your Honour. I don't.

18 JUDGE METTRAUX: So Alush Kastrati, Osman Sinani, Hetem Jashari,
19 doesn't ring a bell?

20 A. No, nothing.

21 JUDGE METTRAUX: So you don't know any of them as having been
22 detained under your authority, sir?

23 A. No, I don't know that they were detained. They might have been
24 detained, but they -- I can't recognise or remember anything in this
25 regard.

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1 JUDGE METTRAUX: Well, let me ask you this then: Do you know of
2 this document?

3 A. No, Your Honour.

4 JUDGE METTRAUX: And do you know who within your zone would have
5 been in a position to collect that information?

6 A. I don't believe this is -- this document was drafted -- is
7 contemporaneous to the KLA in my zone.

8 JUDGE METTRAUX: And what makes you say that, sir?

9 A. You are saying that this document was recovered after the war by
10 UNMIK in the offices of SHIK. These documents have nothing to do
11 with the wartime period.

12 JUDGE METTRAUX: So if I understand your evidence properly, it's
13 SHIK after the war that post facto created a list of cooperators in
14 your zone. Is that your evidence?

15 A. I cannot say that. I don't know. But you are saying that these
16 documents were recovered by the UNMIK police, and my position is that
17 this document is unknown to me and has nothing to do with the Kosovo
18 Liberation Army.

19 JUDGE METTRAUX: Well, let me put it that way to you, sir: Do
20 you accept that the person within your operational zone and, in fact,
21 within your zone command who would have had that information is
22 Latif Gashi; isn't that right?

23 A. I have no knowledge about this time or the information available
24 to Mr. Latif Gashi.

25 JUDGE METTRAUX: But you do know, sir -- and I think I can read

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Questioned by the Trial Panel (Continued)

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1 back your own statement. But you do know that one of his tasks was
2 to collect information about collaborators within your zone. You do
3 accept that, right?

4 A. Yes, for the time period that he was under the command -- the
5 zone command of the KLA.

6 JUDGE METTRAUX: And was there anyone else within your zone
7 command who would have had that information other than Mr. Gashi?

8 A. With respect to the information we're referring to, I don't
9 know. With regard -- concerning information that Mr. Gashi had or
10 other command members had, we also knew that information. We reached
11 a point in time where we could not preserve any longer documents and
12 as a result of which it was -- it is possible that portions or part
13 of these documents could be found in anyone's place. All command
14 staff members have seen parts of these documents.

15 JUDGE METTRAUX: But you just told me a minute ago, sir, that
16 you were not acquainted either with the document or with any of the
17 individuals there as the commander of the zone; is that right?

18 A. I am not -- I was not referring to this document in specific. I
19 was referring to documents of this nature.

20 JUDGE METTRAUX: So are you saying that you are aware of this
21 document? You were aware at the time of the existence of this
22 document now?

23 A. Your Honour, I am aware that there were similar documents,
24 documents of this nature, not this type of document.

25 JUDGE METTRAUX: So now let's have this hypothetical, since you

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1 now say you know of similar documents. Now, assuming that this
2 document was sent to the General Staff, who would have been
3 responsible to share that information with the General Staff? Was it
4 you or was it someone else?

5 A. There -- no such information was ever sent to the General Staff.

6 JUDGE METTRAUX: So let me put to you something that Fatmir
7 Humolli, your head of morale, said. Well, first let me ask you this:
8 Is it right that Fatmir Humolli was the uncle of Mr. Hyzri Talla? Do
9 you know that?

10 A. Yes.

11 JUDGE METTRAUX: And Hyzri Talla being the subordinate of
12 Mr. Gashi; yes?

13 A. He worked together with Mr. Gashi. Right.

14 JUDGE METTRAUX: And what Mr. Humolli said is that the person
15 who would communicate information about collaborators to the
16 General Staff was Mr. Latif Gashi. Do you know anything about that,
17 or was this happening without your knowledge?

18 A. I never knew about this.

19 MR. EMMERSON: Can I -- I can't restrain myself any further.
20 I'm sorry. Was this -- do you know about that or was it happening
21 without your knowledge. On what basis is it suggested that it was
22 happening at all?

23 JUDGE METTRAUX: Well, Mr. Emmerson, do you want me to read the
24 statement of Mr. Humolli?

25 MR. EMMERSON: No, no, there is no evidence that this was

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1 happening.

2 JUDGE METTRAUX: Well, the proposition is put to him --

3 MR. EMMERSON: That they have different recollections.

4 JUDGE METTRAUX: Well, thank you, Mr. Emmerson [Overlapping
5 speakers] ...

6 MR. EMMERSON: With respect, if these questions were being asked
7 across the floor, there would be objections flying in every
8 direction.

9 PRESIDING JUDGE SMITH: But they aren't being asked from across
10 the floor.

11 MR. EMMERSON: I accept that, but nonetheless, there is a
12 responsibility on judicial questioning to keep it -- to avoid this
13 level of partisanship.

14 PRESIDING JUDGE SMITH: Please be seated.

15 JUDGE METTRAUX: So, sir, I'll ask the question again.

16 Mr. Mustafa, do you have any reason to question the account that
17 Mr. Humolli is giving? He is saying -- and I can quote for you if
18 you want the exact words of Mr. Humolli. He is saying that the
19 person whose responsibility it was within your zone to inform the
20 General Staff about collaborators and information that had been
21 gathered was with your head of intelligence, Mr. Latif Gashi.

22 Now, do you have any reason to dispute the account of
23 Mr. Humolli?

24 A. I have never authorised or been aware that Mr. Gashi had any
25 reports or relationships with anyone from the General Staff until

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1 after the war.

2 JUDGE METTRAUX: So if this happened, it would have been without
3 your knowledge. Do I understand that correctly?

4 A. I am not aware that this happened, and I have no reason to
5 believe that it did happen.

6 JUDGE METTRAUX: Thank you.

7 PRESIDING JUDGE SMITH: Judge Gaynor.

8 JUDGE GAYNOR: Thank you, Judge Smith.

9 Mr. Mustafa, I'd like to take you first to a question you were
10 asked in direct examination.

11 Question:

12 "... who was in charge of the detention centre in Llapashtice?

13 "A. Nazif Mehmeti was head of the military police there.

14 "Q. And were the military police in charge of the detention
15 centre there?

16 "A. Yes."

17 My question is this: Were the military police in charge of all
18 of the KLA detention centres in your zone?

19 A. Yes, Your Honour.

20 JUDGE GAYNOR: And am I right in understanding that you
21 appointed Nazif Mehmeti in around October 1998 as the acting
22 commander of the military police in your zone?

23 A. This could be more or less the time period. I am not very
24 certain about it, though.

25 JUDGE GAYNOR: And was he succeeded by Mehmet Latifi? Who

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1 succeeded Nazif Mehmeti as the commander of the military police in
2 your zone?

3 A. Muhamet Latifi joined towards the very end of the war.

4 JUDGE GAYNOR: And was he the commander of the military police
5 in your zone?

6 A. Yes, but at the very end of the war.

7 JUDGE GAYNOR: Do you remember when exactly?

8 A. Very few days before entering Prishtine.

9 JUDGE GAYNOR: Now, I want to ask you a little bit about the
10 military police commanders of the brigade level.

11 You said on 11 July at page 107 of that day's transcript. I'm
12 simply letting the other participants know the citation. The
13 question was:

14 "Were there military police in the Llap operational zone?"

15 "A. Yes.

16 "Q. At what level? And I mean command level in the structure.

17 "A. At the zone level and brigade level.

18 "Q. Who did the military police at the brigade level report to?"

19 "A. To the brigade commander. And they were subordinated with
20 the police unit of the zone.

21 "Q. So they also fell under the military police at the zone
22 level; is that correct?"

23 "A. They were not under their command, but they were together
24 subordinated."

25 And then you go on to confirm that Nazif Mehmeti was in charge

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1 of the military police.

2 I want to explore your answers a little bit. When you say that
3 the military police at the brigade level were subordinated, what
4 exactly do you mean? Do you mean that they fell under the command of
5 the brigade commander, of the commander of Brigade 152, 151, or 153?
6 Is that what you mean?

7 A. The brigade commander ordered the police within the brigade.
8 Whereas the unit of the operative zone led by Nazif Mehmeti was in
9 charge of coordinating the rules upon which we were conducting our
10 business, our work. So they coordinated amongst themselves in order
11 for the police to appear as the same throughout the zone.

12 JUDGE GAYNOR: So on a day-to-day basis, who was directing the
13 military police within Brigades 151, 152, and 153? Was it the
14 commander of each brigade, or was it Nazif Mehmeti?

15 A. The brigade commander.

16 JUDGE GAYNOR: Now, I want to clarify the identities of the
17 military police commanders within each brigade. Who was the military
18 police commander in Brigade 151?

19 A. I don't know.

20 JUDGE GAYNOR: Was it Naip Gubetini?

21 A. Yes, now that you reminded me I confirm he was.

22 JUDGE GAYNOR: And who was the military police commander in
23 Brigade 152?

24 A. I don't remember. If you help me, I might recall. However,
25 there are records of this and they are public. I'm not trying to

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1 hide anything because this is publicly available information.

2 JUDGE GAYNOR: Was it Ramadan Jashari?

3 A. I don't recall right now, but I know he was a member of the
4 military police. Since if -- I'm assuming you obtained this
5 information from records, and he must have certainly been.

6 JUDGE GAYNOR: And do you know who the brigade military police
7 commander in Brigade 153 was?

8 A. No, I don't.

9 JUDGE GAYNOR: How would you describe relations between the
10 military police commanders and the military police officers at the
11 brigade level and the brigade commanders that they reported to?

12 A. The military police unit within the brigade was a sector part of
13 the brigade. They completed tasks and duties in the area covered by
14 the brigade.

15 JUDGE GAYNOR: Did you receive reports in your capacity as the
16 head of the zone command, did you receive reports of tensions or
17 disagreements among them?

18 A. I don't recall any such tensions between military police units.
19 I don't remember.

20 JUDGE GAYNOR: Did the brigade-level military police commanders
21 communicate with each other?

22 A. They might have communicated. I don't know.

23 JUDGE GAYNOR: I understand from your evidence that you had
24 fairly frequent meetings with your zone command. How frequent were
25 those meetings?

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1 A. I wouldn't be able to say how frequent, but we met as often as
2 we could. I often would meet them individually. I paid a visit to
3 brigades. I was always close to my people.

4 JUDGE GAYNOR: When you had a meeting of the zone command, would
5 the commanders of the Brigades 151, 152, and 153 usually be present
6 at those meetings?

7 A. The commanders of Brigade 151 and 152 were more frequent.
8 Whereas the commander of Brigade 153, no, because he was located in
9 an area where the communication lines were more difficult to secure.

10 JUDGE GAYNOR: That brings me on to communications. We'll come
11 back to that in a moment.

12 But I understand from your earlier evidence that Latif Gashi was
13 a member of the zone command. Am I right in understanding that he
14 was usually at those meetings that you held with your zone command?

15 A. Yes, he might have been present. However, Mr. Latif Gashi could
16 not be -- could not attend very often because of his engagement,
17 military tasks, and his personal presence in the front line.

18 JUDGE GAYNOR: Now, you said Nazif Mehmeti was not, in fact, a
19 member of the zone command. So my question is who represented the
20 military police at meetings of your zone command?

21 A. If it was necessary, he would come to the staff and he reported
22 before the chief of staff. There were meetings that we invited him
23 to attend and to report.

24 JUDGE GAYNOR: But I suppose as the brigade commanders were, in
25 fact, the superiors of the military police within each brigade, the

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1 brigade commanders themselves had plenty of information about tasks
2 being undertaken by the military police; is that right?

3 A. Yes.

4 JUDGE GAYNOR: Now, let's go back to the question of how you
5 maintained contact with the commander of Brigade 153. What was your
6 usual method of communication? What technology did you use to remain
7 in contact with him?

8 A. I met him face to face. I spoke to him over phones. And at the
9 same time, we used radio handsets. Sometimes we would send
10 soldiers -- I would send soldiers to send a message or two to him.

11 JUDGE GAYNOR: And when you say "phones," are you referring to
12 satellite phones or to the civilian telephone network?

13 A. I'm talking about the satellite phone communication.

14 JUDGE GAYNOR: So he, himself, obviously had a satellite phone,
15 the commander of 153?

16 A. I don't know the time when he got one, but, yes, he did get one
17 eventually.

18 JUDGE GAYNOR: Did all of your brigade commanders have a
19 satellite phone?

20 A. By the end of the war, yes.

21 JUDGE GAYNOR: Do you know when they received them?

22 A. It may be around the beginning of 1999 or the end of 1998.

23 JUDGE GAYNOR: Now, yesterday my colleague, Judge Mettraux,
24 showed you some amnesties and a release order and, in fact, you had
25 been shown them by other parties as well. Those contained details

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1 such as the date of arrest of the detainee, the name of the father of
2 the detainee, the date of birth of the detainee, the address --
3 ordinary residential address of the detainee.

4 Who within your zone was responsible for getting this
5 information from the detainee?

6 A. Those that had the first contact with the person in question;
7 namely, the military police.

8 JUDGE GAYNOR: Who was responsible for keeping a record of those
9 details so that they could be consulted when the time came to type up
10 the release order, for example?

11 A. I do not exactly know the routine, who was in charge to keep the
12 notes or the records, but it was a daily routine. It depended on the
13 person that was on duty in the moment in time, and that person would
14 take the records.

15 JUDGE GAYNOR: I understood from your earlier evidence that
16 Nazif Mehmeti was a fairly careful drafter of documents; is that
17 right?

18 A. All the people that worked in the Kosovo police had the adequate
19 education. They were before engaged with the Yugoslav police. One
20 of those persons was Nazif Mehmeti. He was a professor in the police
21 academy at the Yugoslav time in Kosovo.

22 JUDGE GAYNOR: So he could be relied upon to keep a fairly
23 meticulous record of the detainees; is that fair to say?

24 A. Yes.

25 JUDGE GAYNOR: I want to return to the question of

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1 communications for a moment. You gave evidence, I understand, that
2 you had the phone numbers of the General Staff, and you spoke to them
3 by phone; is that right?

4 A. Yes, they were telephone -- satellite telephones, and they were
5 allocated to the General Staff and to the zone staff as well.

6 JUDGE GAYNOR: And would you ever use the civilian telephone
7 network to speak to members of the General Staff?

8 A. Personally, I don't believe I have used the civilian network to
9 communicate with the General Staff.

10 JUDGE GAYNOR: Now, to the best of your knowledge, did the other
11 zone commanders, the commanders of the operative zones, did they also
12 communicate with the General Staff using satellite telephones?

13 A. I believe that was the rule in the sense that they would talk
14 via satellite telephones. Personally, I had a satellite telephone,
15 and I used that telephone all the time.

16 JUDGE GAYNOR: Now, you described your discussions with the KLA
17 representatives at the Rambouillet negotiations, and you expressed
18 your concerns to them in fairly forthright terms. What technology
19 were you using when you spoke to the KLA representatives at
20 Rambouillet?

21 A. Satellite telephones.

22 JUDGE GAYNOR: I want to ask you just a couple of questions
23 about the meetings of the zone commanders which I understand you said
24 were usually chaired by Bislim Zyrapi. Who represented the military
25 police at those meetings? Who, if anyone?

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1 A. There has not been any police commander present at the meetings
2 of the zone commanders.

3 JUDGE GAYNOR: Was there an intelligence representative at those
4 meetings?

5 A. No, Your Honour.

6 JUDGE GAYNOR: Now, you were briefly, I understand it, a member
7 of the General Staff. Who represented the military police at
8 meetings of the General Staff to the best of your knowledge?

9 A. I do not know. I don't remember. For the time that I've been a
10 member of the General Staff, I don't believe that there was more than
11 one meeting. Even that meeting, that was a general one in nature.

12 JUDGE GAYNOR: Those are all of my questions. Thank you,
13 Mr. Mustafa.

14 PRESIDING JUDGE SMITH: I have just a few questions, Witness.
15 One of them has just now come up, and the others are just some
16 information so that I better understand your background.

17 Just a minute ago, you mentioned the Rambouillet conference and
18 the delegation you spoke with. I believe -- did you make your own
19 phone call to the delegation and talk to the person you wanted to
20 talk to?

21 A. Yes, Your Honour.

22 PRESIDING JUDGE SMITH: And who was the person you called?

23 A. There were two people I communicated in Rambouillet: Sabit
24 Kiqmari and Pleurat Sejdiu.

25 PRESIDING JUDGE SMITH: And why did you select those two? Were

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1 they especially close to you?

2 A. I was involved in the organisation of the war from the very
3 beginning of the war, and Sabit Kiqmari was the person that connected
4 me to the KLA.

5 PRESIDING JUDGE SMITH: Understood. Now, the other questions I
6 have are on the topic you just now raised, and that has to do with at
7 the very beginning.

8 What month and year did you leave your studies at Prishtine
9 University, your law studies? When did you actually leave the
10 university?

11 A. I was engaged in the protests of the students of the University
12 of Prishtine. That was the time when I interrupted my studies, in
13 1997. And I left Prishtine as a student -- with my status as a
14 student in May 1998, though.

15 PRESIDING JUDGE SMITH: But you hadn't been attending classes
16 since 1997; is that correct?

17 A. Correct.

18 PRESIDING JUDGE SMITH: All right. So you ended up in the area
19 in which you lived, which was the Llap zone. And this is my question
20 for you. It's just an open question. Would you say that the Llap
21 zone was the most important zone in Kosovo during the conflict?

22 A. This is what I thought because it was neighbouring Serbia and it
23 also included the capital of Kosovo, where all the embassies were
24 located and where all the internationals would come to surveil and to
25 observe our work.

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1 PRESIDING JUDGE SMITH: So in 1997, when you and your friends
2 met on that road in the countryside and decided to organise or
3 reorganise the Llap zone, I believe you said -- am I correct that you
4 said there are approximately ten members of the KLA in that zone at
5 that time? And I could be wrong, my memory could be wrong, but
6 that's what I thought you said earlier.

7 A. I was talking about the number 18, Your Honour, because there
8 were ten at a certain stage as well. But in my testimony before you,
9 I think I mentioned the number 18. So this is how many people we
10 were at the very beginning.

11 PRESIDING JUDGE SMITH: I am certainly not arguing with you
12 about that. If that's your number, that's your number. And then
13 shortly after that, the Jashari incident occurred and the numbers
14 started to swell; correct?

15 A. Correct.

16 PRESIDING JUDGE SMITH: That night when you were meeting with
17 your friends and discussing the future of the Llap zone, how old were
18 you?

19 A. It was 1997, and I was 26 years of age at that time.

20 PRESIDING JUDGE SMITH: I'm not saying there's anything wrong
21 with that. It's remarkable the things that you were able to do at
22 age 26.

23 So then the following year in the summer of 1998, you were
24 finally formally appointed as commander of that zone. And that's
25 correct, is it not?

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1 A. Correct.

2 PRESIDING JUDGE SMITH: What military background had you had up
3 to that point?

4 A. I served in the military service in former Yugoslavia, and I was
5 trained in Albania and in Kosovo as well about these matters.

6 PRESIDING JUDGE SMITH: The training in Albania, who was
7 responsible for the training?

8 A. Usually, it was the Albanian officers.

9 PRESIDING JUDGE SMITH: You were never trained as an officer,
10 though; is that correct?

11 A. Correct.

12 PRESIDING JUDGE SMITH: And you never attended an academy in
13 Yugoslavia like some of your colleagues had?

14 A. Correct. I have never attended any academy.

15 PRESIDING JUDGE SMITH: And as I said, I think your record of
16 service stands. We know what you were able to do during those years
17 leading what you've said was the most important zone in Kosovo. Did
18 you have a mentor, somebody that you trusted that you went to for
19 advice? I know you've mentioned Adem Demaci in the past. Did you
20 have any other mentors, any person that you depended on regularly?

21 A. Adem Demaci. But Adem Demaci was surrounded by many advisers,
22 and I accepted all of his advisers as my own advisers as well.

23 PRESIDING JUDGE SMITH: I thought that would be your answer.
24 And I thank you for your answers. That's all the questions I have.

25 Madam Prosecutor.

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1 MS. LAWSON: No, thank you, Your Honour.

2 PRESIDING JUDGE SMITH: No questions.

3 Mr. Misetic.

4 MR. MISETIC: Your Honour, I would seek leave to follow up on
5 Judge Mettraux's questions.

6 PRESIDING JUDGE SMITH: Certainly.

7 MR. MISETIC: Thank you. If I could just have a moment, please.

8 PRESIDING JUDGE SMITH: Oh, just a second.

9 Ms. Lawson.

10 MS. LAWSON: Your Honour, we would say that this should be to
11 the extent that Judge Mettraux raised entirely new issues.

12 PRESIDING JUDGE SMITH: We'll deal with that as it goes along.
13 Thank you.

14 MR. MISETIC: Thank you, Mr. President. I intend to be brief.

15 Further Cross-examination by Mr. Misetic:

16 Q. Good morning again, Mr. Mustafa, hopefully for the last time. I
17 just have a few follow-up questions to questions that were put to you
18 by Judge Mettraux.

19 My first set of questions concerns the following question from
20 Judge Mettraux:

21 "And the setting up of a military police unit within your
22 operational zone was, in effect, the implementation of instructions
23 that you had received to that effect from the General Staff. Is that
24 a fair proposition?"

25 And you say:

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1 "It can be fair. It can be called that way."

2 Then he asked you again:

3 "But just to be clear, you got an instruction from the
4 General Staff to establish a military police unit and proceeded to do
5 so and to complete that setup; correct?"

6 Your answer is: "Yes."

7 Do you recall that?

8 A. Yes, I do.

9 Q. Who specifically gave you an instruction to set up a military
10 police unit within your zone?

11 A. We spoke on the basis of a document that was presented to me. I
12 said that even before that recommendation by the General Staff, I
13 already have a military police unit in place in my zone.

14 Q. When you say, "We spoke on the basis of a document that was
15 presented to me," are you speaking about a document that was
16 presented to you here in this trial?

17 A. Yes.

18 Q. Do you recall what document specifically you're referring to?

19 A. No. I have not been taking notes.

20 Q. So is it fair to say that your answer there to Judge Mettraux is
21 based on your recollection of a document that one of the parties in
22 this trial presented to you?

23 A. Yes.

24 Q. Do you have any recollection independent of that document that
25 you received an instruction from the General Staff to set up a

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Further Cross-examination by Mr. Misetić

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1 military police unit?

2 A. I mentioned it several times, and the answer has always been no.

3 Q. Then let me turn your attention to the detention centres that
4 you were asked about.

5 Judge Mettraux put to you, at transcript page 102 of yesterday's
6 proceedings, through 104, that:

7 "... there was a general order to arrest suspected collaborators
8 that had come from the General Staff. Do I get that right?"

9 He then continued:

10 "And one of the things the General Staff asked you to do was to
11 set up detention facilities for these individuals; is that correct?"

12 Your answer was:

13 "We had the detention house already before the order or
14 instruction or recommendation, as you wish to call it."

15 Judge Mettraux then says -- well, you were ordered "to find
16 suitable places for these detention facilities; is that correct?"

17 And your answer was:

18 "The instruction, the recommendation we read contained this
19 information."

20 He asks again:

21 "So there was no need again to find a new one. Is that your
22 evidence?"

23 Your answer is:

24 "Correct. We already had it."

25 Question:

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Further Cross-examination by Mr. Mistic

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1 "And in these general directives or instructions they gave you,
2 they also gave you general instructions about how to run these
3 facilities. Do I get that right?"

4 And your answer was:

5 "The recommendations were those that we read. There were no
6 other ones."

7 Judge Mettraux then asks:

8 "And I'm using your words, sir. But the General Staff provided
9 general instruction about how these detention facilities should be
10 run; yes or no?"

11 Your answer is:

12 "Yes, we read them today here."

13 I want the record to be crystal clear here, Mr. Mustafa. Do I
14 interpret your answers to Judge Mettraux correctly that the general
15 instructions to detain collaborators, you're referring there to the
16 two documents that I put to you in cross-examination, which are
17 Exhibits 1D29 and 1D30, which are the orders of Mr. Zyrapi to you and
18 to the zone commanders; is that correct?

19 A. Yes, that's correct. That's the basis of my answer.

20 Q. And when you answered Judge Mettraux's questions that you were
21 given -- were you given instructions to set up detention facilities
22 and to find suitable detention facilities, and you answered in the
23 affirmative, you then, again, said:

24 "The recommendations were those that we read.

25 "... we read them today here."

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1 Again, are you again referring there to the two documents that
2 we saw, which are the orders or recommendations from Mr. Zyrapi,
3 which are Exhibits 1D29 and 1D30?

4 A. Exactly. I gave the answers based on the documents that were
5 served to me.

6 Q. And, again, I just want it to be clear. It's from the
7 transcript, page 104, lines 16 and 17. Your further answer was,
8 other than those two orders, "there were no other ones."

9 Is that your testimony?

10 A. It is.

11 Q. Let me turn to the issue of communiqués which you were asked
12 about by Judge Mettraux. You were asked about two amnesties - one
13 issued on December 31st, which is Exhibit P00225; and January 17th,
14 which is Exhibit P00150 - and the fact that they purport to have been
15 issued on the basis of, *inter alia*, communiqués of the General Staff.
16 Do you recall those questions from Judge Mettraux?

17 A. I do.

18 Q. As you sit here, are you able to identify a single communiqué or
19 political declaration of the KLA that you could have interpreted as
20 encouragement to amnesty Kosovo Albanian detainees?

21 A. No, I cannot think of one.

22 Q. I put to you, Witness, that the reason you haven't been shown
23 any such communiqués or political declarations is because they don't
24 exist. Do you have any reason to dispute that?

25 A. No, I have no reason to dispute that.

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Further Cross-examination by Mr. Misetić

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1 Q. You were asked, again on the issue of communiqués, this is at
2 transcript page 112 of yesterday's provisional transcript, about a
3 statement you gave to the SPO in which you said:

4 "'... the communiqués gave permission to deal with people who
5 were obstructing the work of the KLA.'"

6 Judge Mettraux asked you if you still stand by that statement,
7 and you said: "Yes ..."

8 Do you recall that?

9 A. Yes. That could have been a document where we base ourselves,
10 but I can't say it for a fact.

11 Q. Okay. Well, that was going to be my next question. Which
12 specific communiqués "gave you permission to deal with people who
13 were obstructing the work of the KLA"?

14 A. No, I have not spoken specifically. But in general, it might as
15 well be the reason. However, the major reason has been military
16 reasons, and that's something I've been saying frequently in my
17 testimony.

18 Q. When you say "in general, it might as well be the reason," what
19 does that mean?

20 A. If there was something in the communiqués, we have made use of
21 them. But specifically speaking, I don't recall anything.

22 Q. So you don't recall any specific communiqué giving you such
23 permission, to use that word; correct?

24 A. Correct.

25 Q. The use of the word "permission." You've testified at length in

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1 these proceedings that you were the highest authority in your zone
2 and there was no authority in the KLA higher than you. Why would you
3 need permission from anybody to deal with people who were obstructing
4 the work of the KLA?

5 A. I have not asked for permission.

6 Q. Did you need permission from anyone to detain people who you
7 believed were obstructing the work of the KLA?

8 A. I believe I made it clear. No, I didn't need any permission
9 from anyone.

10 Q. My final questions are about questions Judge Mettraux asked you
11 this morning about do you accept that you were subordinated to the
12 General Staff, and you indicated you do accept that.

13 In 1998, did anyone from the General Staff give you an order
14 which you were required to execute?

15 A. The requests or recommendations that we've been talking about,
16 they came from the General Staff, from Bislim Zyrapi, that was the
17 head of staff.

18 Q. So in terms of subordination, you're talking, first of all,
19 about what you received from Bislim Zyrapi; correct?

20 A. I am referring to the documents.

21 Q. The documents we've seen in this trial?

22 A. Correct.

23 Q. I want to get some clarity on your position on the subordination
24 issue. You've just mentioned Bislim Zyrapi. Bislim Zyrapi is a
25 person who, in February, you nominate for promotion to the overall

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1 commander of the KLA; correct?

2 A. Not -- no, we appoint as a general commander Sylejman Selimi.

3 Q. Yes, that's how it ended. But it was Ramush Haradinaj who
4 nominated Sylejman Selimi, and you nominated Bislīm Zyrapi; correct?

5 A. Correct.

6 Q. So my point is you felt you had the authority to nominate him
7 for promotion; correct?

8 A. Correct.

9 Q. You will understand, I trust, that it is unusual for people who
10 come from Western countries that a subordinate nominates his superior
11 for promotion. Do you understand that?

12 A. The whole foundation of the Kosovo Liberation Army and the
13 manner it was run is very difficult to imagine for people who come
14 from Western countries. We did whatever we could. We wanted to have
15 the General Staff that would represent us further during the war and
16 in the policies held by the Kosovo Liberation Army. I do not recall
17 any order given to me by anyone.

18 Q. Then my last question to you is, I would like you to explain to
19 the Trial Panel what you mean when you accept that you were
20 subordinated to the General Staff. In what sense were you
21 subordinated?

22 A. In the -- subordinated in the coordination sense. Coordination
23 between -- the coordination between zones was done by the head of the
24 General Staff.

25 Q. Okay. Thank you very much, again, for your time and answering

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Further Cross-examination by Mr. Emmerson

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1 my questions.

2 MR. MISETIC: And thank you for leave, Mr. President, I
3 appreciate it. I will have some housekeeping about tendering
4 documents, but the witness doesn't need to be here for that. Thank
5 you.

6 PRESIDING JUDGE SMITH: Thank you.

7 Mr. Emmerson.

8 MR. EMMERSON: [Microphone not activated]

9 Yes, I have a number of areas that I want to touch on, if I may.

10 Further Cross-examination by Mr. Emmerson:

11 Q. First of all, I want to ask you about a series of questions and
12 answers during the questioning by Judge Mettraux. I'm looking, for
13 those following, at the provisional transcript page 122 from
14 yesterday and starting line 4 or thereabouts.

15 So I'm going to read to you the question and answer that you
16 gave Judge Mettraux yesterday afternoon about a witness statement
17 given to the SPO by Mr. Mehmeti. You remember, Judge Mettraux put
18 things to you from the evidence of Mr. Mehmeti and asked you whether
19 you had any reason to disagree with them? You remember that
20 happening yesterday?

21 A. Yes, I do.

22 Q. So I'm going to read this so that we have it on the transcript
23 here and so you can follow and I don't need to pull up large numbers
24 of documents.

25 Question, from Judge Mettraux, at line 4:

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1 "So let me put just a statement to you and you can comment on
2 it, if you can. It's again from your head of military police,
3 Mr. Mehmeti. He was asked about that very subject."

4 And we'll see what that was in a moment.

5 "He was asked about that very subject. It's 055535-TR-ET
6 Part 5, page 6 and 7, and page 7 in the Albanian, but I will read it
7 to you."

8 So on this passage, it wasn't brought up on the screen. It was
9 just a short excerpt read to you and it went as follows. This is,
10 again, in Judge Mettraux's questioning:

11 "He," that is Mehmeti, "is being asked:

12 "'When members of the civil defence brought such person, was
13 there any procedure to verify whether they took the order to act so?'

14 "And his answer is:

15 "'This was the duty of SHIK.'"

16 And Judge Mettraux continues:

17 "So, Mr. Mehmeti's understanding, right or wrong, appears to be
18 that this was the intelligence sector that was responsible to carry
19 out those checks. Do you have a different view than his?"

20 And you reply:

21 "I would not comment on his statement."

22 And Judge Mettraux continues:

23 "But you disagree with it, sir? I'm asking whether you agree
24 with it or disagree with it."

25 And the answer is:

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1 "The sources of the information for the persons that we treated
2 were the people, the inhabitants of the areas where they came from.
3 All the units of the Kosovo Liberation Army were authorised to be
4 vigilant to identify who lives near the front line. All the people
5 that we detained were living somewhere in the vicinity of the defence
6 line ..."

7 Now, I want, with that introduction, to go to the actual passage
8 in full of the statement of Mr. Mehmeti, because, as I say, it wasn't
9 put up on the screen for you to read in context.

10 Now, it isn't in anybody's queue, but that's because
11 Judge Mettraux raised it from material that's outside anybody's queue
12 and there is no system for the judicial questioning to be based on a
13 queue. Therefore, I would ask for leave to call up a transcript that
14 was not in anybody's queue.

15 PRESIDING JUDGE SMITH: Transcript of what?

16 MR. EMMERSON: Well, it's a transcript of an interview of
17 Mr. Mehmeti by the SPO that Judge Mettraux took a question from
18 without putting up on the screen and which is in nobody's queue. In
19 other words, Judge Mettraux took material that wasn't amongst the
20 queued material. And, of course, we can't re-examine on it unless
21 we're able to pull up a document that Judge Mettraux chose to
22 cross-examine on.

23 JUDGE METTRAUX: Well, first, I did not cross-examine --

24 MR. EMMERSON: Well, that's --

25 JUDGE METTRAUX: -- Mr. Emmerson --

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1 MR. EMMERSON: -- with respect, that's a matter of opinion.

2 JUDGE METTRAUX: Mr. Emmerson, I asked questions.

3 MR. EMMERSON: Well, with respect, that's a matter of opinion.

4 JUDGE METTRAUX: No, it's not a matter of opinion, Mr. Emmerson.

5 It's a matter of [Overlapping speakers] ...

6 MR. EMMERSON: Well, cross-examination is questioning, but when
7 questioning is partisan and tendentious --

8 JUDGE METTRAUX: But to answer your question, Mr. Emmerson --

9 MR. EMMERSON: -- it becomes cross-examination.

10 JUDGE METTRAUX: Mr. Emmerson, this is not cross-examination.

11 And I don't want to argue with you on this. If you want to call the
12 document, it can be called.

13 MR. EMMERSON: Well, that's what I was asking --

14 JUDGE METTRAUX: The Registry is in a position to do so if you
15 give them the number.

16 MR. EMMERSON: Well, I'm grateful.

17 JUDGE METTRAUX: And if you don't, I have it for you.

18 MR. EMMERSON: I'm grateful. No, I have the number. 055535,
19 please, -TR-ET Part 5, page 6, line 19.

20 Q. And I'll just pick it up at line 19. This was the passage that
21 Judge Mettraux put to you, or just read to you:

22 "Q. Okay. Let's carry on, please. The next part ..."

23 This is -- so this is a question being asked by the SPO to
24 Mr. Mehmeti in his SPO interview and then it's being put to you by
25 Judge Mettraux as the evidence of Mr. Mehmeti which you're being

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1 asked to comment on. And the passage he reads to you goes as
2 follows:

3 "Okay. Let's carry on, please. The next part:

4 "'When members of the civil defence brought such person, was
5 there any procedure to verify where they took the order to act so?'

6 "Answer:

7 "'This was the duty of SHIK.'

8 "Now, is that correct?"

9 That's the question from the SPO. The same question that Judge
10 Mettraux asked you: Is it correct? To which the answer is:

11 "That is how it should have been. I confirm that the duties for
12 intelligence included this. But how much they did that, I don't
13 know."

14 Now, again, is there anything in Mr. Mehmeti's full account -
15 i.e., that he doesn't know - with which you would take issue or that
16 you want to comment on?

17 A. I don't have any comments. This is the opinion of
18 Nazif Mehmeti. To tell you the truth, we were on trial with
19 Nazif Mehmeti and Latif Gashi. I referred to the words I've heard
20 from them. I trust both of them, but I wouldn't get in between them.

21 Q. But you can see --

22 A. This could lead to a misinterpretation or misunderstandings.

23 Q. Would you agree with me that what was put to you by
24 Judge Mettraux, namely that it was SHIK that was responsible for that
25 function, does not fully reflect what was put to -- what he said in

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1 his interview in its full context?

2 MS. LAWSON: Your Honour, I'm not sure that's an appropriate
3 question. The record of the interview is clear. The witness isn't
4 in a position to add anything to this.

5 MR. EMMERSON: Well --

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MR. EMMERSON: I'm sorry?

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. EMMERSON: Yes.

10 Q. My question is: Judge Mettraux asked you on the basis of a
11 selective extract which didn't include the qualification. Now that
12 you've seen the full extract, do you agree that there's nothing
13 between you and he because he doesn't remember precisely what was
14 happening in relation to SHIK?

15 A. Yes, sir. I was asked questions in relation to parts of the
16 statement even earlier, but I do also know that there's nothing in
17 the whole statement that I would object to.

18 MR. EMMERSON: So when I use the term "cross-examination,"
19 Judge Mettraux, that's the sort of thing I'm referring to. Just to
20 explain the use --

21 MS. LAWSON: Your Honour --

22 JUDGE METTRAUX: Mr. Emmerson, we don't need your comments. We
23 don't need your comments. It is inappropriate. You've made a series
24 of inappropriate comments. Stick to your questions, Mr. Emmerson --

25 MR. EMMERSON: Well, I --

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1 JUDGE METTRAUX: Mr. Emmerson, stick to your questions --

2 MR. EMMERSON: I have to finish, and I will.

3 JUDGE METTRAUX: I don't want your comments.

4 MR. EMMERSON: Obviously I --

5 JUDGE METTRAUX: I want your questions and the answer of the
6 witness, Mr. Emmerson.

7 MR. EMMERSON: But we will need to address this issue after the
8 end of the witness's [Overlapping speakers] ...

9 JUDGE METTRAUX: You can address it by the proper procedure, not
10 here, Mr. Emmerson.

11 MR. EMMERSON:

12 Q. Continuing with the theme of SHIK and its role, let us just be
13 clear about one or two matters if I may, because you've been asked a
14 number of questions by Judge Mettraux and by Judge Barthe to some
15 extent about SHIK and intelligence and what it meant.

16 Now, I want to be clear. First of all, do you agree with the
17 proposition that prior to the reorganisation of the KLA following the
18 September offensive, there was no intelligence function within the
19 General Staff? In other words, the first time any intelligence role
20 was set up at General Staff level was after the reorganisation which
21 began following the September offensive?

22 A. Correct.

23 Q. So I'm going to suggest to you November was the date on which
24 the General Staff created a post, November 1998, relating to
25 intelligence. Does that ring a bell? Does that sound right,

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Further Cross-examination by Mr. Emmerson

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1 November?

2 A. I don't remember the date, Your Honour -- sir.

3 Q. Without then pinning you down on the date, do you agree that it
4 occurred after the reorganisation?

5 A. Yes, I believe this is how it happened.

6 Q. And that must -- the earliest that could have been was in the
7 process in October into November, since the offensive was in
8 September and the reorganisation began during October; is that right?

9 A. That's right.

10 Q. So any reference to SHIK or intelligence prior to then must be a
11 reference to operatives at the zone level; is that right?

12 A. Yes.

13 Q. And you've already told us that at that time between October and
14 March, amongst the members of the General Staff who you knew were not
15 in Kosovo throughout that period was Mr. Veseli; is that correct?
16 You told us that yesterday.

17 A. Correct.

18 Q. And he had been appointed to that intelligence role in the
19 General Staff during that reshuffle. Did you know that or you didn't
20 know that?

21 A. I don't recall exactly.

22 Q. All right.

23 A. I might have not known.

24 Q. Very well. But you did know that he, between October and March,
25 you've told us, was outside Kosovo?

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1 A. I did not say which period of time he was abroad. He might have
2 been abroad. Most of the time he was abroad.

3 PRESIDING JUDGE SMITH: Mr. Emmerson, I don't believe that was
4 in the questions by the Judge. You're getting beyond the --

5 MR. EMMERSON: You're quite correct. This is a bridging
6 question to what was in Judge -- one of the questions that was asked
7 by Judge [Overlapping speakers] ...

8 PRESIDING JUDGE SMITH: Let's limit it to just what was asked
9 during the Judges' questioning.

10 MR. EMMERSON: Yes, obviously, anything that relates to SHIK
11 which predates that period, obviously, this is relevant to. But,
12 yes.

13 Q. You were asked by Judge Gaynor about satellite phones as a means
14 of -- rather, you were asked about means of communication and you
15 answered that when you were communicating to the General Staff you
16 communicated using a satellite phone; correct?

17 A. Correct.

18 Q. And you mentioned two individuals that you communicated with, I
19 think, particularly during Rambouillet, but I'm not concerned with
20 that. What I want to understand is how many satellite phones did you
21 as commander of the Llap brigade have -- of the Llap zone have?

22 A. There could have been four to five devices.

23 Q. And were they shared out amongst different people in the zone or
24 did you have control of all of them?

25 A. The brigade commanders had one each and one -- and I had one.

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1 Q. During that time as the zone commander, did you ever make or
2 receive a call to Kadri Veseli? When you were on the satellite
3 phone, I'm going to suggest to you you never, ever spoke to
4 Kadri Veseli; is that correct?

5 A. Correct. Correct.

6 Q. And did Kadri Veseli or anyone else on the General Staff ever
7 give any instructions to anyone in your zone to arrest any named
8 individual?

9 A. No.

10 Q. And as far as you are aware, did anybody in your zone ever
11 inform the General Staff about individuals who had been arrested?

12 A. No, not to my knowledge.

13 Q. And if somebody was mistreated, as we know some people were,
14 about eight, for example, in Llapashtice during the period we're
15 talking about, if some people were mistreated or injured on arrest,
16 is that the kind of information you would pass up to the
17 General Staff by satellite phone, that a particular individual had
18 been bruised or beaten by your men? Is that the sort of information
19 you would send to the General Staff?

20 A. I said earlier that the General Staff did not receive any
21 information from my zone in respect of these matters.

22 Q. Thank you very much.

23 MR. EMMERSON: Those are my questions.

24 PRESIDING JUDGE SMITH: Mr. Roberts.

25 MR. ROBERTS: Nothing from me, Your Honour.

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Further Cross-examination by Ms. Alagendra

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1 PRESIDING JUDGE SMITH: Ms. Alagendra.

2 MS. ALAGENDRA: Just one question, Your Honour. Just one
3 question.

4 PRESIDING JUDGE SMITH: Yes, go ahead.

5 Further Cross-examination by Ms. Alagendra:

6 Q. Following up on the questions that were asked by the Panel, to
7 your knowledge was there any document or order received from the
8 General Staff ordering the mistreatment of detainees or civilians?

9 A. No.

10 Q. Thank you.

11 MS. ALAGENDRA: That's all, Your Honour.

12 PRESIDING JUDGE SMITH: Thank you, Ms. Alagendra.

13 Anything else from anyone at this point?

14 Witness, I'm sure you'll be happy to know that you are finished
15 with your testimony.

16 Is there something?

17 MR. MISETIC: Mr. Emmerson had his mic on. I was just telling
18 him to turn it off.

19 PRESIDING JUDGE SMITH: Oh, all right.

20 We thank you for being with us this last week, and we wish you
21 well. And you are excused now from further involvement in our case.
22 Thank you very much. The usher will escort you out.

23 THE WITNESS: [Interpretation] Thank you.

24 [The witness withdrew]

25 [Trial Panel confers]

1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 MR. EMMERSON: Oh, I'm sorry.

3 PRESIDING JUDGE SMITH: I think Mr. Misetic had some
4 housekeeping matters he mentioned first.

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

6 I would like to tender into evidence the notes of the 13
7 February 1999 meeting of the zone commanders, which is SPOE00226328
8 to SPOE00226365 in both languages. Thank you.

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 MS. LAWSON: No objection.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 Assign a number, please.

13 THE COURT OFFICER: Your Honours, that will receive
14 Exhibit 1D33.

15 PRESIDING JUDGE SMITH: [Microphone not activated]

16 MR. LAWS: Your Honour, thank you.

17 Your Honour made an oral order last Friday, 14 July, which is
18 marked confidential and was made in private session. May we ask,
19 please, for a public redacted version of that oral order?

20 PRESIDING JUDGE SMITH: Yes, you may.

21 MR. LAWS: Thank you.

22 PRESIDING JUDGE SMITH: Now, Mr. Emmerson.

23 MR. EMMERSON: [Microphone not activated]. Sorry. I do
24 apologise.

25 There are two issues that I'd like to raise before the next

1 witness is called. One of them relates to the request from the
2 Veseli Defence for an oral order on the parameters governing the
3 extent to which counsel may object to judicial questions, because in
4 the course of my interruption of the questions of Judge Mettraux, a
5 number of observations were made which culminated in Your Honour
6 telling me to sit down.

7 In the jurisdiction that I come from, it is the duty of counsel
8 to object to tendentious and partisan questioning, including from a
9 judge. And if that is not accepted in this jurisdiction, then I
10 would like a ruling indicating that the Panel is not prepared to
11 allow interruptions.

12 As you will have appreciated, it is my professional obligation
13 to take a view of the situation. And my professional view, having
14 served both on the bench and as counsel, is that the questioning of
15 Judge Mettraux, in particular, but one or two questions from
16 Judge Barthe, transgressed the legitimate bounds of appropriate
17 judicial conduct. It will, of course, if necessary, in due course,
18 form a ground of appeal, and indeed it will be a focus, because it's
19 not the first time.

20 But what I'm trying to say here is we need a ruling because I --
21 on an appeal, if objections are not taken, it may well be said,
22 "Well, why didn't you object at the time?" Now, when I did object,
23 Judge Mettraux shouted me down and tried to engage in an argument,
24 and you then ruled that I should sit down. And, indeed, my
25 objection, which was put clearly, has now been excised from the

1 transcript because Judge Mettraux was speaking over me.

2 And so I'm simply saying I don't want this to degenerate, but it
3 does require a process. And if Judges are determined to
4 cross-examine, and I make no apology for using that word at all, to
5 cross-examine in a tendentious and partisan way -- and, as we've seen
6 in certain respects, in a way which is misleading a witness, giving
7 parts out of context of quotations, it is my professional obligation
8 to object.

9 And if the position of the Bench is that I may not do so, then
10 that needs to be a ruling, please.

11 PRESIDING JUDGE SMITH: Thank you.

12 Anybody else?

13 MS. LAWSON: Your Honour, there was nothing inappropriate in the
14 judicial questioning. They were entirely on relevant matters that
15 were within the scope of the knowledge of the witness. And we note
16 that, in fact, it was the behaviour of counsel and the
17 characterisations given by counsel that were totally inappropriate.

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. LAWS: No, thank you, Your Honour.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 All right. Fine. We're going to take, while you get set up for
22 the next witness -- is there a change of personnel?

23 MS. LAWSON: There will be a change of personnel. I have two
24 requests to make first, please.

25 PRESIDING JUDGE SMITH: I'm sorry?

1 MS. LAWSON: There will be a change of personnel, but I also
2 have two requests to make first, please, Your Honour.

3 PRESIDING JUDGE SMITH: All right. Go ahead.

4 MS. LAWSON: The first request is for a word extension. We're
5 in the process of finalising a second Rule 155 motion. It will
6 relate to eight witnesses. And, therefore, in order to file a
7 consolidated motion for all of them, which we believe would be most
8 efficient, we would request an extension to 12.000 words.

9 We have consulted with all of the Defence teams and the
10 Victims' Counsel, and there's no objection from them to this
11 extension.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 We'll grant that at this time to avoid endless paperwork. So
14 that extension to 12.000 words is accepted and granted.

15 MS. LAWSON: Thank you, Your Honour.

16 The second matter is cross-examination estimates. We always do
17 welcome reductions, but both during this session and previous session
18 hearing blocks, from at least three of Defence teams we've seen very
19 dramatic reductions in cross-examination estimates. It's our
20 submission that those should have been foreseeable to counsel.

21 It obviously has logistical implications. It risks the loss of
22 courtroom time. There are witnesses who have real-life obligations
23 and work and family, and, additionally, the Court is quickly burning
24 credit with national authorities who need to be engaged with every
25 time there is a change in order to make arrangements.

1 It may be particularly relevant for the upcoming block because,
2 as things stand, based on the estimates, Witness W03879 would fill
3 the first week that we have back after the recess. But if those
4 estimates aren't accurate, it could obviously risk courtroom time
5 during that period.

6 Our request would be that a deadline please be set for Defence
7 counsel to review their estimates for the next block and revise them
8 as necessary. Thank you.

9 PRESIDING JUDGE SMITH: Comments, Mr. Laws. Anything?

10 MR. LAWS: No, thank you.

11 PRESIDING JUDGE SMITH: Anything from anybody else?

12 MR. KEHOE: Yes, Your Honour. The preliminary issue is we have
13 asked the SPO if, in fact, the next block of witnesses and the names
14 are, in fact, the order in which they are going to be called. And we
15 have been advised that they can't say at this point if, in fact, that
16 is the order.

17 So it makes it a little difficult. We, personally, have tried
18 to adjust our cross-examination times as needed, and other than
19 having an abbreviated time with the last witness, I think most of our
20 cross-examination times have been pretty close to what we estimated.
21 But be that as it may, it makes it very difficult on our planning
22 schedule to make any determinations unless the SPO has a list of
23 people and what order they're going to be called.

24 PRESIDING JUDGE SMITH: There's no question that this has to be
25 a joint operation, and we've asked for that repeatedly and you've

1 responded.

2 The Prosecution's point is well taken, that it behooves all of
3 us to continue to review and revise our estimates. I realise the
4 problem -- part of the problem is your team starts off and usually
5 have a fairly long list -- or long estimate, and by the time it gets
6 around to Mr. Roberts or Ms. Alagendra, it's difficult to continue
7 with the same questions that you had already thought about.

8 MR. EMMERSON: [Overlapping speakers] ...

9 PRESIDING JUDGE SMITH: So I understand the problems.

10 MR. EMMERSON: I was just going to make the same observation. I
11 don't think the comment is directed at the Veseli team because, as it
12 happens, we've been spot on every time. But it's entirely
13 understandable that those behind us should be revising their
14 estimates in the light of what's been dealt with already.

15 PRESIDING JUDGE SMITH: And that takes interpersonal relations
16 and contact and interparty discussions between the Defence. There's
17 no question about that. And I strongly urge you to do that. It
18 doesn't take care of every problem, but it will take care of some of
19 the problems.

20 Go ahead, Mr. Misetic.

21 MR. MISETIC: I do rise just to fall on my sword a bit about how
22 badly I missed the estimate for this witness, but I do think it's a
23 good example of some of the issues we face as a Defence.

24 Frankly, I reflected on it over the weekend, and I think this
25 witness is so concise in his answers, they were one word or one

1 sentence and didn't allow me an opportunity -- which, as you've seen
2 with witnesses who tend to give lengthy answers, and then follow-up
3 questions, et cetera. And so it resulted in me just burning through
4 my outline because, frankly, he was concise, and I think I would
5 encourage witnesses to be that concise. But that's why we missed it
6 on this one.

7 But it's difficult to gauge in your estimates of what kind of
8 witness you're going to get on cross. Thank you.

9 PRESIDING JUDGE SMITH: It's going to be difficult to find
10 somebody that's that concise.

11 Yes?

12 MR. ROBERTS: Nothing to add, Your Honour. I accept, obviously,
13 my estimates were reduced significantly, obviously, from a
14 substantial amount down to zero. That does take into account what my
15 colleagues have already said.

16 PRESIDING JUDGE SMITH: Yes.

17 MR. ROBERTS: I know you have suggested to us to be careful and
18 mindful not to ask repetitive questioning. I have no interest to
19 enter into areas that have already been dealt with by my colleagues.
20 So I will in the future, obviously, revise as early as possible, and
21 did update Your Honours and the SPO whenever I could.

22 PRESIDING JUDGE SMITH: It's not a perfect science, you know.
23 We just have to do the best we can, and discussion will help the
24 most.

25 We're going to take a short break while they get set up on this

1 side of the aisle, and we'll be back in about ten minutes.

2 --- Break taken at 10.34 a.m.

3 --- On resuming at 10.44 a.m.

4 PRESIDING JUDGE SMITH: Mr. Prosecutor, you have a --

5 MR. BAARLINK: Yes, good morning, Your Honours. We have
6 Witness 2153 up next.

7 Before the witness comes in, I note that the SPO late yesterday
8 disclosed an unredacted version of the SPO statement, and that's ERN
9 114301 to 114316_F1664. There is an unredacted signed version of
10 076841 to 076856, and that was disclosed in disclosure package 861.
11 We foreshadowed this in our Rule 154 submission and in the e-mail to
12 the parties on Sunday. And that version also implements the
13 redactions that Your Honours had ordered.

14 And I also note that the witness will be testifying in public,
15 but there are two names in the SPO statement that must remain
16 confidential for reasons set out in the e-mail to the parties on
17 Sunday, and I can elaborate on that in private session should
18 Your Honours need me to. The names are at paragraph 34 to 35, and
19 40.

20 And, finally, in relation to that statement, there is an error
21 in the paragraph numbers. Paragraph number 35 appears twice in the
22 English version. It's the same as the old version of the statement.

23 Those are the matters that I want to raise, Your Honour.

24 PRESIDING JUDGE SMITH: How do you intend to handle those two
25 names? Do you wish to give them a code?

1 MR. BAARLINK: I don't expect that they will be coming up in my
2 direct examination.

3 PRESIDING JUDGE SMITH: And everyone else has been made aware of
4 those?

5 MR. BAARLINK: I beg your pardon?

6 PRESIDING JUDGE SMITH: Is the Defence aware of this issue?

7 MR. BAARLINK: Yes, Your Honour. We flagged this issue in the
8 e-mail to the parties.

9 PRESIDING JUDGE SMITH: Mr. Emmerson.

10 MR. EMMERSON: I have one general comment which I would like to
11 raise, and it is this. Obviously, this witness is tendered as a
12 witness of fact, not as an expert witness. And as a result, of
13 course, his statement is -- or his statements have been a combination
14 of information collected from witnesses or those who tell him things
15 on the ground, to which, as far as the Veseli Defence is concerned,
16 there can be no objection. In other words, all of the issues of
17 foundation, who the witness was or who the person was and what the
18 source of information was.

19 However, the original statement contains elements of opinion
20 based on that evidence, and that has increased in content as we've
21 moved forward to the point at which the proofing notes consist of a
22 considerable amount of opinion.

23 And there are two basic principles in play here. The first is
24 that even an expert witness is not permitted to issue an opinion in
25 court on the ultimate issue to be decided; namely, the existence of

1 the policy to persecute collaborators or others.

2 But more important than that, and fundamental, is that opinion
3 evidence may not be elicited from a witness of fact, and that is an
4 issue on which there -- very similar evidence has been ruled on in
5 comparable circumstances in the ICTY. I'll give Your Honour the
6 reference. It's Prosecutor and Haradinaj, IT-04-84-T, an oral ruling
7 on 6 March 2007, on the transcript 457, line 18, to 458, line 22.
8 And there's a very short passage summarising the gist of the ruling.

9 "As a general rule, opinion evidence should not be elicited from
10 fact witnesses. Inviting the witness to speculate should also be
11 avoided. In cases in which it is not clear what the factual basis is
12 of the witness's testimony, the parties are required to explore the
13 basis of the witness's knowledge in relation to his or her
14 testimony."

15 And then there's a section on second-degree hearsay which isn't
16 directly germane.

17 The key point is this is not an expert witness. He has not been
18 tendered as such, listed as such, or complied with any of the expert
19 witness rules. And, in any event, he ought not and may not be
20 permitted to testify on any issue that has to be decided by the Court
21 as a matter of opinion. Those two principles are vital to the way in
22 which his testimony is led. So no question should be asked.

23 And, clearly, the statements got those kind of materials in
24 them, but as professional Judges, we would assume that they would
25 play no part in the final reasoning. But there can be no

1 justification for seeking to elicit that evidence in oral testimony
2 because that is deliberately eliciting evidence that is immaterial
3 and irrelevant.

4 MR. KEHOE: Yes, Your Honour. I join that objection because,
5 obviously, if you look at the preparation note, which I'm sure
6 Your Honours have, it's replete with opinion testimony for somebody
7 who is not an expert. He says -- he goes through this on various
8 occasions.

9 And, perhaps, Your Honours, I should have brought this up
10 sooner, but we are now at a stage with these preparation notes where
11 they're no longer just preparation notes. They're new statements.

12 This is -- we routinely get statements that are single-spaced,
13 multi-paragraphed. This is, in fact, 13 pages, single-spaced, with a
14 preparation -- that's Preparation Note 1. And we have another
15 Preparation Note 2, which is three pages or three-plus pages,
16 single-spaced. If Your Honour peruses these, these are new
17 statements. New statements that we received, I believe, on Saturday,
18 which we, of course, given the timeframe haven't had a chance to
19 thoroughly investigate.

20 But we are moving down this road, Your Honours, of new
21 statements for every witness coming up. And we have them eliciting,
22 as my colleagues Mr. Emmerson just noted, opinion evidence about
23 things which they put in the proofing note and which they intend to
24 make part of the 154 submission such that it will come into evidence.
25 That is completely improper.

1 By the way, I just was notified we received this on Sunday
2 night, not Saturday. My apologies if I had the date wrong. Be that
3 as it may.

4 But we now have a document -- a new document with new evidence,
5 with new commentary, that is completely uninvestigated at this point.
6 And I do believe, Your Honour, and I think that we all come from a
7 background in this where we never received preparation notes of this
8 kind of detail and which are not just explanatory. These are
9 substantive.

10 And in here, on several occasions, and I can point them out to
11 Your Honours if you want, where this witness makes very clear, very
12 accusatory opinions about responsibility and why things happened to
13 individuals in his zone of responsibility, which, for clarity's sake,
14 is Rahovec, during the course of most of his stay in Kosovo.

15 Be that as it may, Your Honour, I understand we all want to move
16 this along, and I don't seek a delay in cross-examining this witness.
17 But I do -- I am disturbed by what has now become *de rigueur*, if you
18 will, or acceptable that -- my French is not probably what it should
19 be, Your Honour, but it's now become acceptable that we are allowed
20 to go through this rehashing of documents and rehashing of a witness
21 statement - and, by the way, he's got multiple witness statements -
22 to come up with a new document that we have received on Sunday night
23 with new information that has laid out, as my colleague noted,
24 opinion evidence when this witness is not -- is not an expert.

25 So I put that before the Chamber. I would ask that any and all

1 of his opinions not be led and be redacted from his preparation note
2 such that it does not become part of the evidence. And I do -- under
3 those circumstances, Your Honour, I think we can generally just
4 proceed as on schedule.

5 PRESIDING JUDGE SMITH: Thank you.

6 MR. TULLY: Your Honours, on behalf of the Selimi Defence, I'd
7 like to join in the submissions of my colleagues and make one more
8 observation which is that in Preparation Note 2, which is generally
9 reserved for new information to be received from the witness, we take
10 that to mean it's new information on the facts that he's going to
11 testify about. He is a fact witness. But in paragraph 10 of the
12 Preparation Note 2, it seems to be a CV of the witness explaining why
13 he's able to give this, in our submission, and with respect,
14 pseudo-expert opinion evidence, as a means of circumnavigating the
15 rules on expert witnesses and their ability to give opinion evidence.
16 And that's all I'll add at this time. Thank you, Your Honours.

17 MR. ELLIS: Your Honours, we too join the objections made by my
18 colleagues. In particular, for the evidence that is about to be led,
19 we would object to opinion evidence being led from a fact witness in
20 this way.

21 The tell or one of the many tells in the witness statement is
22 that there's a whole section subheaded "My Opinion." Now, we, of
23 course, trust Your Honours as professional judges will disregard that
24 when it comes to the final analysis. But now that the witness is
25 here, it's another thing entirely for more opinion to be led from a

1 fact witness.

2 MR. BAARLINK: Yes, Your Honour. This witness is called as a
3 witness of fact, not as an expert witness, and primarily we rely on
4 the evidence of his direct observations, of the things that he was
5 told by other people. We don't wish to rely on his opinions.

6 In relation to the preparation notes -- and I should say, I
7 don't intend to elicit evidence of his opinions in direct. So that
8 should not be an issue.

9 In relation to the preparation notes, in my submission, the
10 reasons that they cover so much ground is that we try to make them as
11 comprehensive as possible. We try to explore inconsistencies, any
12 ambiguities in the statements in the proofing as it's intended in
13 accordance with the conduct of proceedings order, and that then
14 allows to give -- to only elicit very focused testimony.

15 The sections on -- that were pointed out across the room that --
16 that specifically deal with or cover the witness's opinions, the --
17 they result from our questions asking for the witness's basis of
18 knowledge for certain things that are covered in the statement, and
19 we don't intend to cover the same ground again in direct examination.
20 But they are there in the notes.

21 Your Honours are professional judges. You can assign
22 appropriate weight to that evidence or to those paragraphs in the
23 note, and you can disregard them entirely if you think they carry no
24 probative value.

25 In relation to paragraph 10 of the second preparation note,

1 that's information that was volunteered by the witness. We noted it
2 down. We included it to give the Defence full notice of what the
3 witness told us during these sessions so as to fully comply with our
4 obligations under the conduct of proceedings order. The suggestion
5 that we've some how circumvented the correct procedures, in my
6 submission, is unfounded.

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. BAARLINK: Yes, Your Honour. They're all the matters I
9 wanted to reply to.

10 PRESIDING JUDGE SMITH: All right.

11 MR. KEHOE: May I have just a quick response, Your Honour?

12 Just very briefly. I mean, I recognise that the preparation
13 notes exercise is not a perfect world. I recognise that. But what
14 the Prosecution has done is they are now including non-expert
15 opinions in this proofing note and putting it into evidence per
16 Rule 154. So at some point at some writing stage in a trial brief
17 down the line, I guarantee you, Your Honour, that that opinion is
18 going to be part and parcel of any brief that's filed.

19 And that is the problem with not taking care of this now and
20 excising this information, because once it's part of the record and
21 in the evidentiary record, which the Prosecution is attempting to do
22 with Preparation 1, for lack of a better term, it's in the record.
23 So that -- that is the problem. I don't want to take any more time
24 to go through this, but that's the issue that I think all the teams
25 are concerned with at this juncture.

1 PRESIDING JUDGE SMITH: All right. Well, we've used up our
2 time, so we will take our lunch break. Somebody must have been very
3 hungry.

4 MR. KEHOE: [Microphone not activated].

5 PRESIDING JUDGE SMITH: Oh, I'm sorry. Mid-morning break.
6 Well, I wish I hadn't said lunch.

7 All right. Thank you. We'll be back at 11.30.

8 --- Recess taken at 10.59 a.m.

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

10 PRESIDING JUDGE SMITH: Before we bring the witness in, I will
11 rule on an oral order. I was so hopeful I'd get my voice back, but
12 now I have to read another one of these long things, and it probably
13 won't happen.

14 The Panel will rule on the objection raised by the Defence in
15 relation to parts of W02153's proposed evidence.

16 The Defence raises three complaints. The first is that the
17 evidence is opinion evidence and that the witness, not being an
18 expert, it should be excluded.

19 As a preliminary matter, the Panel notes that the rules do not
20 provide any exclusionary principle for opinion evidence in respect of
21 witnesses who are not experts. Also true is that there are often
22 matters submitted that are mixed questions of opinion and fact.
23 These would be matters not on an ultimate question but on some other
24 not necessarily deciding factor.

25 At the same time, the Panel accepts the Defence's general

1 proposition that such evidence should not be led unless clear
2 foundations may be established for such an opinion. The Panel also
3 agrees with the Defence that opinion of a witness should not go to
4 any of the ultimate issues that fall within the scope and
5 responsibility of the Panel.

6 The Panel notes furthermore that opinion evidence has already
7 been elicited by every party in this matter, including the Defence.
8 To be of any assistance to the Panel, such evidence must be clearly
9 based on facts or circumstances that can be verified. Where this is
10 not the case, the evidence will simply be disregarded or given little
11 or no weight.

12 The Panel, therefore, will not order the SPO to redact any of
13 the information contained in these proofing notes but reminds the SPO
14 that if it seeks to elicit or rely upon such evidence from this
15 witness, it will have to elicit from the witness the basis on which
16 the witness has formed his opinion.

17 The Panel also reiterates that such evidence should not, in
18 principle, be elicited, and the SPO Prosecutor has indicated that
19 they do not intend to lead the questions that resulted in the opinion
20 given.

21 The second Defence objection is one based on the hearsay nature
22 of some of the proposed evidence. This has already been decided by
23 the Panel, which made it clear that hearsay nature of evidence is no
24 ground in general for its exclusion. It would, however, affect the
25 weight that the Panel might be prepared to give to such evidence.

1 The Panel notes, once again, that all parties in this case have
2 already elicited such evidence from witnesses. The Panel will not,
3 therefore, disallow those parts of W02513's evidence that are hearsay
4 evidence but will give them the weight, if any, they deserve.

5 Regarding the Defence's objection regarding the length of
6 proofing notes, the Panel agrees with the Defence that these
7 documents are becoming exceedingly lengthy and do not, in fact,
8 amount in some instances to new statements.

9 I'm sorry, I said that backwards. They do, in fact, amount to
10 some instances to new statements.

11 The Panel, therefore, reiterates that the principle that
12 Proofing Note 1 should only contain what can reasonably be
13 characterised as a correction or clarification of past statements.
14 Where additional information and explanations are given, these should
15 go into Proofing Note 2 which the SPO can, at its discretion, seek to
16 elicit *viva voce* from the witness in court.

17 This ends the Panel's order.

18 Madam Usher, you may bring the witness in.

19 And we are in public session.

20 [The witness entered court]

21 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear me
22 okay?

23 THE WITNESS: Yes, Your Honour.

24 PRESIDING JUDGE SMITH: The Court Usher will now provide you
25 with the text of the solemn -- or already has provided you with the

1 text of the solemn declaration which you are asked to take pursuant
2 to Rule 141(2) of the Rules.

3 Read it aloud.

4 THE WITNESS: Conscious of the significance of my testimony and
5 my legal responsibility, I solemnly declare that I will tell the
6 truth, the whole truth, and nothing but the truth, and that I shall
7 not withhold anything which has come to my knowledge.

8 PRESIDING JUDGE SMITH: Thank you. You can be seated now.

9 WITNESS: W02153

10 PRESIDING JUDGE SMITH: Witness, today we will start your
11 testimony. As you know, the Prosecution will ask you questions
12 first. The Prosecution is seated over here. Then followed by the
13 Victims' Counsel and the Defence.

14 The Prosecution estimate for your examination is one hour.
15 Victims' Counsel will take approximately 20 minutes for questions.
16 The Defence estimates that it will need 15 and a half hours. As
17 regards each estimate, we hope that counsel will be judicious in the
18 use of their time. The Panel may allow redirect examination if
19 conditions for it are met.

20 Witness, please try to answer the questions clearly with short
21 sentences. If you don't understand a question, feel free to ask
22 counsel to repeat the question or tell them you don't understand and
23 they will attempt to clarify. Also, please try to indicate the basis
24 of your knowledge of facts and circumstances you will be asked about.

25 In the event you are asked by the SPO to attest to some

1 corrections made regarding your statements, you are reminded to
2 confirm on the record that the written statement, as corrected by the
3 list of corrections, accurately reflects your declaration.

4 Please also speak into the microphone, wait five seconds before
5 answering a question, and speak at a slow pace for the interpreters
6 to catch up.

7 During the next days while you are giving evidence in this
8 court, you are not allowed to discuss it with anyone. If any person
9 asks you questions outside the court about your testimony, please let
10 us know.

11 Please stop talking if I ask you to do so or if I raise my hand,
12 which means I may need to give you some additional instruction.

13 If you feel the need to take breaks, please let us know and we
14 will accommodate you.

15 Are you ready to begin?

16 THE WITNESS: Yes, Your Honour.

17 PRESIDING JUDGE SMITH: All right.

18 Mr. Prosecutor, you may begin.

19 MR. BAARLINK: Thank you, Your Honour.

20 Examination by Mr. Baarlink:

21 Q. Good morning, Witness.

22 A. Good morning to you.

23 Q. Witness, what is your name?

24 A. Francis Ledwidge.

25 Q. And your date and place of birth?

Witness: W02153 (Open Session)

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Examination by Mr. Baarlink

1 A. 23 October 1966, Liverpool, England.

2 Q. Your nationality?

3 A. Dual nationality, UK and Irish.

4 Q. All right. Thank you. I'll be asking you a series of questions
5 about your three prior statements that you've made.

6 MR. BAARLINK: Court Officer, can I please pull up 114301 to
7 114316_F01664. And if we could go, please, to the bottom of that
8 page.

9 THE WITNESS: Yes.

10 MR. BAARLINK:

11 Q. Witness, do you recognise that signature?

12 A. Yes.

13 Q. Is that your signature?

14 A. It is.

15 MR. BAARLINK: And then if we could please go to the last page
16 of that document, that's 114316.

17 Q. Do you recognise that signature?

18 A. I do.

19 Q. That's yours?

20 A. Yes.

21 MR. BAARLINK: Court Officer, could we please pull up the next
22 document, U008-7623 to U008-7629. And if we could go to page
23 U008-7625. To the bottom of that page.

24 Q. Do you recognise your signature there?

25 A. Yes.

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Examination by Mr. Baarlink

1 Q. That's yours?

2 A. It is.

3 MR. BAARLINK: And then if we could go to page U008-7628.

4 Q. That's also your signature?

5 A. Yes.

6 MR. BAARLINK: All right. If we could please pull up the next
7 document, that's 01068151 to 01068166. And if we could scroll down,
8 please, to the bottom of the page.

9 Q. Do you recognise your signature there?

10 A. Yes.

11 MR. BAARLINK: And then if we could go to the last page of that
12 document, 01068166.

13 Q. Again, you recognise your signature on that page?

14 A. Yes, indeed.

15 Q. Thank you. So I've just shown you three statements. Have you
16 recently had an opportunity to refamiliarise yourself with the
17 contents of these statements?

18 A. I have, yes.

19 Q. And in your preparation session last week, you indicated some
20 clarifications to the statements?

21 A. Yes.

22 Q. And these clarifications were reflected in a note that was read
23 back to you?

24 A. That's right.

25 Q. And do you confirm that what was read back to you in that note

1 reflects your clarifications fully and accurately?

2 A. Yes.

3 Q. And subject to the clarifications provided in that note, is the
4 information you provided in the statements that are referred to today
5 accurate and truthful to the best of your knowledge and belief?

6 A. Yes.

7 Q. And subject to the clarifications provided in the note, do these
8 statements accurately reflect what you said at the time and what you
9 would say if asked again in court today?

10 A. Yes.

11 Q. Thank you.

12 MR. BAARLINK: Your Honours, having fulfilled the Rule 154
13 criteria, and in accordance with decision F001164, I seek the
14 admission of the prior statements. And they are ERN 114301 to
15 114316_F01664, and the Albanian translation is 114301 to
16 114316-AT_F001664.

17 The second one is U008-7623 to U008-7629. The Albanian
18 translation is U008-7623 to U008-7629-AT.

19 And the third statement is 01068151 to 01068166. And, again,
20 the Albanian translation, 01068151 to 01068166-AT.

21 And I seek to tender also Preparation Note 1, that's ERN 114236
22 to 114248.

23 And I further tender the associated exhibits to the statements,
24 and they were identified in the decision F001664. And the relevant
25 ERNs are set out in the SPO's Rule 154 motion, that's F01625 and

1 Annex 7 of that document.

2 Your Honours, at this point I propose to read a summary of the
3 witness's Rule 154 ...

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Any objection to the admission?

6 MR. KEHOE: [Microphone not activated]

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. KEHOE: Other than those I've raised previously.

9 MR. STRONG: None, thank you.

10 MR. TULLY: None, Your Honour.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 The offered items are hereby admitted.

13 Now you may go on. Wait a second, we need a number for each.

14 THE COURT OFFICER: Your Honours, if I can assign numbers to the
15 statements in the preparatory note already, and I will inform
16 everyone regarding the associated exhibits in a little while.

17 The first statement will receive Exhibit P230.

18 The second statement will be Exhibit P231.

19 The statement number three will be Exhibit P232.

20 And the Preparatory Note 1 will be Exhibit P233.

21 Thank you, Your Honours.

22 PRESIDING JUDGE SMITH: [Microphone not activated]

23 MR. BAARLINK: Yes, I propose to read a summary of the witness's
24 Rule 154 statement.

25 PRESIDING JUDGE SMITH: [Microphone not activated]

1 MR. BAARLINK: Witness 2153 was a British army officer who
2 served with UK KDOM and the OSCE's Kosovo verification mission in
3 Kosovo from November 1998 to March 1999 and again from July 1999.

4 The witness investigated cases of persons who were detained by
5 the KLA and/or went missing on or about 17 July 1998 in
6 Rahovec/Orahovac and surrounding areas including those abducted in
7 Opterushe/Opterusa and Reti/Retimlje.

8 He conducted interviews with persons relating to these events
9 including with former detainees and family members of victims. Two
10 persons told the witness that Jakup Krasniqi was present at the
11 detention facility in Malisheve/Malisevo.

12 The witness was briefly detained by Serb forces after the
13 Savelic brothers disappeared on 27 February 1999, where he witnessed
14 the volatile situation associated with this incident.

15 The witness observed ethnic tensions and conflicts following the
16 entry of KFOR into Kosovo, including the general atmosphere of
17 hostility towards Serbs and other minorities such as Roma present in
18 Prizren and Rahovec/Orahovac.

19 The witness investigated the abduction of at least five Serbs by
20 armed and uniformed KLA in Rahovec/Orahovac around 16 June 1999.

21 In or around November 1999, the witness heard from several
22 people that Hashim Thaci gave a speech to a gathering in
23 Rahovec/Orahovac in which he declared that the time for speaking
24 Serbian in Rahovec/Orahovac was over.

25 THE INTERPRETER: The interpreters kindly ask the speaker to

1 slow down when reading. Thank you very much.

2 MR. BAARLINK: Noted.

3 Q. Witness, I'll be asking you some questions about your
4 investigation of disappearances in July 1998.

5 MR. BAARLINK: And if the Court Officer could please pull up
6 document SPOE40010571 to 40010579.

7 Q. Witness, can you see that document on your screen?

8 A. Yes.

9 Q. Do you recognise this document?

10 A. Yes.

11 Q. Can you tell the Panel what that document is?

12 A. It's a record of an interview I conducted with some assistance
13 in -- either in the priest's house in Velika Hoca or our coordinating
14 centre in Rahovec in or around 4 January -- well, 4 January, I think
15 it says, I can't see it at the -- or, yes, I can, 1999.

16 Q. Sorry, you are the author of this document?

17 A. Yes. In -- in -- I think to be accurate, with the assistance of
18 a couple of interpreters and OSCE staff. Yes.

19 Q. And what language interpreters were they?

20 A. In this case, this would be Serbian.

21 Q. And how many other staff?

22 A. Other than myself?

23 Q. Yes.

24 A. I suspect two, perhaps three.

25 Q. All right. And do you recall what their involvement was in

1 creating this document?

2 A. Yes, they were interpreters and helped write this document.

3 Q. All right. And you've touched on this before just briefly, but
4 do you recall where these interviews took place?

5 A. I can't recall individually, but we took interviews early in --
6 I think it may have been New Year's Eve -- or we started New Year's
7 Eve or early January in Velika Hoca. Other interviews, I suspect,
8 two or three of them, in the coordinating centre, our, so to speak,
9 headquarters in Rahovec/Orahovac.

10 Q. All right.

11 MR. BAARLINK: And, Court Officer --

12 THE WITNESS: If I might just expand a little. My recollection
13 is that most of these were taken in the priest's house in Velika
14 Hoca. Maybe two elsewhere. But, yeah.

15 MR. BAARLINK: Court Officer, if we could perhaps scroll down in
16 that document.

17 Q. You'll see a date -- do you see a date at the bottom of that
18 document? Or perhaps I'll ask you first: You've read this document
19 recently?

20 A. Yes, yes.

21 Q. And so you're familiar with the contents of the document?

22 A. I think so.

23 Q. And there are a number of dates at the bottom of each statement.

24 A. Yeah.

25 Q. Are those dates accurate as far as you recall?

1 A. I've no reason to believe they are not.

2 Q. All right. And does the information in the document, does it
3 reflect what those people told you at the time?

4 A. It does.

5 MR. BAARLINK: Yes, perhaps if we could scroll down a few pages
6 in the document. And the next page. And the next page. And the
7 next page. And the next page. And the next page. And the next
8 page. And then the last page.

9 THE WITNESS: For elucidation, if I might. I would suspect that
10 the statement of Slavka and -- I can't remember if she's redacted or
11 not, but her relative, were taken in Rahovec.

12 MR. BAARLINK: All right.

13 Q. So in terms of the process that went into creating this
14 document, you met with these individuals --

15 A. Yes.

16 Q. -- in either Velika Hoca or in Rahovec, and then you spoke to
17 and interviewed them?

18 A. Yes.

19 Q. And then if you could take us through, between the interview and
20 the creation of this document, what steps were involved.

21 A. Well, it's 25 years ago, obviously, so the process by which we
22 converted notes into printed document like this for the purpose of
23 trying to identify or locate the missing persons, I can't precisely
24 recall. However, I would be surprised if it did not involve some
25 discussion between ourselves and the witness and a reading back to

1 the witness.

2 Sadly, this -- sadly, I did not make them sign it. These were
3 not intended to be court proceedings, rather, more for our own
4 information and the information of our headquarters. And they will
5 then have been typed up very shortly after. Perhaps even on the same
6 day of the interview. And they were then converted into one document
7 which I think was lodged -- I don't know where it was lodged, but I
8 would suspect it was lodged and the Court will have acquired it from
9 OSCE headquarters where it has been filed ever since.

10 I took a -- I had a copy myself. But as the statement in 2000
11 that Imade indicates, I somehow lost it or it was not present. It
12 was only an electronic copy, but somehow I -- I misplaced it or it
13 got lost or I never had it, perhaps.

14 Q. All right. Thank you. You said you took that information for
15 your own purposes. What was that purpose?

16 A. The purpose of the organisation, which was attempt to determine
17 the fate and location of the family members of those who were making
18 this statement.

19 Q. All right. And the information included in that document, was
20 it solely based on the interviews that took place on those dates?

21 A. Yes, I think it's fair to say that.

22 MR. BAARLINK: If we could go to page SPOE40010575. And if we
23 could scroll down to the bottom of that page.

24 Q. So there's a name, Snegena Baljosevic. Do you see that?

25 A. I do, Your Honour, yes.

1 Q. If I could ask you, first of all, the spelling of Snegena, are
2 there different ways to spell that name?

3 A. I would spell it now with a Z, S-n-e-z-e-n-a, I think there's an
4 accent on the Z if one is to be accurate about it. The same with
5 Bozanic, by the way.

6 Q. And on the next page there's a --

7 A. [Overlapping speakers] ...

8 Q. On the following page, there's a date of 28 December 1998. On
9 the one page further up.

10 Witness, do you recall speaking to Snezana Baljosevic on
11 28 December 1998?

12 A. Your Honour, I am not entirely sure if that 28 December, just to
13 be precise, does not refer to the statement on the page before. But
14 I remember speaking -- ah, yes, it does. Yes. I remember speaking
15 to Snezana, yes, on several occasions. Indeed, I remember her quite
16 well.

17 Q. All right. Was this the first occasion that you spoke to her?

18 A. No, it was not.

19 Q. But the information that's recorded here is based on that
20 interview on 28 December?

21 A. Yes. We decided to formalise the information that the witnesses
22 had given us earlier. I think, again, to be complete, Your Honour,
23 we arrived in Orahovac/Rahovec - I'll call it for simplicity Rahovec
24 if you don't mind - in late November 1998. On the first day,
25 relatives of the Serbian missing, as we came to call them, even

1 though they weren't all of that ethnicity, came to visit us, and they
2 came to visit us almost every day. So we were familiar with all of
3 these people.

4 This was the first time that I recall we formalised their
5 accounts for the purposes of reporting and assisting ourselves with
6 the inquiry insofar as you can call it that.

7 Q. Do you have any specific recollection of meeting Snezana
8 Baljosevic on that date?

9 A. I recall Snezana sitting before me. I can't -- on several
10 occasions. I can't specify that day. I've no reason to believe --
11 or I have every reason to believe that she did. Snezana was one of
12 those who we encountered quite a lot and quite rightly so, I think.

13 Q. All right. Do you know the general timeframe of when these
14 encounters took place?

15 A. With respect to Snezana, my recollection is she was one of the
16 first tranche of the widows, as we now know them to be, to visit us
17 along with her -- her mother-in-law and, indeed, several others that
18 we meet in these statements. The question was when was the first
19 time. It would have been around the late -- late November 1998.
20 Perhaps the 25th or something like that.

21 Q. All right. Do you remember roughly the last time?

22 A. [Microphone not activated]

23 Q. Roughly the last time you spoke to her?

24 A. I would -- I would suspect it would have been in March 1999.

25 Q. All right. And in that timeframe, how did she appear to you?

1 How did she present?

2 A. Snezana's husband, Your Honour, had been kidnapped and not seen
3 for several months. She had a small baby. She too had been
4 kidnapped. She was commonly, as I recall, quite distressed. And --
5 and there were times, I think, where she despaired of the work that
6 those investigating her husband's disappearance were doing, quite
7 understandably. So the answer to the question is her demeanour was,
8 as I recall it, usually quite distressed.

9 She was being asked, Your Honour, to recall extremely traumatic
10 and shocking events and, understandably, did not take that well.

11 MR. BAARLINK: And then if we could go to page SPOE40010577.

12 Q. It says at the top of the page there:

13 "Statement of Slavka Baljosevic ..."

14 Do you see that there?

15 A. I do.

16 Q. Again, the first name, Slavka -- are there different versions of
17 that first name?

18 A. I believe so, yes. However, I'm not an expert in diminutives.
19 It may have been Slavica, her name. There were several Slavicas we
20 dealt with. She was Slavka and always Slavka to me.

21 Q. Could it have been Krunoslava?

22 A. It could have been.

23 MR. BAARLINK: If we could go to the bottom of the page or,
24 indeed, to the next page.

25 Q. You see the date there, 9 January 1999?

1 A. Yes.

2 Q. And do you have any recollection of speaking to Slavka
3 Baljosevic on 9 January 1999?

4 A. I would be unsure to confirm that I remember that particular
5 occasion because, again, I would encounter Slavka quite a lot.
6 Sometimes in her house we would visit to update her. She would come
7 to see us. Can I see her before me giving the interview? I'm not
8 sure if I'm recalling or -- I'm not sure if I'm recalling that, but
9 I'm certain that she was there in front of us giving that statement,
10 yes.

11 Q. All right. In terms of the timeframe that you dealt with her,
12 was that around the same time, around December to March?

13 A. Yes, it was, Your Honour.

14 Q. And during those times, how did she present to you?

15 A. Slavka, obviously, also had undergone extreme trauma,
16 Your Honour. I would say that her demeanour was slightly more direct
17 and less openly emotional but very definitely grounded in trauma.
18 Again, I do recall, with respect to Slavka, that, understandably, she
19 lost faith or began to lose faith in what we could do towards the end
20 of our mission. This was quite common.

21 Q. All right.

22 MR. BAARLINK: Now if we could go to page SPOE40010578. Are we
23 already on that page?

24 Q. You can see the statement of Jovan Lukic there?

25 A. Yes.

1 Q. And if we can just go over to the next page. There, again, the
2 date is 9 January 1999.

3 For Jovan Lukic, do you have any recollection of speaking to him
4 on 9 January 1999?

5 A. Yes, Your Honour. I do.

6 Q. And how did he appear to you?

7 A. As I say there in the preamble, he also was extremely
8 distressed. He didn't want to speak about the incident and told us
9 so. And so what is elucidated there is what we could -- or -- yeah,
10 what we could get out of him.

11 I think, in fairness, and for completeness, I should say I
12 recall speaking to him in his house. It may be that I did so on that
13 day, or it may well be that I did so and asked him to come down to
14 the -- to our headquarters, but I -- my recollection is we took the
15 statement at his house.

16 Q. All right. Thank you, Witness. Those are all the questions I
17 have about that document.

18 MR. BAARLINK: And, Your Honours, I seek to tender SPOE40010571
19 to 40010579 and the Albanian translation with the same ERN -AT.

20 MR. KEHOE: Again, Judge. No objection other than the
21 objections in the 154.

22 MR. ELLIS: Your Honour, there is an objection. The objection
23 is these are statements and the Court has previously ruled that the
24 rules applicable to statements are Rule 153, 154, and 155. And where
25 the Defence has sought to tender statements during examination, the

1 failure to satisfy those rules has been held to be fatal to the
2 admission of the documents. And they plainly don't satisfy those
3 requirements, being not signed, being not verified by a witness in
4 the courtroom, and not meeting the 155 criteria.

5 PRESIDING JUDGE SMITH: Thank you. We'll take that under
6 advisement at this point and rule on it later on.

7 MR. BAARLINK: Your Honour, may I respond to that objection.

8 PRESIDING JUDGE SMITH: Sure.

9 MR. BAARLINK: That submission is contrary to Your Honours'
10 previous rulings in a decision in Gucati and Haradinaj, where
11 Your Honours interpreted the meaning of the word "statement" under
12 Rules 153 to 155. And I refer you in particular to paragraphs 85 to
13 87 of the decision, and this is in the Gucati and Haradinaj case,
14 decision F00334, and in particular paragraph 86, where Your Honours
15 stated that:

16 "Nonetheless, the Panel recognises that a written statement
17 under Rules 153-155 of the Rules ought to be taken *in the context of*
18 *or in connection with* legal proceedings to come within the scope of
19 these Rules so as to distinguish such a statement from a statement
20 made and recorded in a context unrelated to such proceedings. In
21 particular, the Panel notes that a key factor in deciding whether an
22 out-of-court statement took place in the context of or in connection
23 with legal proceedings is whether that statement was given to a
24 person or body authorised to collect evidence for use in such
25 proceedings."

1 [Trial Panel confers]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 Sorry, I didn't see you stand.

4 MR. STRONG: No, it -- I was a little slow on my feet,
5 Your Honour.

6 Just to say that I believe there is at least some suggestion
7 from this witness's 154 statement - and it's 01068151 at page 12,
8 which is 8162 - that he was authorised to collect information, pass
9 information on to The Hague, and he obtained that clearance in order
10 to do so. So to say that -- and I'll just read out the paragraphs.
11 It's:

12 "In the course of two conversations with this man," who is
13 Colonel Milan Petrovic, "he asked me if I had authority to pass
14 information to The Hague. I obtained clearance prior to this meeting
15 to do so and I told the Colonel that."

16 So at least some of the information that was being gathered was
17 being done so to further some investigation. Thank you.

18 PRESIDING JUDGE SMITH: We will rule on this right after lunch.

19 THE WITNESS: Might I be permitted, Your Honour, to address
20 The Hague point?

21 PRESIDING JUDGE SMITH: Repeat that?

22 [Microphone not activated].

23 THE WITNESS: I was. The witness, sir.

24 PRESIDING JUDGE SMITH: [Microphone not activated]

25 THE WITNESS: Yes, might I -- might I be permitted to address

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Examination by Mr. Baarlink

1 The Hague point, if appropriate?

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 THE WITNESS: Roger. Right.

4 MR. BAARLINK:

5 Q. Witness, there's just one further document that I want to show
6 you.

7 MR. BAARLINK: And that's -- if we could pull up SPOE00198367 to
8 00198834. And if we could go to page SPOE00198585 -- sorry, I'll
9 repeat that, SPOE00198573.

10 Q. Can you see that document on your screen?

11 A. I can.

12 Q. Do you recognise this report?

13 A. Yes, I do.

14 Q. Can you tell the Panel what that report is?

15 A. Yes, it's an excerpt from Volume 1 of "As Seen, As Told" which
16 is a record of OSCE investigations on human rights, in this case,
17 before the NATO intervention. There is a Volume 2 dealing with
18 breaches of international human rights after the intervention.

19 MR. BAARLINK: Now, if we could go to page SPOE00198585. And
20 then to SPOE0019593.

21 Q. That ERN range, SPOE00198573 to 00198593, that's -- as you've
22 said before, that's an extract -- you've been provided that extract
23 recently?

24 A. Yes.

25 Q. And you've had a look at that?

1 A. Yes.

2 Q. And it's -- as you said, it's an extract of this broader report.
3 Did you -- and what does it deal with, this extract in particular?

4 A. I haven't got on my screen at the moment.

5 MR. BAARLINK: If we go to the first page.

6 Q. I'm just asking broadly in terms of the location.

7 A. Human rights breaches in the Prizren or Orahovac/Rahovec region
8 of Kosovo.

9 Q. All right. Thank you. Did you personally contribute to that
10 part of the report?

11 A. Yes, I believe so.

12 Q. In what way?

13 A. The procedure was that in each -- this was after, Your Honour,
14 the NATO bombing towards, as I recall it, the end of 1999. We were
15 asked to appoint an editor or contribute to this report. I was the
16 Prizren -- the editor for the Prizren region. We submitted material
17 to our colleagues in Prishtine where some very capable editors
18 collated the information and produced this report.

19 Q. And what was the information in that -- in those pages? What
20 was it based on?

21 A. It was based on statements, strictly, as I recall, on statements
22 or -- yeah, on statements or reports that the OSCE and its various
23 teams had received or made.

24 Q. All right. And having recently read those pages, would you say
25 that the information contained therein is generally consistent with

1 your understanding of the events in Rahovec in 1998 or in that
2 timeframe or not?

3 A. Generally consistent, yes, Your Honour.

4 MR. BAARLINK: All right. Your Honours, I seek to tender pages
5 SPOE00198573 to SPOE00198593.

6 [Trial Panel and Court Officer confers]

7 MR. KEHOE: Just to be clear -- I'm sorry, Judge.

8 PRESIDING JUDGE SMITH: We're having a problem with the
9 transcript right now.

10 [Trial Panel and Court Officer confers]

11 PRESIDING JUDGE SMITH: We're going to need ten minutes to
12 reboot the transcript. So we will stand adjourned for ten minutes.
13 Thank you.

14 [The witness stands down]

15 --- Break taken at 12.21 p.m.

16 --- On resuming at 12.33 p.m.

17 PRESIDING JUDGE SMITH: I think Mr. Kehoe was [Microphone not
18 activated].

19 MR. KEHOE: Yes, Your Honour. I just wanted some clarification
20 about this exhibit which is on the screen. And counsel can verify
21 that this is, in fact, part of "As Seen, As Told," the entire
22 exhibit.

23 MR. BAARLINK: This is an extract, about 20 pages of the report.
24 Yes.

25 MR. KEHOE: Yes, I just wanted that clarification, Your Honour.

1 MR. BAARLINK: Volume 1 of that report.

2 MR. KEHOE: I'm sorry?

3 MR. BAARLINK: Volume 1.

4 MR. KEHOE: Yes, thank you.

5 PRESIDING JUDGE SMITH: And you've offered it.

6 MR. BAARLINK: That extract, yes.

7 PRESIDING JUDGE SMITH: Is there any objection?

8 MR. KEHOE: No objection, Judge.

9 MR. STRONG: None.

10 PRESIDING JUDGE SMITH: That exhibit is admitted. A number will
11 be assigned.

12 THE COURT OFFICER: Your Honours, could I confirm the extract
13 that is being admitted, the ERN range?

14 MR. BAARLINK: Yes, it's SPOE00198573 to 00198593.

15 THE COURT OFFICER: That will receive Exhibit P234,
16 Your Honours.

17 PRESIDING JUDGE SMITH: Mr. Ellis, did you have a question?

18 MR. EMMERSON: I did, Your Honours. It's in relation to the
19 other exhibit that was tendered and currently marked for
20 identification. I simply invite Your Honours to defer that ruling
21 until after the end of the cross-examination of this witness. There
22 are matters about both the probative value and, of course, following
23 from that, prejudicial effect.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 This particular exhibit we are talking about?

1 MR. ELLIS: No, the previous one. The bundle of statements that
2 was marked for identification earlier, Your Honour.

3 PRESIDING JUDGE SMITH: Okay. Well, we'll take a look at that
4 over the noon hour, as I said.

5 I'm sorry, are we admitted?

6 Madam Court Officer, do we have a number for it?

7 THE COURT OFFICER: For the previous bundle of statements? Not
8 yet, but it can be assigned P235 marked for identification.

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 THE COURT OFFICER: That was P234.

11 PRESIDING JUDGE SMITH: I didn't write it down, so ...

12 THE COURT OFFICER: Shall I be marking the other one? Shall I
13 be marking the other one for identification?

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 THE COURT OFFICER: So just for the record, Your Honours,
16 SPOE40010571 to SPOE40010579 will have P235 MFI.

17 PRESIDING JUDGE SMITH: Thank you very much.

18 Mr. Prosecutor, you can continue.

19 Madam Usher, please.

20 MR. BAARLINK: Perhaps while the witness comes in, I'll just
21 note, in relation to Preparation Note 1, I read out the wrong ERN.
22 The correct ERN is 114260 to 114272. So I apologise for that.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right. The Prosecution will
25 continue.

1 MR. BAARLINK: Yes, Your Honour. I've no further questions for
2 this witness.

3 PRESIDING JUDGE SMITH: All right.

4 [Microphone not activated].

5 MR. LAWS: Your Honour, on reflection, we have no questions.
6 Thank you.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 Mr. Kehoe, you have the floor.

9 MR. KEHOE: Yes, Your Honour. If I could just have a few
10 minutes to bring up the equipment, if you will.

11 PRESIDING JUDGE SMITH: Go ahead.

12 MR. KEHOE: I'm ready to go.

13 PRESIDING JUDGE SMITH: You may proceed.

14 Cross-examination by Mr. Kehoe:

15 Q. Good afternoon, Mr. Ledwidge. We haven't had the pleasure to
16 speak. My name is Greg Kehoe. I represent President Hashim Thaci in
17 this matter.

18 I just want to go back a little bit. In some of your past
19 history, I noticed that you had -- prior to your foreign deployments,
20 you had been involved in the intelligence arena for the British
21 military; is that right?

22 A. That is correct.

23 Q. Okay. And can you tell us exactly, without going into the
24 specifics, to the extent that it's classified, can you tell us
25 exactly when that began, you began to do intelligence work for the

1 British military?

2 A. I served two tours in Bosnia. One beginning in December 1996,
3 ending in May 1999 -- sorry, 1997. I served another tour beginning
4 in March and ending in September 1998. I served in a NATO capacity
5 there, a joint -- a joint unit tasked with gaining information for
6 the IFOR initially and then SFOR subsequently.

7 Q. So, I think you highlighted something quite pertinent, that you,
8 as an intel officer, are sent out in the field to gather information
9 to pass it on to your superiors; is that right?

10 A. During the course of those tours, that is correct.

11 Q. And it's very important when you are gathering that information
12 to document that information and be quite specific about what you
13 know; is that right?

14 A. To the extent it's relevant to the requirements.

15 Q. Of course. Of course. Absolutely. I should have prefaced
16 that. To the extent it's relevant to the matter at hand, if you
17 will.

18 A. Right.

19 Q. And during the course of this, you learned to speak Serbian; is
20 that right?

21 A. Your Honour, it was Bosnian, the official title. But, as you
22 know, the languages are very similar. But that's right, yes.

23 Q. And when did you learn Serbian?

24 A. That was between --

25 Q. We can call it B/S/C. Right?

1 A. Say again?

2 Q. I think the ICTY calls it B/S/C, Bosnian, Serbian, Croatian.

3 Whatever. When did you learn Serbian?

4 A. That would have been mid 1996, just prior to my deployment on my
5 first tour.

6 Q. So by the time -- and you were deployed in, I think you told us
7 you -- you have in your statements that you were deployed to Kosovo
8 in 1998; is that right?

9 A. Late November, Your Honour, yes.

10 Q. And when -- in part you were deployed there as an intelligence
11 officer because you spoke Serbian; right?

12 A. That is incorrect, Your Honour.

13 Q. And correct me if -- and if at any point I ask a question that
14 is incorrect, Mr. Ledwidge, please correct me.

15 A. I certainly will.

16 Q. Okay.

17 A. So the answer is I was deployed as a verifier as part of the
18 Kosovo verification mission. It was amply clear to all of us we were
19 there in a civilian capacity and that's how we served.

20 Q. Well, one of the reasons that you were sent to the particular
21 area that you were sent to was because you spoke Serbian; is that
22 right?

23 A. I suspect it's more that I had -- A, that I had some experience
24 in the region; and, B, to a far lesser extent, that I had some
25 familiarity with -- at the time with the language. But most of our

1 teams were -- our teams were composed of people from across the
2 military and, indeed, later on the civilian spectrum.

3 Q. And when you were there, you moved into Rahovec initially; is
4 that right?

5 A. We spent, I think, three days in Belgrade, and then we moved to
6 Kosovo where there were some days spent on briefings and waiting for
7 our trip, our transport. Prizren was the next port of call, and we
8 deployed out to Orahovac/Rahovec late November 1998.

9 Q. And when you deployed to Rahovec in late November, you took a
10 headquarters, I think you said, on the top of a hill; is that right?

11 A. We were renting the house of a person who lived at the end of
12 the main road in Rahovec in the -- on the hill. Yeah, it was a small
13 house with a little -- little yard. Reasonably secure as far as we
14 could see. But we weren't that choosy at that time.

15 Q. And when was that that you took residence in that house?

16 A. Late November 1998. Perhaps November 26th, off the top of my
17 head. It may have been two days either side of that, Your Honour.

18 Q. And the particular house that you -- excuse me, withdrawn. You
19 went up there with another chap --

20 THE INTERPRETER: Could the speakers please observe a pause
21 between question and answer. Thank you.

22 MR. KEHOE: My apologies to the translation section. I do that
23 all the time, and I will do my best to pause.

24 Q. Mr. Ledwidge, I think that you can help me with that too.

25 A. We're going to make a good team.

1 Q. I understand. So you deployed to this house in Rahovec with
2 another gentleman; is that right?

3 A. No, we deployed, Your Honour, with a team of -- well, we were,
4 in that particular place, a team of four at that time. We were then
5 joined by many more -- well, several more in that little group. The
6 whole group was composed, I think, of 22. The other guys - we had no
7 women with us at that time - were scattered initially in the town,
8 and then after a few weeks they deployed out to their field stations,
9 as they were called, as I remember.

10 So to answer your question directly, there were four of us in
11 that house.

12 Q. And after you took -- and, by the way, that residence was up in
13 the Serb area of Rahovec, wasn't it?

14 A. That's -- that's correct, Your Honour. As I say in my
15 statement, there are two, or were - I haven't been back for many,
16 many years - two parts of the town. The part on the hill was
17 occupied by those who were Serbs. And the rest of the town, the
18 majority, perhaps 90 per cent, lived down in the -- in the main town
19 area.

20 Q. The area that you chose to -- to have your headquarters was in
21 the Serb area; right?

22 A. That's correct.

23 Q. And the person in the OSCE hierarchy that you reported to was
24 Susanne Ringgaard Pedersen; right?

25 A. In my capacity as a human rights officer, that is correct.

1 Q. Now --

2 A. The lines of reporting were at that point quite informal. We
3 were a group of, I think, maybe 100 or so nationally, perhaps --
4 regionally, I mean, or provincially at that time throughout Kosovo.
5 So I would report to my boss, who was Ian McLeod, subsequently George
6 Bodet [phoen], technically speaking. And I would also report
7 sometimes separately, but without -- there was no conflict, to
8 Susanne.

9 Q. And I don't mean to quibble with you. I'm just reading your
10 preparation note that the Prosecution put in evidence.

11 MR. KEHOE: In paragraph 10, counsel, for your review, if you
12 want to look at it.

13 Q. You said:

14 "When asked who he reported to, [he] stated that he initially
15 reported to Ian McLeod. When [he] became Head of the Missing Persons
16 Team in Prizren, he was reporting through the Human Rights Office to
17 Michel Maisonneuve, however the primary reporting was to the Human
18 Rights Office in Prishtine, generally to Susanne Pedersen," who I
19 think is Susanne Ringgaard Pedersen.

20 A. That is correct.

21 Q. "... and occasionally to Sandra Mitchell."

22 Is that right?

23 A. Yes. However, when you're living with your -- with your team,
24 you will converse about these things, and we arranged operations
25 quite informally.

1 Q. So let's just go into -- you coming into the area, and you said
2 you went through some briefings before you got there -- before you
3 got up to Rahovec. I think you said you spent some days with chats
4 with others. And during that period of time, and correct me if I'm
5 wrong, there was a period of time where people gave you some idea of
6 what had happened in the Rahovec area in the prior months, did they
7 not?

8 A. I think it's fair to say that all of us had little visibility on
9 what had happened over the summer. I cannot recall, Your Honour,
10 being briefed on the situation in Rahovec. Specifically, in
11 Prishtine -- wrong, in Belgrade we may have had a quick briefing from
12 the embassy, but I do not recall that. In Prishtine, we met the --
13 some diplomatic -- members of the diplomatic mission who gave us a
14 very general briefing on what was going on. I don't recall that
15 being very long.

16 But when we got down to Prizren, you are in the middle of an
17 ongoing conflict, highly, at that time, I think it's fair to say,
18 quite kinetic in that people were being killed regularly. Breaches
19 of the cease-fire, which we were there to verify, were happening all
20 the time. I think there was little head space for matters that had
21 taken place three months before. We were quite occupied with those
22 who were taking -- of those with -- with those incidents that were
23 taking place now.

24 Q. And during your learning about the Kosovo Albanians in the
25 Rahovec area, and as well as the KLA, you came to learn that the KLA

1 was basically a horizontal rural social structure and military,
2 didn't you?

3 A. To be honest, all that of the KLA, Your Honour, was not my
4 concern. I don't recall being briefed one way or the other.

5 Q. Well, let me read for you an excerpt from "As Seen, As Told." I
6 see that the Prosecution has put in Exhibit 234, which is their
7 excerpt from "As Seen, As Told," and I want to read you -- I have
8 some -- I'll show you -- in the interests of time, before lunch, I
9 will read this one to you.

10 MR. KEHOE: And if you want to follow along, counsel, it's
11 SPOE00198098 to 0198366. And this is at 151.

12 Q. And you noted for us that you were involved in some of the
13 preparation of Volume 1 of "As Seen, As Told."

14 A. Both volumes.

15 Q. Both volumes. Great. And this is what's written on that
16 particular page:

17 "Kosovo Albanian rural ... structure has managed to remain
18 relatively horizontal, with loyalty to the family and village and
19 less than to a central authority. The UCK," KLA, "therefore
20 developed with a localised structure with central command being
21 imposed thereafter."

22 So was it in fact -- or let me read you one other excerpt from
23 "As Seen, As Told."

24 MR. KEHOE: And this, counsel, is the same Bates-stamped
25 numbers, and this would be on page SPOE00198152.

1 Q. "In general, until the arrival of Agim Ceku as commander in
2 April 1999, with his vast experience from the war in Croatia, there
3 was only a small core of well-trained UCK personnel with the
4 knowledge to provide leadership and backbone. The vast majority of
5 the rank and file remained villagers with a weapon and with, in the
6 main, only a very rudimentary idea of infantry tactics."

7 Now, on those two items, the first item being the rural
8 structure, the localised structure of the KLA, and that the soldiers
9 themselves possessing a very rudimentary idea of infantry tactics, do
10 you agree with the sentiments that were published in the book that
11 the OSCE published in "As Seen, As Told"?

12 A. To be candid with you, I neither agree nor disagree. I was not
13 a military analyst at the time. If you ask me to comment on that,
14 may I?

15 Q. You certainly may.

16 A. I would suggest that you could say the very same thing about
17 other structured insurgencies, which I know something, such as the
18 Taliban, or, indeed, any other insurgency. That's how they tend to
19 grow. It doesn't exclude a chain of command, if that's your point.

20 Q. Well, sir, we are talking about what the KLA is like when you
21 got there in November 1998, looking back through your investigations
22 that you were conducting for events that took place in the summer of
23 1998. So I want to focus for you on the fact that you come in
24 November 1998, but the focus of much of your investigation are events
25 that take place in the summer of 1998; right?

1 A. The focus of this particular investigation, I would suggest,
2 that 80 to 90 per cent of my work was concerned with Serbian
3 atrocities taking place contemporaneously. To the extent that -- to
4 the extent that this investigation was concerned, I would suggest
5 you're probably right.

6 Q. So would you agree that part of your remit, if you will, when
7 you were looking back as to what happened in 1998, and we can see it
8 in your conversations with various military leaders or various
9 military personnel in your statements, would you agree that part of
10 your remit was to try to find out what happened in the summer of
11 1998, including what happened to the KLA and what happened to the
12 Serb forces; right?

13 A. My remit, Your Honour, was to try to determine the fate of the
14 missing.

15 Q. Well, as part -- fine. As part of that, you endeavoured to talk
16 to people and find out what the military structures were certainly in
17 the Rahovec area, didn't you?

18 A. No, that was not my remit.

19 Q. Okay. Well, we'll get back to that in a little bit. Do you
20 know Shaun Byrnes?

21 A. No.

22 Q. Well, Shaun Byrnes is --

23 A. Sorry, I'll rephrase. I may have known Shaun Byrnes, but I do
24 not recall the name.

25 Q. He was in KDOM and then he transferred over to KVM when KVM

1 absorbed KDOM. And he noted, with his assessment of things in June
2 1998, that:

3 "In June 1998 when Holbrooke and Hill first had contact with the
4 KLA, Byrnes' impression was that the KLA was not a cohesive
5 organisation. Byrnes based this view on his knowledge of many of the
6 district commanders. Byrnes said that the KLA leadership at the time
7 could be characterised as war lords, each conducting their own armed
8 struggle. After the Jashari compound incident of 1998" --

9 You are aware of that; right?

10 A. Yes.

11 Q. "After the Jashari compound incident in March 1998, however, the
12 Kosovo Albanian diaspora and Kosovo Albanians with JNA -- experience
13 in the JNA became more active in the creation of a unified KLA with a
14 command structure. This objective was, however, constantly at risk
15 of being undermined by internal struggles among KLA zone commanders;
16 in particular, Haradinaj, Shala, and Remi, as well as the resistance
17 of zone commanders to take direction from the KLA political
18 leadership."

19 Do you know anything about that, sir? Do you know anything
20 about the KLA leadership and the resistance by zone commanders to
21 take any authority or any direction from any of their political
22 entities in the KLA?

23 A. Your Honour, this was not my remit.

24 Q. I'm not asking you that question. Do you know anything about
25 that?

1 A. I do.

2 Q. Okay. And it is a fact, is it not, that the KLA in the summer
3 of 1998, as Shaun Byrnes attested to, was rife with internal
4 struggles, wasn't it?

5 A. That is the assessment of one analyst. I can't really comment
6 further than that. I wasn't there at the time.

7 Q. Okay. But based on the analysis that you made looking back as
8 to the events in July or the summer, better still, of 1998, would you
9 agree with me that the KLA was rife with internal struggles?

10 A. I haven't the information to answer that in all honesty. It may
11 well be. It may not be so. I have no personal information on that.

12 Q. Do you know Brigadier David Wilson who is a UK --

13 A. I do recall David, yes.

14 Q. I'm sorry?

15 A. I do recall David.

16 Q. I think that was my fault, because I think you thought I
17 finished my question. So I think the translators will be upset with
18 us.

19 A. [Overlapping speakers] ... question.

20 Q. Let me try that again. Do you know Brigadier David Wilson from
21 the UK armed forces?

22 A. I do not know him now, but I knew of him at the time I was in
23 Rahovec. I got to know him a little better in that he drove me from
24 Albania back into Kosovo in July. That is the extent of my
25 acquaintance with him, although I do have a great deal of respect for

1 the man from what I know of him.

2 Q. And let me share with you a report by Brigadier Wilson.

3 MR. KEHOE: And this is SPOE00117127 to 7132. And this excerpt
4 is on 7129.

5 Q. And he advised that:

6 "Of necessity, UK KDOM had significant exposure to the KLA as
7 part of their operations. The overall picture is still of a series
8 of mainly fragmented and disparate units, differing markedly in
9 appearance and training. Most of the groups are extremely small; the
10 largest encountered by UK KDOM was no more than 40, and some were as
11 small as five or six. They varied from well-organised sections, with
12 distinct military and political leaders, and membership drawn largely
13 from the diaspora, to ill-clad, poorly equipped, groups of
14 unsophisticated young peasants who were clearly recruited from the
15 immediate vicinity."

16 Do you agree with that assessment of the brigadier?

17 A. Your Honour, my --

18 Q. I'm talking about Brigadier Wilson.

19 A. Your Honour, my role was to, at that point, conduct human rights
20 investigations and, amongst that, to determine the fate of the
21 missing from all nationalities in our town. To that extent,
22 occasionally I would join patrols or even make patrols into what we
23 called the KLA's area or the KLA zone. On occasion, I would come
24 across, and we're talking about fingers of one hand here, KLA troops.
25 They did not impress me as being comparable to, perhaps, the British

1 or the German armies, but they were generally uniformed and armed and
2 clearly KLA soldiers.

3 Q. And --

4 A. That is --

5 Q. I'm sorry, go ahead.

6 A. Yes. That is the extent, Your Honour, of my direct engagement
7 with the rank and file. It may be that David had a greater
8 involvement. So I do not have the -- I repeat, do not have the
9 direct knowledge to be able to comment one way or the other.

10 I do know that Professor Pettifer at Oxford has written on the
11 KLA. He may take a different view on the organisational structures,
12 but that is a matter with this question, I suspect.

13 Q. Thank you for now, Mr. Ledwidge.

14 MR. KEHOE: I know this is 1.00, Judge. The witching hour, if
15 you will.

16 PRESIDING JUDGE SMITH: We'll take a break for lunch, Witness,
17 till 2.30. And the Court Usher will assist you out of the courtroom.

18 [The witness stands down]

19 PRESIDING JUDGE SMITH: Just to illustrate how difficult this
20 opinion issue is, four opinions have been elicited in that short
21 period of time you were asking those questions.

22 MR. KEHOE: [Microphone not activated]

23 PRESIDING JUDGE SMITH: On different opinion. I'm just giving
24 you an instance of how difficult it can be.

25 MR. KEHOE: [Microphone not activated]

1 PRESIDING JUDGE SMITH: So [Microphone not activated].

2 We'll break for lunch.

3 Do you have anything else?

4 MR. KEHOE: [Microphone not activated]

5 PRESIDING JUDGE SMITH: All right. Till 2.30.

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

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

8 PRESIDING JUDGE SMITH: Madam Usher, bring in the witness.

9 MR. BAARLINK: Your Honours, I've a small matter to raise before
10 the witness comes in.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. BAARLINK: I've a small matter to raise before the witness
13 comes in. In the presentation queue for the Thaci Defence, there's a
14 number of documents that concern witnesses that have testified in
15 this trial with protective measures, and so we just want to make sure
16 that no question on -- these documents are not being shown to the
17 witness in a way that would breach the protective measures.

18 MR. KEHOE: I understand what counsel is talking about. I
19 appreciate what he's talking about. I think we'll go into the
20 appropriate guidance. We, obviously, won't show documents that
21 reveal those witnesses' identity to the public.

22 [The witness takes the stand]

23 PRESIDING JUDGE SMITH: Witness, we will continue with the
24 cross-examination by the Thaci Defence. You are still under an
25 obligation to tell the truth.

1 Go ahead.

2 MR. KEHOE: Thank you, Your Honour.

3 Q. Good afternoon, Mr. Ledwidge.

4 A. Good afternoon, sir.

5 Q. So just to continue on from where we left off and going back to
6 your time in Rahovec. I mean, you do know that the KLA was a
7 volunteer army and people came and went when they wanted to; right?

8 A. I've been reflecting over the lunch period, and I just would
9 like to go back to one of the issues you raised.

10 Q. How about -- can you answer my question first and then you can
11 go --

12 A. Sure.

13 Q. -- into what you wanted to raise. Just so we're on the same
14 wavelength.

15 A. Yes, it's a similar point.

16 Q. Oh, okay. It's the same -- please do.

17 A. Same or similar, yes. So I'd said that I'd been out into the
18 KLA-controlled territories half a dozen or so times. It's probably a
19 bit more than that. Maybe a couple more. And I think in fairness I
20 have to -- or I don't have to say. I say that there were occasions
21 when the kind of units you describe, which were *ad hoc* village levies
22 composed of very brave people who had got hold of some weapons and
23 were probably not capable of substantial and effective resistance,
24 were present and I saw that, alongside the other kind of units that I
25 saw.

1 And to address your question directly, I think you're right,
2 yes.

3 Q. And the -- in looking at the performance of the KLA, did you
4 come to a conclusion that they lack cohesion and lacked the ability
5 to, for instance, offensive manoeuvres, to be able to manoeuvre
6 per se? Did you get that?

7 A. I have -- I had and have the impression that some of their or
8 most of their best -- many of their best people were killed during
9 the summer operations. Notably, the senior commanders, as I
10 understand it, in the Rahovec region. Certainly they would not, to
11 the extent I could tell, have been capable of the kind of things, as
12 I say, a regular army or even the Serbian army might be capable of.
13 Although, one might question their abilities in that respect as well.

14 Q. And --

15 A. With hindsight.

16 Q. I'm sorry.

17 A. Sorry, sir. With hindsight.

18 Q. And I just did something I need to correct myself on.

19 A. Me too. Yeah.

20 Q. Mr. Ledwidge, if I ever cut you off when you're giving an
21 answer, please let me know. And I apologise ahead of time for doing
22 that. I do that from time to time, I must confess. So please tell
23 me you're not stopped your -- you haven't finished your answer
24 because we want everything you have to say. So, again, I apologise
25 ahead of time for doing that, but I do have a tendency to do it.

1 A. Understood. Thank you.

2 Q. So -- but you did recognise upon looking at the battle of
3 Rahovec in July 1998, and you said this in your November 2000
4 interview at the ICTY at Exhibit 232.

5 MR. KEHOE: And that is at number 01068157, counsel, if you want
6 to read along.

7 Q. You said:

8 "There is no evidence" --
9 Talking about the Rahovec.

10 A. Sure.

11 Q. "There is no evidence that the KLA put forward any resistance to
12 this counter attack in any event. One man just told me 'They just
13 ran away and left us to face the consequences.'"

14 So when it came to the Serb retaking of Rahovec, the Serbs put
15 up virtually no resistance and left the people to suffer the
16 consequences, didn't they?

17 A. Yes.

18 Q. And would you agree with, again, Brigadier Meyers' assessment
19 here --

20 MR. KEHOE: And again he says this, counsel, for you, and I'll
21 just read it for you --

22 THE WITNESS: Is that [Overlapping speakers] ...

23 MR. KEHOE: In the interests of time --

24 THE WITNESS: Sorry, sir, Meyers -- have we --

25 MR. KEHOE:

1 Q. Brigadier David Meyers?

2 A. David Wilson, I think you mean.

3 Q. Wilson, excuse me. I'm sorry. Oh, I'm sorry. This is actually
4 a different witness. This is David Meyers, another individual who
5 was down there at the time. And he noted that:

6 "Throughout the summer offensive, the performance of the KLA was
7 largely woeful. The lack of cohesion between different groups, poor
8 to non-existent command and control, limited influence of the former
9 professional soldiers, largely JNA, within the UCK, poor training
10 standards and limited weaponry combined to allow the Serbs to
11 dominate those areas of Kosovo which they chose to concentrate
12 throughout the summer. The KLA cannot be said to have been totally
13 defeated in the campaign largely because of the intervention of the
14 international community, but it is clear that both politically and
15 militarily they were in a shambolic state by the late summer."

16 Now, that would be consistent with what you saw when -- excuse
17 me, what you heard about when you went back to assess the KLA
18 fighting off the Serb counterattack in July 1998, wasn't it?

19 A. Well, Your Honour, I -- I took almost no time at all in
20 assessing tactical capabilities, but I wouldn't argue with your
21 primary comment.

22 Q. And when you were looking at -- and you did offer some opinions
23 on command and control, which we'll talk about, in your statements.
24 But in your SPO statement, you did note, and this is in paragraph 12.
25 And I'm just trying to get the date right of Exhibit 230. You noted:

1 "With respect to my reference to the 'High Command' of the KLA,
2 I had an idea that there was a higher-level command, but I did not
3 know what it was."

4 And later on in that same statement at paragraph 12, you said:

5 "We ... knew the names of the zone commanders, but I at least
6 did not have a clear understanding of who was involved in higher
7 command."

8 And that's accurate, isn't it? I mean, you had no idea who was
9 involved in the higher command in the KLA, do you?

10 A. That's certainly the case early on in my time. Towards the end,
11 I'd formed some views which appear in that statement and subsequent
12 statements.

13 Q. Well, this is --

14 A. However -- however, if I might.

15 Q. Sorry. Please.

16 A. Sorry, you didn't interrupt me. It's just I wanted to
17 elucidate. We were stonewalled at every -- I say "we," it's my
18 understanding my colleagues who were dealing and were deputed to deal
19 with the KLA were stonewalled at almost every level when concerned
20 with the missing issue, which was my primary concern. So the
21 information passed down to me was very limited, as you suggest.

22 Q. And if we stay with this a moment where you testified and you
23 told the SPO that you had an idea that there was a higher level
24 command but you did not know what it was, you also told them in the
25 same paragraph that:

1 "I do not recall Thaci being mentioned on this list until
2 Rambouillet. However, we were ill-informed about the overall
3 structure of the KLA."

4 That's accurate, isn't it? You didn't hear anything about Thaci
5 until Rambouillet; right?

6 A. That's right, yes.

7 Q. And it's likewise accurate that you were ill-informed about the
8 overall structure of the KLA?

9 A. As I said.

10 Q. Now, the zone commanders. You said you knew the names of the
11 zone commander. Who was the name of the zone commander in the
12 Pashtrik zone when you got there in November 1998?

13 A. Pashtrik zone. I don't --

14 Q. I mean, would you agree with me that --

15 A. I honestly can't recall.

16 Q. What zone was Rahovec in?

17 A. I can't recall --

18 PRESIDING JUDGE SMITH: Could you two both quit talking over
19 each other all the time.

20 MR. KEHOE: I apologise, Judge. You know, I do apologise. And
21 it's my fault. I do it all the time, but I'll try to correct it.

22 Q. What zone is Rahovec in? Do you know?

23 A. I'm not certain. From your question, I'd assume it was in the
24 Pashtrik zone. I was not an analyst at the time.

25 Q. Put aside what zone it is. Do you know who the zone commander

1 was?

2 A. I've a recollection of -- well, I've a recollection of three
3 zone commanders. There was a Haradinaj. I don't think he was the
4 relevant one. I recall a Remi. And, of course, Drini took over in
5 January. Prior to that, no, I do not know.

6 Q. Okay.

7 A. Or if I know I've forgotten -- or knew, I've forgotten.

8 Q. Well, if I can help you, Haradinaj is over in the Dukagjin;
9 right?

10 A. That's correct, yes. I recall that.

11 Q. And the Llap zone was Remi; right?

12 A. As you say.

13 Q. But you don't recall -- before Drini, you don't recall who the
14 zone commander was in Pashtrik; right?

15 A. No. If you were to tell me his name now, I might recall it.
16 But I don't recall off the top of my head.

17 Q. Now, when you were looking back at what had happened in the
18 summer of 1998 in Rahovec, you did speak to this -- or you did have
19 contact with this individual by the name of Sosi; right?

20 A. Intermittent. A couple of times --

21 Q. Well, you spoke to him, didn't you?

22 A. A couple of times --

23 Q. I did it again.

24 A. I think we did it. A couple of times directly, and I think my
25 boss Ian McLeod saw him several more times. And I -- I'd been

1 racking my brains about this. I can recall perhaps two direct
2 meetings or person-to-person prior to the evacuation with him,
3 between me and him. However, my colleagues met with him, as I
4 recall, as I said, reasonably regularly, Your Honour.

5 Q. But you did speak to him, did you not?

6 A. Yeah.

7 Q. Okay. And I just want to, you know, read you a -- something
8 on -- it's Sabahudin Cena who is Sosi.

9 A. Sabahudin.

10 MR. KEHOE: And this is at 055443-TR-ET Part 4, 17 to -- line 17
11 to 18, 4. So that's Part 4, page 17, and then down to page 18, line
12 4.

13 Q. "Professor Cena, your lawyer made a point yesterday that I want
14 to ask you about ... he said at first in the spring and summer 1998,
15 the KLA just had an organisational structure and that the chain of
16 command emerged over time, and that you'd be able to explain this.

17 "A. So, there was no chain of command. And it was built on
18 voluntary basis."

19 Was that your observation at the time?

20 A. I really can't comment on that.

21 Q. You have no reason to question the individual who's in the
22 KLA --

23 A. No.

24 Q. -- at the time that there was no chain of command?

25 A. As I've said, I -- it was not something that directly concerned

1 me. I have my views now. But at the time, they did not concern me.

2 [Indiscernible].

3 Q. So you were aware that Rahovec, the -- the Rahovec area, they
4 started to -- to form itself in April 1998. Are you aware of that?

5 A. I'm aware now.

6 Q. You're aware now? Okay. And are you aware that during that
7 period of time that they were -- certainly in the beginning, as time
8 moved on, they were, as the OSCE and as "As Seen, As Told" reported,
9 they were always short on weapons?

10 A. I think we were fairly -- all of us were fairly clear on that.
11 Yes.

12 Q. Okay. And they were always short on supplies?

13 A. No reason to doubt that at all.

14 Q. And many of the conscripts -- or not even conscripts, the
15 volunteers didn't even know how to use a weapon?

16 A. I -- I've -- absolutely. It's not unusual in those
17 circumstances in my experience.

18 Q. And during this period of time, that they were concerned, were
19 they not, about spies, collaborators, infiltrators in their midst,
20 weren't they?

21 A. Undoubtedly.

22 Q. And, in fact, are you aware that the KLA on various occasions in
23 the spring and summer of 1998 were ambushed or were trapped, in their
24 belief, based on the fact that information had been turned over
25 telling the other side about their position, et cetera?

1 A. No doubt. I've no direct awareness, but that's the role of
2 intelligence -- military intelligence, to arrange that kind of --

3 Q. And --

4 A. -- encounter.

5 Q. And you are aware, when you talked about what happened in
6 Rahovec, that certainly the KLA could not withstand or fight off an
7 offensive by Serb forces during that period of time; is that right?

8 A. I think it would be fair to say that many Rahovecani or Rahovec
9 people would say they were not willing to do so, but it may well be
10 that they could not do so. I wouldn't be surprised at all.

11 Q. You would agree with me that the VJ and the paramilitaries and
12 the MUP significantly better armed than the KLA were?

13 A. Certainly.

14 Q. And were you aware during this period of time when fighting
15 ensued that KLA soldiers were deserting their posts or not doing what
16 they were supposed to do?

17 A. No, but it would not be surprising, again, based on my
18 experience elsewhere.

19 Q. Well, you talked to us about Toni. And take my word for it that
20 his name is Xhelal Hajda, H-a-j-d-a. And you had a very high opinion
21 of Toni; is that right?

22 A. I had an opinion neither one way or the other, to be fair,
23 Your Honour. However, the people to whom I spoke did have a high
24 opinion and that included, as I say, I think, in my statement, as I
25 recall, several Serbian people in the town.

1 Q. Well, let me pull up an SPO exhibit.

2 MR. KEHOE: And this is P67. Just the first sheet, if you can,
3 just the first page.

4 Q. This is a document that the Prosecution -- the SPO put into
5 evidence, the report of the Rahovec operational staff for the KLA
6 General Staff. And I believe, if you go to the last page of this
7 document, it's dated 15 August 1998.

8 MR. KEHOE: And if we can go to what is the fourth page in
9 English, which is 0437788.

10 Q. Do you see the third paragraph down on this page --

11 A. Yeah.

12 Q. -- Mr. Ledwidge? And it is talking about the individual you
13 know as Toni.

14 A. Yes.

15 Q. And it notes:

16 "Since Xhelal Hajda did not respond to the duty the Battalion
17 Command assigned to him, that is, he refused to be the Commander of
18 the 1st Company, on 07 June 1998 Zenel Berisha from Denji, Rahovec
19 would be appointed as commander ..."

20 Were you aware that Toni had refused a battalion command that
21 was ordered out of the Drenica headquarters?

22 A. No.

23 Q. Were you aware that he was supposed to be answerable to the
24 Drenoc headquarters?

25 A. No. As I said, all that of the KLA was not my concern. I will

1 make an observation if you don't mind, Your Honour.

2 Q. Sure.

3 A. But this looks like a pretty efficient operational report from
4 an organisation which is said to have no chain of command. That's a
5 personal observation.

6 Q. Well, we can go through it and diffuse that opinion with --
7 quite easily if you want to.

8 A. I am not sure my opinion counts --

9 Q. What's that?

10 A. I'm not sure my opinion counts in this respect.

11 Q. Absolutely. So we have Toni refusing a command. Were you aware
12 that then Toni went to Rahovec and set up his own command?

13 A. No, sir, I was not.

14 Q. And do you know that he was at odds with the command in Drenoc?

15 A. Ah, I did pick up, Your Honour, some rumours that there was a
16 rift in the KLA structures, yes.

17 Q. So --

18 A. However, the detail of it I did not know.

19 Q. So we have Toni refusing to take a command in June 1998 and
20 leaves the Drenica area and starts a parallel command around Drenica;
21 right?

22 A. As you say. I have no idea.

23 Q. And he does that on his own, with no authorisation from the
24 brigade commanders in Drenoc; is that right?

25 MR. BAARLINK: Your Honours, I think the witness has made it

1 clear that he has no personal knowledge of this.

2 PRESIDING JUDGE SMITH: Sustained.

3 MR. KEHOE: Well, if I can just wrap up the questions with Toni.

4 PRESIDING JUDGE SMITH: Well, just don't ask him if he knows
5 something that he said he knows nothing about.

6 MR. KEHOE: I understand. Thank you, Judge.

7 Q. So you did have information that he set up his own command in
8 Drenoc; right? Excuse me, in Rahovec.

9 A. No.

10 Q. Well, you did have information that he was at odds with the
11 headquarters down the road in Drenoc; right?

12 A. No. I had information that these two were probably -- very
13 limited, patchy information, these two were not involved. I think in
14 my statement it says that Toni and Mici may have been in Albania, and
15 that's the extent of my informant's knowledge. Further, and this was
16 rather commonly pointed out, that the KLA had -- had been subject to
17 a rift in the recent past. The details of that rift, as I have said,
18 Your Honour, I do not know.

19 Q. Well, who -- do you know the details of who that rift was
20 between?

21 A. No.

22 Q. But there was a rift, based on what you -- information that you
23 received, within the KLA?

24 A. Yes.

25 Q. Now, let me just ask you were you familiar with -- or let me

1 turn back to this Exhibit 67.

2 MR. KEHOE: And if we can turn to I believe it's the fifth page
3 in this.

4 Q. Now, under the heading of the:

5 "1. Problems of an organisational nature ..."

6 Do you see that, sir?

7 A. I see a page with 5 at the top starting with the lines:

8 "However, in the meantime the Rahovec unit ..."

9 Q. And just go down a little bit more than half --

10 A. Oh, I see, yes, yes.

11 Q. -- where it says --

12 A. Revised 1?

13 Q. Yeah, 1. Do you see that?

14 A. I think so. There is a 5 or S heading it, but yes, I think so.

15 MR. KEHOE: Your Honour, I am not sure what that is myself,
16 frankly.

17 Q. But do you see the one that says:

18 "Problems of an organisational nature ..."

19 A. Ah, yes, I see that.

20 Q. It says:

21 "Problems of an organisational nature - which, in addition to
22 supplying with weapons, includes another phenomenon which is even
23 more harmful. The failure to respect the Battalion command by the
24 Command of the 1st and 2nd Companies. Specifically, the soldiers of
25 the 1st Company refused the order of Mahir Hasanaaj to go to

1 Llapushnik for assistance on the date of 26 July 1998. This was
2 asked by Gjarpri and Luli, but the soldiers, knowing about the
3 blackmail of their companies' command, reasoned among themselves, 'We
4 will only carry out the orders of our command.' So, this has to do
5 with a failure to respect the military hierarchy."

6 Are you familiar with that dynamic going on in the KLA at the
7 time?

8 A. I observed that there was a military hierarchy.

9 Q. To the extent that we use that term loosely.

10 A. I really -- I really can't say. I was not an analyst of the
11 internal dynamics of the KLA in this -- in this period. Had I access
12 to this report, which it seems to be rather capability drafted, it
13 would have been of great interest to us and, indeed, all the other
14 reports of a like nature. However, we had no such access as far as
15 I'm aware.

16 Q. Let me read you another report. Let's go to the next page in
17 this.

18 A. I would imagine, if you don't mind me interrupting, this --

19 Q. Absolutely, please.

20 A. -- would be quite highly classified in the KLA hierarchy and we
21 would have been very likely, save had we close access to Serbian
22 military intelligence, who may also not have access to this, to have
23 gained access. So this -- this is very interesting to me now, but it
24 would have been a lot more interesting at the time.

25 Q. So let us turn to the second full paragraph:

1 "On the date of 11 August 1998, a group of 6-7 observers entered
2 from the Gradisht checkpoint without being stopped at all by soldiers
3 in Radoste, supposedly they didn't stop them because they didn't have
4 an order to do so. They even say that they don't have an order to
5 open fire on the enemy forces if they attempt to enter our zone. The
6 observers were stopped at Ratkoc and were spoken with, without
7 letting the Battalion Command or the Rahovec Local Operational Staff
8 know. The bad thing is the fact that such conversations with the
9 foreigners gives them the chance to conclude that there are no
10 institutional lines in the KLA that we ourselves have to respect
11 first of all, and that instead everyone acts according to their own
12 desire."

13 Now, when you were looking through what was going on in Ratkoc
14 when you were there, did you have -- did you come to an understanding
15 that the KLA soldiers, the individual KLA soldiers, were operating
16 according to their own individual desires?

17 A. I have never, to my knowledge, been in Ratkoc.

18 Q. Excuse me, Rahovec. My apology.

19 A. And I'm looking at this paragraph that you read out, and I'm
20 seeing, by the way, the assumption that there is, as they say here --
21 there are institutional lines. I also make the observation, in
22 passing, that the point here is that this was a dereliction of that.
23 More than that, I cannot say. But it would accord with what I was
24 told in general, that there was a rift, I suppose, between the
25 various factions within the organisation at or around the time of the

1 Rahovec battle.

2 I note that this is long after that, but I see your point. I
3 simply can't expand on it.

4 Q. So you told us you didn't know the details of the rift in there.

5 A. Right.

6 Q. You are familiar with the Arti unit in Rahovec, are you not?

7 A. Artillery?

8 Q. No, Arti. A-r-t-i.

9 A. Arti? No.

10 Q. No?

11 A. No.

12 Q. You don't know anything about that?

13 A. No.

14 Q. Now, when you look at the Rahovec transaction, you were aware,
15 were you not, that Toni was not there at the time that the attack
16 took place?

17 A. Yes.

18 Q. And that any attack that took place took place under -- ordered
19 by his subordinates; right?

20 A. It was ordered by someone, Your Honour. I don't know by whom.

21 Q. Well, I mean, you did know that -- you did say that Toni was
22 furious when he found out about the Rahovec attack?

23 A. Yes.

24 Q. So here is the person who is -- he has gone from Drenoc to
25 Rahovec. He's gone to Albania for some period of time. And while he

1 is gone, an attack takes place in Rahovec by these various elements;
2 right? Is that right?

3 A. Well, this is all very interesting. I wish I'd known it at the
4 time. I don't -- I know it now only because you have told me using a
5 secret KLA document.

6 Q. No, but did you not tell us -- did you not tell the SPO that
7 Toni was upset about the attack on Rahovec?

8 A. Yes, that's all I knew.

9 Q. Okay. And did you not tell the SPO that your understanding was
10 that people thought it was a stupid thing to do?

11 A. Yes, I just said that.

12 Q. Okay. So it's a stupid thing to do, done by somebody in the KLA
13 but not by Toni, who's not there, but some lower-level commander;
14 right?

15 A. Well, that was my understanding from talking to people in
16 Rahovec who also had no access to this. That was the common view.
17 What actually happened, I have no means of knowing. As I say again,
18 had I access to this kind of document, things would have been
19 different and I'd have taken a different course.

20 Q. So we'll go into that attack in a little bit, but let's just lay
21 the land. And help us out, if you can, with how you perceive the
22 terrain in Rahovec in the summer 1998.

23 There's, obviously -- and stop me if I'm wrong. So I'll put
24 this case to you and then you can comment. How's that?

25 A. Sounds good.

1 Q. So there's obviously a rift between the KLA in the Rahovec area
2 in the summer of 1998; is that right?

3 A. Seems so.

4 Q. Okay. And you likewise told us that Toni is the commander of
5 one element of the KLA; right?

6 A. As far as I was told.

7 Q. And the commander that is in and around Rahovec isn't even there
8 when the attack on Rahovec takes place on 17 July 1998; right?

9 A. I'm not clear who the commander in Rahovec was at that time. I
10 assume it was one of Toni or Mici. That's the extent of my
11 knowledge.

12 Q. Well, if Toni was the commander, and we'll get into that, he
13 wasn't there; right?

14 A. Your Honour, all this is -- is news to me. The extent of my
15 knowledge is contained in the statement. I'm not sure I can say too
16 much more than that ability any of these incidents.

17 Q. Well, didn't you say in your statement that Toni wasn't there
18 when --

19 A. I've said it now three times.

20 Q. Yes.

21 A. I was told he was in Albania.

22 Q. That he was in Albania?

23 A. Yes.

24 Q. So we have a degree with this -- of anarchy going on in and
25 around this area when the Rahovec attack takes place, don't we?

1 A. Well, there was another -- there was another story -- yes, well,
2 it seems so if your account is correct. There is another account,
3 though, that, in the words of whoever it is informed me, high command
4 of the KLA delivered a flag to one of the commanders, whoever it was
5 at that time, which I was led to believe is a signal in that
6 particular military culture that you have to do something heroic and
7 that that was what triggered the attack.

8 As I say, I have no knowledge over and above what I've already
9 said. It may have been that. It may have been some sort of frolic
10 of their own, to use the legal term. Or it may have been directly
11 ordered. I really cannot say.

12 Q. Who told you that about the flag? And who supposedly gave the
13 flag to them?

14 A. The informant told me KLA high command.

15 Q. Who? Who in the high command?

16 A. I really have no idea, Mr. Kehoe.

17 Q. Well, I won't ask you who the informant is because that's
18 probably --

19 A. I couldn't remember anyway.

20 Q. Okay. Just as well.

21 A. Yes. None of this military intelligence order of battle
22 analysis, whilst it might have been interesting to me the year
23 before, was of interest to me in my endeavour to assist the
24 relatives.

25 [Albanian on English channel]

1 MR. KEHOE: That wasn't me, Judge.

2 THE WITNESS: Nor me.

3 MR. KEHOE: I think that ... I think we're good to go, Judge.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. KEHOE: Yes.

6 Q. So in the midst of this, we have, you know, Serb civilians
7 living -- Serbs and civilians living in Rahovec; right?

8 A. Yes.

9 Q. And you were aware when you were working on "As Seen, As Told"
10 that the VJ and the MUP and the Serb paramilitaries often armed the
11 Serb civilian population, didn't they?

12 A. Yes, they did.

13 Q. Okay. And they also did that in the --

14 A. If I might just -- there were, as you know, and as you've
15 hinted, many armed Serb civilians. I vaguely remember being told
16 that there was an arming process coming from the state, but I can't
17 remember when or where that took place, if it took place. Certainly,
18 the result was that there were many armed civilians, yes.

19 Q. Well, let me just -- let me give you some items in the Volume 1
20 of "As Seen, As Told" of which we have a portion that we introduced
21 here.

22 A. Yes.

23 MR. KEHOE: And this is SPOE00198367 to 3834.

24 Q. You note:

25 "On March 22, VJ took control of Decani. Paramilitaries had

1 come there and distributed arms to the Serb population."

2 MR. KEHOE: Again, in the "As Seen, As Told" executive summary,
3 the same SPO number -- I shouldn't say that. It's SPOE00198098 to
4 366, and this is at page 106. This is, again, in Volume 1 of account
5 of "As Seen, As Told."

6 Q. "The accounts of refugees also give compelling examples of the
7 organised and systematic nature of what was being perpetrated by
8 Yugoslav and Serbian forces, and their tolerance for and collusion in
9 acts of extreme lawlessness by paramilitaries and armed civilians."

10 Again in "As Seen, As Told," we have -- this is SPOE00198098 to
11 198366:

12 "The white uniforms of the White Eagles may have been the cream
13 of an SAJ unit, local armed civilians could be mixed up with the
14 *ad hoc* mixed dress of a paramilitary unit (Arkan's paramilitaries
15 favoured black uniforms or civilian clothes). In short, a fixed rule
16 for identifying perpetrators by uniforms would be misleading; a
17 description is only a valuable additional piece of information to a
18 bigger picture."

19 And I am not going to read all of this, but in -- again, in "As
20 Seen, As Told "there is an account of Ferizaj, and that's on page
21 198756:

22 "... 'every Serb civilian who could handle a gun was given
23 one.'"

24 Again, in "As Seen, As Told," page 146:

25 "... the VJ in Kosovo was still supplemented by 'volunteers' and

1 'armed civilians.'"

2 And we have a whole bunch of periods of time accounted for in
3 "As Seen, As Told" of Serb villagers being armed by the Serb
4 authorities and possessing weapons and entering the fight.

5 A. Certainly.

6 Q. Is that right? Now, you also -- I noted from the evidence
7 that --

8 MR. KEHOE: Can we go into private session for a moment, Judge?
9 I'm going to mention a name and I don't really know if this name is
10 protected, so I'd rather be little bit cautious on this.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 Private session, please, Madam Court Officer.

13 MR. KEHOE: And I -- I know I want to address this to the -- I'm
14 sorry.

15 [Private session]

16 [Private session text removed]

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Witness: W02153 (Private Session)

Page 6049

Cross-examination by Mr. Kehoe

1 [Private session text removed]

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Witness: W02153 (Private Session)

Page 6050

Cross-examination by Mr. Kehoe

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Witness: W02153 (Private Session)

Page 6051

Cross-examination by Mr. Kehoe

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Witness: W02153 (Private Session)

Page 6052

Cross-examination by Mr. Kehoe

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Witness: W02153 (Private Session)

Page 6053

Cross-examination by Mr. Kehoe

1 [Private session text removed]

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1 [Private session text removed]

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4 [Open session]

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

6 PRESIDING JUDGE SMITH: Thank you.

7 You may proceed.

8 MR. KEHOE: [Microphone not activated].

9 Sorry. Judge, we have to kind of give ourselves the signals as
10 to when we need to press the button or not.

11 Q. So just staying with the issue of what is going on in Kosovo at
12 the time. You were also familiar with the Serbs engaging, for lack
13 of a better term, false-flag operations, don't you?

14 A. No.

15 Q. Well, you are you familiar with the Panda bar situation?

16 A. Oh, yes. I read about it only last week. Yes, I see what you
17 mean.

18 Q. And this -- let us go to "As Seen, As Told." And I can read
19 this to you. This is SPOE001980 to 98 -- 00198366. And I'm reading
20 on 198303. Again, this is in Volume 1 of "As Seen, As Told" and we
21 are talking about the attack in the Panda bar in Peje.

22 "There are a number of unidentified victims of seemingly
23 inexplicable killings. In some cases there was suspicion that UCK
24 forces killed not only moderate Kosovo Albanian civilians but also
25 Serbs who were well liked by both communities. Two incidents in

1 particular attracted international attention. On 14 December 1998,
2 unidentified gunmen killed six young Kosovo Serbs in the Panda Bar
3 ... the attack was considered to be in revenge for the killing of 30
4 UCK members who had been shot while crossing the border ..."

5 Are you familiar with the statements by the Serb former war
6 crimes prosecutor on this, Vladimir Vukcevic?

7 A. Are you referring to the assertion that this was, indeed, as you
8 put it, a false-flag operation?

9 Q. Yes.

10 A. I learned about it last week. I am aware of it then.

11 Q. Okay. And so you're aware that the --

12 MR. KEHOE: And if I can just put that up, DHT0121 to DHT01215.
13 And if I can go -- this is a newspaper article. We can go to -- out
14 of Belgrade. We can go to page 3. I believe it's the next page. If
15 I may have a moment. Okay. If I may, just scroll down.

16 Q. We will get back to this in a second. But you're aware, of
17 course, sir, that Mr. Vladimir Vukcevic said that the Albanians were
18 not responsible?

19 A. Yes, indeed.

20 Q. And if I can, it is on page 5, if I can. Sorry. We are talking
21 about in the middle of the page about Mr. Vukcevic. And he says
22 that:

23 "Serbia's former war crimes prosecutor, Vladimir Vukcevic, said
24 that it was a fact that there were 'almost no Albanians' in the
25 Peja/Pec region at the time of the attack.

1 "'We came to the conclusion that [Albanians] are not the
2 perpetrators,' ..."

3 That's, in fact, the same information you had; right?

4 A. Yes, it seems so.

5 MR. KEHOE: Your Honour, at this time we'd offer into evidence
6 this article, "The Kosovo Panda Café Massacre Mystery Unsolved 20
7 Years On."

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. BAARLINK: Objection on the basis of relevance, Your Honour.

10 PRESIDING JUDGE SMITH: Overruled. I'll allow it.

11 Please give it a number.

12 THE COURT OFFICER: Your Honours, that will be Exhibit 1D34.

13 MR. KEHOE:

14 Q. And continuing on with false-flag operations. There was, in
15 fact, the use by the Serbian authorities for leaflets thrown on
16 Albanian areas, et cetera; right?

17 A. Well, more than that. I would say that the Serbian people, many
18 of whom I spoke to, or some of whom spoke to me about this, would
19 mention this case as a justification for calling the KLA terrorists.
20 So I have no problem at all believing that this was, as you would
21 call it, a false flag. I'll call it an information operation and
22 false flag intended to keep the conflict going and inflame tensions,
23 as you suggest.

24 Q. And were not also the Serb authorities dropping leaflets on
25 Kosovo Albanian areas which the Kosovo Albanians said were forgeries

1 and had been dropped by the Serb?

2 A. I have no knowledge of that.

3 Q. Okay. And how about the situation of or the practice of the
4 Serb authorities for putting guns on bodies after an incident took
5 place to make it seem like they were justified in their conduct?

6 A. It's called throwdowns. What about it? What do you want me to
7 say?

8 Q. Well, let me read for you another excerpt from "As Seen, As
9 Told," again, Volume 1, the same exhibit you were in. And this is
10 SPOE00198098, it's 098, two 098s, believe it or not. It's
11 SPOE00198098 to SPOE00198366, and this is at 155. And I'll just read
12 it to you, Mr. Ledwidge. It's in the interest of time.

13 "In such a security force operation, when overrunning an enemy
14 position it is likely that weapons would have been removed out of the
15 victim's arm's reach regardless of whether the victim appeared to be
16 dead or not, and the bodies given initial searches. It is therefore
17 not surprising that bodies appear to have not been found exactly
18 where they were killed and, moreover, weapons may well have been
19 placed back close to the bodies in an attempt to project the
20 impression that Yugoslav/Serbian forces felt was needed to be seen by
21 the verifiers."

22 Are you familiar with that practice by the Serbs?

23 A. Sadly, I'm familiar with that practice by forces other than the
24 Serbs more recently. I'm not familiar with this particular practice.
25 It doesn't surprise me in the least.

1 Q. And you have no reason to doubt what's in "As Seen, As Told" --

2 A. No.

3 Q. -- right? Now, in fact, that was what transpired after Recak in
4 January 1999 as well; right?

5 A. I believe so.

6 Q. Excuse me?

7 A. Sure.

8 Q. I think I spoke over you.

9 A. You didn't. On the contrary. The answer is I believe so, yes.

10 Q. And, again, in that instance, after the shooting that took place
11 there, the Serbs attempted to justify their conduct by putting
12 weapons near the killed civilians; right?

13 A. So I believe, yes.

14 Q. So this is the situation that is taking place, broadly speaking,
15 when the Rahovec offensive begins on 17 July 1998; isn't that right?

16 A. It sounds reasonable to me, yes.

17 Q. And this is, again -- and this is talking about your Rahovec
18 analysis of it, and this is in your preparation note at paragraph 14.

19 MR. KEHOE: And that, for the record, is 230.

20 Q. You said that:

21 "[You] noted that there were lots of rumours from both sides of
22 community about why the Rahovec/Orahovac raid happened because people
23 could not understand why such a stupid thing would have been done."

24 A. Correct.

25 Q. That's accurate; right? That's --

1 A. As far as I knew, yes.

2 Q. And let me read you the testimony of the chief of staff for the
3 KLA, Bislrim Zyrapi. Are you familiar with Mr. Zyrapi?

4 A. No, sir.

5 Q. He testified in the Djordjevic case at the ICTY. And in this
6 question, they don't use Rahovec, they use Orahovac. They asked him:

7 "And the KLA General Staff" --

8 MR. KEHOE: Oh, by the way, just for your reference points, it's
9 IT-05-87-T, 2489 -- page, transcript 2489 to transcript 2565 at 205,
10 lines 13 to 20.

11 "And the KLA General staff, did it decide to attack Orahovac on
12 the 17th, 18th, and 19th of July, 1998?

13 "A. No.

14 "Q. ... and do you know who made the decision to launch an
15 attack on Orahovac?

16 "A. According to what I know, I was a member of the staff at
17 the time, I was direct -- head of the operations department, and none
18 of the members of the staff gave that order to attack ..."

19 PRESIDING JUDGE SMITH: Excuse me, just a second.

20 Madam Court Officer, we're not getting any feed on the
21 transcript.

22 MR. KEHOE: Okay.

23 [Trial Panel and Court Officer confers]

24 MR. KEHOE: [Microphone not activated]

25 PRESIDING JUDGE SMITH: [Microphone not activated]

1 MR. KEHOE: [Microphone not activated]

2 Q. Are you familiar with the fact that Mr. Zyrapi -- excuse me,
3 that Mr. Zyrapi testified to that effect?

4 A. No.

5 Q. Let me ask you about the deputy commander in Malisheve who was
6 Isni Kilaj. And I can tell you that Malisheve -- your information
7 was that some troops from Malisheve went down to assist in Rahovec;
8 is that right?

9 A. I can't recall right now. It sound reasonable.

10 Q. It said:

11 "Q. How many units was the Serb forces in there now? By and
12 large, what are we talking about?

13 "A. I cannot really speculate that I had such information. I
14 trusted the persons that were there leading the -- leading Rahovec
15 attack. It was mainly soldiers from Rahovec, from the town, and
16 Piktori was leading the operation in Rahovec."

17 Now, Piktori was the chap that you had been speaking to; right?

18 A. I don't think I ever spoke to him, but I seem to recall his
19 name. Yes.

20 Q. And you know him as Gezim Hamza?

21 A. I think so. Okay.

22 Q. And continuing on with Mr. -- Mr. Kilaj's trial testimony. And
23 he noted that --

24 MR. KEHOE: This is again at same Bates stamp number, it's
25 070717-TR-ET Part 1, 23, 24, and 24, line 3.

1 "When Piktori came to see you, did he tell you whether he was --
2 whether he had discussed the plan or received instructions to enter
3 Rahovec from someone higher up?

4 "A. No, he didn't. He acted upon his own judgment as well. He
5 did not ask ..."

6 Continuing on the same -- this -- this part is in Part 2, line
7 1, 15 to 17, the same Bates stamp number, from Mr. Kilaj, the deputy
8 commander in Malisheve:

9 "Before breaking, we were talking about the Rahovec attack.
10 When Piktori came to ask for your assistance, did you ask him if this
11 attack had been authorised by someone in the General Staff?

12 "A. Yes, I asked him whether he had consulted with anyone else
13 and he said no.

14 "Q. Do you feel that yourself had to inform somebody in the
15 General Staff before taking part in the attack?

16 "A. No."

17 THE INTERPRETER: Could the counsel please slow down when
18 reading? Thank you.

19 MR. KEHOE: My apologies again.

20 Q. So were you aware of that state of affairs among soldiers within
21 the KLA?

22 A. Your Honour, as I have repeatedly said, there's absolutely no
23 way, with the resources we had and with the stonewalling of the KLA
24 contacts, that we could have had any knowledge of any of this at any
25 time during our tenure as KVM.

1 Q. So when -- sorry.

2 A. It's personally very interesting to me, but more of an academic
3 nature than for the purpose of these proceedings. We knew none of
4 this and had no way of discovering it.

5 Q. I appreciate that, sir. I appreciate it. I'm just asking you
6 the questions and seeing if you can help us along the way. So I'm
7 not trying --

8 A. I'm trying my best, Mr. Kehoe. But I'm afraid it's still the
9 same. I just don't know any of this.

10 Q. "Mr. Kehoe" is much better than "Your Honour."

11 A. I'll address Your Honour in the future.

12 Q. But, in any event, you had no knowledge that this -- that
13 Piktori was operating on his own when he decided to attack Rahovec?

14 A. No, I suspect there were rumours to that effect. I may -- may
15 have heard or picked those up, but I can't recall doing so. As I
16 say, these were of historic interest rather than more a immediate
17 interest at that time.

18 Q. So with this historic interest, you know, we have a degree of
19 disarray in the KLA. We have parallel chains. We have Toni who's
20 got his command in Rahovec now, who's split from Drenoc. He's not
21 there. And then we have Piktori who decides he wants to attack
22 without get any authorisation from anyone. Is that about -- as you
23 look at these facts, is that about the state of affairs?

24 A. I suppose if you were to summarise what you said, you could
25 certainly justify that. As I say, I have no direct knowledge.

1 You're asking me to summarise a case that you've given me from four
2 or five extracts from statements. I can't say more than I've said.
3 I have no idea what happened.

4 Q. So just staying with the brigade commander of 194, Ismet --
5 excuse me.

6 MR. KEHOE: Again, Judge, I think I made a -- I might err on the
7 side of caution here and go into private session for this name.

8 PRESIDING JUDGE SMITH: Please take us into private session,
9 Madam Court Officer.

10 [Private session]

11 [Private session text removed]

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Witness: W02153 (Private Session)

Page 6064

Cross-examination by Mr. Kehoe

1 [Private session text removed]

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21 [Open session]

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

23 PRESIDING JUDGE SMITH: Thank you.

24 MR. KEHOE:

25 Q. So I want to turn back to one of the brigade commanders. His

1 designation was W04745, and this was a question that was asked of
2 him.

3 "Q. You've said that it's unclear exactly" --

4 He's talking about the Rahovec attack. He said that:

5 "... it's unclear exactly how the whole thing started, and many
6 different sources have expressed lack of clarity on how this
7 operation started, but is it fair to say that some time on the 18th
8 that some coordination, some order, came over the operation?

9 "A. No. There was no order. There was no order up until the
10 end of the battle, not the beginning, nor at the end."

11 Continuing on, and that's on 083217-TR, English translation,
12 Part 7, page 17, lines 17 to 18. If I can stay with the same person,
13 W04745. And this will be at the same ERN number, Part 7, page 17,
14 19 -- excuse me, from page 17, line 19, to page 18, line 15.

15 "Q. Was there any coordination brought from the zone commander,
16 from central general staff at any stage over the weekend?"

17 Talking about the weekend of the attack.

18 "A. I'm not aware of any. I had seen that soldiers had come
19 from above, from Malisheve and from Drenoc, because we also -- we had
20 also had one position ... Malisheve which was above our unit, and
21 they came down immediately with our soldiers. And after I had
22 returned from establishing the positions on the outskirts of Rahovec,
23 when I came back to the staff, I saw that we were getting
24 reinforcements from other places as well.

25 "During the next day, there on the 18th when I was inside of the

1 headquarters, I saw that it was unknown or people didn't know whose
2 soldiers were where. I also saw that soldiers were starting to mix
3 in with the population that had begun to leave Rahovec when shelling
4 started. A majority of the soldiers joined in with the civilian
5 population who was leaving the city in order to leave ...

6 "And after me -- or according to me, after the Serb forces began
7 their offensive and from what I have learned and what I've known, it
8 was very difficult to find where the KLA soldiers were. The war and
9 the battle of Rahovec, they were started just like in the cartoons,
10 if I can put it that way. It was just like watching cartoons."

11 Did you ever, when you were going through your analysis, ever
12 get the sense that it was a completely dysfunctional operation and
13 that individuals had no idea what they were doing, uncoordinated, and
14 it was as Mr. -- excuse me, as the witness just said, like watching a
15 cartoon?

16 MR. BAARLINK: Objection, Your Honour. The witness has made it
17 clear that he has no foundation to answer that question.

18 MR. KEHOE: Well, he --

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 THE WITNESS: I think the answer to your question is, to the
21 extent that the operations included the kidnapping and the -- well,
22 the capture, kidnapping, detention, supply, and guarding of several
23 dozen victims, the answer to your question is no. That speaks to me
24 of some level of organisation and this is not all a chaotic mess, as
25 you suggest.

1 MR. KEHOE:

2 Q. Well, let us talk about that because you put people in that
3 were, your quote, senior figures in the KLA. And I am talking about
4 your ICTY November 2000 statement, which is Exhibit 232.

5 MR. KEHOE: And if I can turn to that.

6 Q. And you say that:

7 "It will be seen on document marked FAL-6 that I have circled
8 the name Cena at number 4 under the paragraph of suspected
9 kidnappings and I have written the name Sosi. I have done this
10 because he has been named frequently by witnesses and others for his
11 involvement in the kidnappings. He is also named as a suspect in
12 document 5. It will be noted that number 3, Piktori, on the document
13 marked FAL-6 is also named at FAL-5 and number 3. This would
14 indicate to me that this was a planned operation and merely not
15 opportunist, and so since Sosi and Piktori were senior figures in the
16 KLA."

17 You say they are senior figures in the KLA. What senior
18 position did Sosi and Cena, or Piktori for that matter, have in the
19 KLA?

20 A. As far as I knew, they were officers in that organisation.

21 Q. Did they hold a rank?

22 A. There were no ranks as far as I know.

23 Q. And officers of what? Of a brigade or a company? What were
24 they?

25 A. I -- I told you, I don't know. We were not equipped nor set up

1 to conduct that level of military or battle analysis. And it may
2 well --

3 Q. And it was --

4 A. I haven't finished. It may well be that our KLA liaison team
5 knew something about that, but I don't think they did. Perhaps you
6 will ask them if they show up. But as far as I was concerned, those
7 individuals, and one other that you have mentioned by -- well, that
8 one other that you have mentioned, were senior in the context of the
9 Rahovec Opstina and perhaps more broadly than that.

10 As I say later in another statement, the character known as Sosi
11 proclaimed himself, and I quote, "I was far more senior than you ever
12 thought." Now, whether he was playing me, as I said again in one of
13 the statements, I don't know. But I think it's worth bearing in mind
14 that we were completely stonewalled by a highly defensive wall of
15 silence from the KLA chain of command such as it was if it existed.

16 So the most senior people whose identities I were aware of were
17 those. I would also observe, and perhaps we will get on to this,
18 that the level of organisation and coordination of the kidnappings of
19 those civilians in Rahovec itself, on the outskirts and in the
20 surrounding villages, speaks to me of a level of organisation that
21 does not amount to a chaotic mess, let's say politely.

22 Q. So let's go back to my question. Was Cena a brigade commander?

23 A. I have no clue.

24 Q. Was he a deputy commander?

25 A. I've just said I don't know.

1 Q. Okay. And the same is true of Sosi and Piktori; right?

2 A. Sosi, my understanding was -- was in the chain that culminated
3 with Fatmir -- with the character known as Celiku, Fatmir Limaj.
4 That was my understanding at that time.

5 Q. Stop right there. Who told you that Cena was in the chain of
6 command with Fatmir Limaj? Who told you that?

7 A. Well, Sosi would usually wear on occasions, or at least the one
8 occasion that I can clearly remember, when we met him, a black
9 uniform. And there may have even been a badge or other armband with
10 PU on it. That would indicate to me that he might have been a member
11 of the *Policia Ushtarake*, which is the military police, the chain of
12 command which ended, as I understand it -- understood it at the time,
13 with this Celiku. Sosi himself told me, as I recall, that he was in
14 that -- in that organisation. That's my recollection right now.

15 Q. So did he have a rank? Did he -- what does -- so going back to
16 brigades, was he a brigade commander or --

17 A. I've already answered that. I don't know.

18 Q. You don't know. And with Piktori, do you know if he was a
19 brigade commander or a deputy commander?

20 A. To the extent that we haven't mentioned it already, I don't
21 know.

22 Q. Okay.

23 A. I think you may have mentioned his rank yourself.

24 Q. So to the extent that you were putting them in as senior figures
25 in the KLA, you are basing that, for the most part, on their

1 involvement in this Rahovec and surrounding village operation, aren't
2 you?

3 A. Well --

4 Q. That's the basis of your conclusion --

5 A. -- necessarily so, yes.

6 Q. -- that they're senior figures of the KLA?

7 A. Are we quibbling about the term "senior"? Is that what you wish
8 to address?

9 Q. A senior figure of the KLA, if you're talking about a senior
10 figure in the British army, that connotes something much different
11 than a -- just a member of the British army, doesn't it?

12 A. A major is a senior officer in the British army.

13 Q. Well, let's use that as a benchmark.

14 A. I would suggest that Sosi was roughly of that rank by
15 comparison. And looking at the level of authority he seems to have
16 exercised, he would be --

17 Q. So you -- go ahead.

18 A. He would be at the level, off the top of my head, and you're
19 asking me things here, as I've said multiple times, I don't really
20 have the information upon which to base an adequate answer, but I
21 would suggest he would have been at the level, absolutely randomly --
22 almost randomly, of SO1, colonel, that -- lieutenant-colonel. That
23 sort of level. And in the British military, the American, German,
24 Belgian, whatever you would like to choose, that is a relatively
25 senior officer.

Witness: W02153 (Private Session)

Page 6072

Cross-examination by Mr. Kehoe

1 [Private session text removed]

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Witness: W02153 (Private Session)

Page 6073

Cross-examination by Mr. Kehoe

1 [Private session text removed]

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17 [Open session]

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

19 PRESIDING JUDGE SMITH: Proceed.

20 MR. KEHOE:

21 Q. So based on all of this, you say in your prep note that there
22 was an order given within the KLA to kidnap a large number of people
23 for the purposes of exchanging. Do you recall saying that?

24 A. Yes.

25 Q. And who gave that order?

1 A. No idea.

2 Q. So they go in, they take their -- and they begin to take some
3 prisoners. And shortly thereafter, the Serbs took the whole town
4 back; isn't that right?

5 A. I quibble with the term "took some prisoners." There was a what
6 seemed to me a fairly -- as I said before, a fairly coordinated
7 operation in several separate areas --

8 Q. We'll get into that.

9 A. -- to --

10 Q. I'm just talking about the --

11 A. You interrupted me again.

12 Q. We'll get into that, but I want to talk about the retaking of
13 Rahovec. The Serbs decided on the 19th that they were going to
14 retake Rahovec; isn't that right?

15 A. Well, the operation to do so took place, as I recall,
16 Your Honour, yes, on the 19th.

17 Q. And how long did it take them to retake Rahovec?

18 A. I don't think it took very long. As I recall from memory,
19 just -- just a couple of hours, I would think --

20 Q. Very, very brief.

21 A. -- during the same day, yes.

22 Q. They walked in there with mechanised units and artillery and
23 took over the city very quickly; right?

24 A. Well, I think the artillery there played a rather larger part in
25 the walking in that they killed a great many civilians in that

1 process and then proceeded with, as you might say, fire and the sword
2 to kill a great many more.

3 Q. And during the course of that attack -- let me take this back.
4 So the KLA attack was on the 17th, and two days later, the 19th, the
5 Serbs had rolled through the VJ and the MUP and paramilitary forces,
6 had rolled through and retook the town?

7 A. So I was told.

8 Q. Okay. And you were also told that approximately 150 Albanian
9 civilians were killed?

10 A. Yes. Yes, that number is slightly unclear, but a very great
11 number of civilians were killed. Yes.

12 Q. Well, I'm referencing your SPO statement --

13 A. Yes, I'm aware of that.

14 Q. At page --

15 A. I would simply say that I think that's as near a figure as we
16 can get, but I have a suspicion there may have been more than that.
17 That's the figure that we have now, yeah.

18 Q. And these people were civilians that were murdered by the Serb
19 forces?

20 A. Absolutely.

21 Q. And what happened to the rest of the village or the areas that
22 were inhabited by the Albanian population?

23 A. Which particular areas?

24 Q. The areas that they rolled into to kill 150 civilians?

25 A. I think that was in the town of -- of Rahovec. So they, as they

1 would say, liberated Rahovec and murdered a great many civilians. I
2 have -- I have no recollection of them retaking other areas. They
3 may have done so on that date.

4 Q. And did they level the residences of these Kosovo Albanian
5 civilians?

6 A. My recollection of the evidence that we gathered, to the extent
7 that we did, was that it was more a clear -- what they might call a
8 clearance operation, what you or I might call a house-to-house
9 murdering operation, rather than a levelling by explosives or
10 anything like that.

11 It's my understanding as well, from what I was told, that prior
12 to all this, there was something of an artillery bombardment. But
13 the details of the operation, if I ever knew them, I've forgotten.

14 Q. So they went to -- after the artillery barrage with indirect
15 fire, they went in and went to a house-to-house cleanup operation,
16 killing civilians --

17 A. Yes.

18 Q. -- and looting the premises as well?

19 A. I would -- would -- no, the answer is yes.

20 Q. Okay. And did they burn their residences as well?

21 A. Certainly some of them, yes.

22 Q. And with regard to the 150 civilians that were killed, did you
23 folks at the OSCE ask the Serbs about that?

24 A. All the time.

25 Q. Were they candid with you?

1 A. They were not until the last month of our presence there, when
2 there started to be an acknowledgement that not only were some very
3 great deal of people murdered or killed but also that they would
4 assist us in locating their remains as part of what we hoped would be
5 an exchange operation. But perhaps we're getting ahead of ourselves
6 a bit there. You may come to that.

7 Q. That's quite all right. So did the Serbs tell you who, in fact,
8 was involved in this criminal operation of going house to house to
9 murder these civilians and --

10 A. No.

11 Q. -- torch --

12 A. But we --

13 Q. -- their houses?

14 A. But we did obtain at some point the identities of some of those
15 who were allegedly responsible.

16 Q. Did you get that from the Serbs?

17 A. Yeah, we got some rumours from the Serbs. It was not -- I think
18 it's important to understand that this town was regarded, and
19 regarded itself, as I think I hint -- or at least state -- maybe even
20 state in one of my earlier statements, regarded themselves as quite
21 special in that relations between the two major ethnicities, as
22 they're called, was quite good so that there was a great deal of
23 intermingling. And the reason for that was that the industry around
24 that place, as you probably know, is wine. So there was one large --
25 well, one major source of income in a factory where most or many

1 people were employed.

2 So relationships were close. And I think it's fair to say that
3 everybody in the town, let's put it -- to put it mildly, with the
4 exception of some perpetrators, deeply regretted what had happened.
5 From the -- I think I say at one point, and I would hold to this,
6 from the Albanian perspective, there was some blame ascribed to the
7 KLA in much the same way as you might ascribe blame to someone who
8 kicked a hornets' nest allowing the insects to come out and bite
9 everybody. Whose fault is that? Is it the insects or the kicker?
10 And in the same way, I think people blamed the KLA for starting this.

11 And so to come to your point, and this applied on both sides, I
12 think -- and I'm generalising horrendously here at the distance of 24
13 years. But I think it's fair to say that neither of the
14 ethnicities -- well, both ethnicities deeply regretted this.

15 So, yes, there were some Serbians who would say, "I believe this
16 person or that person may have been involved." Again, these were
17 private conversations. And the Albanian -- the Albanian side often
18 knew the perpetrators or at least those who were not in the line
19 units who had -- who had committed these atrocities.

20 Q. Well, I'll just go back to my question. Did the Serb
21 authorities provide you --

22 A. No, they did not.

23 Q. They did not?

24 A. Absolutely not.

25 Q. They did not?

1 A. No. Of course not.

2 Q. And they knew who actually did this and they provided you no
3 information concerning them; right?

4 MR. BAARLINK: Your Honours, the relevance of this line of
5 questioning is not clear.

6 MR. KEHOE: Well ...

7 PRESIDING JUDGE SMITH: Overruled. You can answer the question.

8 THE WITNESS: I'm not sure what they knew. Since -- since --

9 MR. KEHOE:

10 Q. Well, they certainly knew how to extract the information, didn't
11 they?

12 A. The municipal authorities -- sorry, what do you mean "extract
13 the information"?

14 Q. Well, you do know that the Serbs were, in fact, torturing
15 prisoners for information, weren't they?

16 A. Why would they torture their own side to find out who had killed
17 Albanians?

18 Q. That's not my question. My question was you knew that the
19 Serb -- I'll read it for you. This is at your SPO statement at
20 paragraph 21 of P230.

21 A. Yeah.

22 Q. "I was asked about the basis for information held by Serbian
23 authorities. Petrovic stated that some of it was obtained from
24 prisoners and noted that there was 'blood on the walls.' I
25 understood this to mean that some of this information was derived

1 from torture."

2 A. Yes.

3 Q. So you do know that they were using -- they were torturing
4 people to get information, weren't they?

5 A. Absolutely. They were -- in that case, of course, they were
6 torturing KLA prisoners for information about the Serbian prisoners,
7 kidnapped and missing. That's the context of that particular
8 statement --

9 Q. But they didn't --

10 A. -- I think it's clear.

11 Q. But when they wanted to get information, they certainly knew
12 what means to employ to get it, didn't they?

13 A. It was a torturing state, yes.

14 MR. KEHOE: Your Honour, I'm about to move into another topic at
15 this point. I note it's about two minutes to 4.00.

16 PRESIDING JUDGE SMITH: We'll let you start tomorrow.

17 MR. KEHOE: Thank you, Your Honour.

18 Q. Mr. Ledwidge, thank you for your time. I will see you in the
19 morning.

20 A. Sure.

21 PRESIDING JUDGE SMITH: Witness, we will see you again --

22 Witness, we will see you again tomorrow at 9.00, and hopefully be
23 finished with your testimony maybe tomorrow.

24 THE WITNESS: Thank you.

25 MR. STRONG: Just on that note, Your Honour, and so the witness

1 has fair warning as well, we should be considerably less than our
2 time estimate. I expect to be no more than 20 minutes with this
3 witness.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. TULLY: We are in a similar boat, Your Honour. 20 minutes,
6 maybe even less. Thank you.

7 PRESIDING JUDGE SMITH: Mr. Ellis.

8 MR. ELLIS: Certainly less than estimated, Your Honour, but
9 still working on it.

10 PRESIDING JUDGE SMITH: So now you're excused for today.
11 Remember not to speak to anyone about your testimony.

12 [The witness stands down]

13 PRESIDING JUDGE SMITH: Mr. Tully is behind you. He's already
14 on his feet.

15 MR. KEHOE: [Microphone not activated]

16 PRESIDING JUDGE SMITH: Go ahead, Mr. Tully.

17 MR. TULLY: Never a problem.

18 Your Honour, just a small matter of housekeeping. I think there
19 was some confusion today about a witness, W00072. According to our
20 records, she has no protective measures. If we could get information
21 on that, because I'm concerned since Mr. Laws told us that she is to
22 testify with anonymity, and perhaps it's just a miscommunication, but
23 we'd appreciate some clarity. Thank you.

24 PRESIDING JUDGE SMITH: Do you know that information now,
25 Mr. Laws?

1 MR. LAWS: Your Honour, if you will give me just a moment.

2 MR. TULLY: And, of course, Your Honour, if it is the case that
3 it's just a misunderstanding, then, perhaps, in the interest of
4 publicity, the information which doesn't identify her as a witness
5 could be made public. Thank you.

6 MR. LAWS: *[REDACTED] Pursuant to In Court Redaction Order
F1683RED*

7 *[REDACTED] Pursuant to In Court Redaction Order F1683RED*

8 *[REDACTED] Pursuant to In Court Redaction Order F1683RED*

9 *[REDACTED] Pursuant to In Court Redaction Order F1683RED*

10 PRESIDING JUDGE SMITH: So we will be in private session with
11 that witness, I take it, tomorrow?

12 MR. KEHOE: *[REDACTED] Pursuant to In Court Redaction Order
F1683RED*

13 *[REDACTED] Pursuant to In Court Redaction Order F1683RED*

14 *[REDACTED] Pursuant to In Court Redaction Order F1683RED*

15 MR. LAWS: I don't think she's intended to be the next witness.

16 MR. KEHOE: Well, now I'm really confused.

17 [Trial Panel confers]

18 MR. KEHOE: Sorry, Your Honour.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 Let's go to private session, please.

21 All right. Let's start with you.

22 [Private session]

23 [Private session text removed]

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1 [Private session text removed]

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17 [Open session]

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

19 PRESIDING JUDGE SMITH: I'm not going to enter a written order
20 on the disclosure of the next five witnesses. What I said here in
21 court today is an oral order, and I know you'll comply with it.

22 We are adjourned until tomorrow at 9.00.

23 --- Whereupon the hearing adjourned at 4.06 p.m.

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