

1 Thursday, 18 July 2024

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: I note that the accused are all present
11 in court today.

12 Before we continue hearing the evidence of Prosecution
13 Witness W04752, there are some preliminary matters.

14 First, the Selimi Defence requested yesterday an extension of
15 time to respond to F02451, the SPO's notification of witnesses for
16 19 August to November 7, 2024. The Selimi Defence requested an
17 extension until 29 July in respect of witnesses who are scheduled to
18 testify in the first block after the judicial recess period, and
19 until 23 August in respect of witnesses who are not testifying
20 directly after the judicial recess period.

21 Having considered the request and the upcoming judicial recess,
22 the Panel considers that there is good cause for extension of the
23 deadline. Therefore, the Panel grants, pursuant to Rule 9(5), the
24 Defence an extension of time to respond to F02451 until Monday,
25 29 July, in respect of witnesses who are scheduled to testify in the

1 first block after the judicial recess period, which is August 9 to
2 5 September; and, two, until Friday, 23 August 2024, in respect of
3 witnesses who are scheduled to testify after 5 September.

4 This concludes the Panel's oral order.

5 Second, the Panel wishes to clarify the matter with which the
6 SPO -- namely witness order on the next block -- let me start over.

7 Second, the Panel wishes to clarify a matter with the SPO,
8 namely, the witness order on the next block, August 9th to
9 5 September.

10 On 10 July 2024, the SPO sent a tentative witness list for the
11 next block of hearings.

12 On 16 July 2024, the SPO filed F02451, the SPO's notification of
13 witnesses for 19 August to 7 November 2024. It is the Panel's
14 understanding that the latter witness list supersedes the earlier
15 one. However, as one of the witnesses listed in F02451 is different,
16 the Panel wishes to confirm with the SPO that it proposes to schedule
17 the first seven witnesses in Annex 1 to F02451 for the first block of
18 hearings after the judicial recess.

19 Madam Prosecutor, you don't have to answer this question now,
20 but we would appreciate it if you could look into this further and
21 report back to the Panel.

22 MS. LAWSON: I can answer now if you --

23 PRESIDING JUDGE SMITH: Okay.

24 MS. LAWSON: -- wish. The filing does supersede the e-mail. We
25 had to make one change. Thank you.

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MS. LAWSON: The change is in the filing.

3 PRESIDING JUDGE SMITH: All right.

4 MS. LAWSON: So the filing is now the current list that we
5 intend to call in the first block after the recess.

6 PRESIDING JUDGE SMITH: Thank you.

7 Now we will continue hearing the evidence of Prosecution
8 Witness W04752.

9 Madam Court Officer, please bring the witness in.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Welcome back, Mr. Zyrapi. We hope you
12 had a pleasant evening.

13 THE WITNESS: [Interpretation] Yes, thank you.

14 PRESIDING JUDGE SMITH: I remind you to please try to answer the
15 questions clearly with short sentences. If you don't understand a
16 question, feel free to ask counsel to repeat the question or to
17 clarify if you don't understand and they will do so. Also please try
18 to indicate the basis of your knowledge of the facts and
19 circumstances upon which you will be questioned.

20 Speak into the microphone and wait five seconds before answering
21 a question, and speak at a slow pace for the interpreters to catch
22 up.

23 If you feel the need to take breaks, please make an indication
24 and an accommodation will be made. I remind you you are still under
25 an obligation to tell the truth as stated by you in your solemn

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1 declaration.

2 I also remind you that, as advised last week and before, you are
3 not required to answer a question that is incriminating unless and
4 until the Panel compels you to answer, and that if such a question
5 arises, you or your assigned counsel may raise the issue to the
6 Panel, and we will proceed to determine whether or not and under what
7 circumstances you might be compelled to answer.

8 We continue now with the Krasniqi Defence recross.

9 Madam Alagendra, you have the floor.

10 MS. ALAGENDRA: Thank you.

11 WITNESS: BISLIM ZYRAPI [Resumed]

12 [The witness answered through interpreter]

13 Further Cross-examination by Ms. Alagendra:

14 [Continued]

15 Q. Good morning Mr. Zyrapi.

16 A. Good morning.

17 Q. When we finished yesterday, we were discussing the roles of
18 Sokol Bashota and Jakup Kastrati.

19 MS. ALAGENDRA: Now if I can take you to P847.

20 Q. Now, while the document is coming up, yesterday, at transcript
21 page 32, Judge Mettraux put a question to you about Mr. Bashota and
22 Mr. Krasniqi that the two of them were not appointed at the same
23 time. And your answer, my apologies, was:

24 "... the two of them were not appointed at the same time ...

25 Mr. Krasniqi had been appointed first as a deputy commander and

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1 Mr. Bashota would be appointed as a deputy later in time."

2 Do you recall that? It was about the timing of when the deputy
3 commanders were being appointed. Do you recall being asked questions
4 on that yesterday, Mr. Zyrapi?

5 A. Yes.

6 Q. Now, you will recall seeing this interview.

7 MS. ALAGENDRA: If we could go to page 3001, please, ending --

8 MS. LAWSON: Your Honour, what --

9 MS. ALAGENDRA: -- the third page.

10 MS. LAWSON: Sorry. What was read was the Judge's question
11 rather than the witness's answer yesterday.

12 MS. ALAGENDRA: My apologies. So it was the question that was
13 put. The witness recalls being asked questions on the timing of the
14 deputy commanders.

15 Q. You will recall being shown this document.

16 MS. ALAGENDRA: If I could go to the third page of the PDF,
17 please.

18 Q. And if I can read to you what Mr. Azem Syla has said:

19 "After the events of January 1997, we were forced to divide the
20 duties. So, my deputy Sokol Bashota was placed at the head of the
21 General Staff, who carried out both duties until the period between
22 the two meetings in Rambouillet."

23 You will agree that what Mr. Syla is saying here is that
24 Sokol Bashota was placed at the head of the first General Staff and
25 as his deputy from January 1997; correct?

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1 A. I am not aware that he was from 1997 deputy commander. Besides,
2 there was no structure at the time for him to be deputy commander. I
3 cannot explain something I am not aware of.

4 Q. Right. But you will agree with me that these are the words of
5 Mr. Azem Sylva as it appears on this interview; correct?

6 A. This is an interview, but the reality was different.

7 Q. All right. You've already testified on 1 July 2024, and also
8 previously stated in your 2019 interview, and that would be Part 2,
9 page 3, that when you arrived in Kosovo in May 1998, you understood
10 that Sokol Bashota was the director of the operational directorate
11 and he gave you instructions; correct?

12 A. Yes, correct.

13 Q. And at page 15 of the provisional transcript yesterday, your
14 evidence was that Sokol Bashota was the one who communicated your
15 appointment as head or director of the operational directorate in
16 mid-July 1998; correct?

17 A. Correct.

18 Q. So it's not right, by your own evidence, that Jakup Krasniqi was
19 appointed as the deputy commander before Sokol Bashota. According to
20 what we see before us, Sokol Bashota was the deputy commander from
21 the beginning, wasn't he?

22 A. I have explained this very well, when Jakup Krasniqi was
23 appointed as deputy commander. When I arrived in June, up until
24 November he was the spokesperson. Then in November he was appointed
25 as deputy commander, during the restructuring. I have explained this

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1 very well.

2 Now, if he had other -- another position, another function, I
3 was not aware of.

4 Q. Right.

5 MS. ALAGENDRA: If we could have 1D00166 on the screen, please.

6 Q. And while that's being called up, Mr. Zyrapi, you will recall
7 that yesterday you were asked questions by Judge Gaynor about the
8 agreement in Tirana on 31 October 1998?

9 A. Yes.

10 Q. And you'll agree with me that Jakup Krasniqi was not at the
11 meetings in Istanbul or in Tirana, was he?

12 A. Correct.

13 Q. And you have confirmed that you were not in contact with
14 Jakup Krasniqi during these negotiations; is that right?

15 A. That's right.

16 MS. ALAGENDRA: If we could go to page 4 of the PDF, please.

17 Q. And we can see on this document that the proposed deputy
18 commanders of the KLA, according to this structure, are Sokol Bashota
19 and Ismet Alia, not Jakup Krasniqi; correct?

20 A. This is correct. And I've explained the reason why it is as it
21 is and how it happened.

22 Q. Right. And you yesterday said, and this is at page 130 of the
23 provisional transcript:

24 "The authority was with those who were there from the very
25 beginning, the inception of the first structure of the Kosovo

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1 Liberation Army."

2 Do you recall saying that?

3 A. Yes, I've stated that.

4 Q. And what this agreement shows is that Sokol Bashota had been the
5 -- from the very beginning, the KLA's candidate for primary deputy
6 commander, wasn't he?

7 A. Yes, that's correct.

8 Q. And I'm going to put it to you, Mr. Zyrapi, that Sokol Bashota
9 was not subordinate to Jakup Krasniqi. That's right, isn't it?

10 A. It's clear that he was not. As per the military rules, the
11 commander has -- leaves him there to replace him.

12 Q. Right. Mr. Zyrapi, you have testified several times in various
13 courts, before the ICTY and the EULEX courts. You will agree with me
14 that you have never said that Jakup Krasniqi was the first deputy
15 commander or that Sokol Bashota was the subordinate of
16 Jakup Krasniqi. Do you agree? In your previous testimonies.

17 A. This is what I've stated, yes. And when I was asked the
18 question, the person who's left there, assigned by the commander, is
19 the highest officer at that moment in time there. So this is in this
20 context to be interpreted as who's the first and who's the second.

21 Q. Right. But my point is that is the first time you're saying
22 that, in this Court; am I correct?

23 A. Yes, that's correct.

24 Q. Now, at page 18323 of the transcript of 16 July, you were asked
25 by Judge Barthe as to which deputy commander in Kosovo were you

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1 referring to when you testified that the intelligence directorate,
2 G2, was reporting to the commander in Kosovo. Do you recall being
3 asked those questions?

4 A. Yes.

5 Q. And your evidence was that the intelligence directorate reported
6 to Jakup Krasniqi. Do you recall that answer?

7 A. Yes. The question was different. It was about the reporting,
8 how the reporting went, and I replied that some of the reporting came
9 to me, some went to the commander. A part of this reporting came to
10 me and another part to the commander, which, in fact, was the deputy
11 commander in that position at the time.

12 Q. Right.

13 MS. ALAGENDRA: If I can have on screen P1356, please, at page
14 6219. Page 6219, please.

15 Q. Now, in the Sainovic case in 2006, you were asked by the judge:

16 "To whom did the director of intelligence report and how was the
17 report passed? Did it go through you as the Chief of Staff or was it
18 sent separately, without your knowledge? Whom did he report to?"

19 And your answer was:

20 "During January, February, and March, reports were made and --
21 including reports to the commander of the General Staff."

22 And you then went on to say that some but not all of these
23 reports went through you. Do you recall giving that evidence?

24 A. Yes, that's correct.

25 Q. In 2006 when you were asked specifically how was the report

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1 passed, you will agree with me you did not mention the deputy
2 commanders at all; correct?

3 A. It could be that I did not mention them, but I specified where
4 the reports go.

5 Q. And if we can go on to your interview with the Prosecution in
6 2019, at Part 10, page 10, you said, and I quote from your statement:

7 "I should have received information from Kadri Veseli, the
8 intelligence directorate, and the legal sector. In general, they
9 would inform the general commander, but I should have also been
10 informed."

11 So here again, Mr. Zyrapi, you say that you should also have
12 been informed, meaning the intelligence directorate and the legal
13 sector had to report to you or directly to the general commander;
14 correct? That's what you told the SPO in 2019.

15 A. Yes, and I've explained the reason why. As I said, they should
16 have reported to me with respect to military aspects, enemy movements
17 and other elements that are necessary for operational plans.

18 Q. Right. But in 2019, you certainly made no mention of
19 Jakup Krasniqi or the deputies; correct?

20 A. That's correct. The question was where should such a
21 directorate report to, and I explained from the military aspect.

22 Q. Right. So, Mr. Zyrapi, the first time that you mentioned that
23 the intelligence directorate reported to Jakup Krasniqi was in June
24 2024 during your preparation session; correct?

25 A. Not only now in the preparation session but also in other

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1 sessions when I was asked the question. And when Mr. Azem Sylja was
2 not permanently in Kosovo, the time periods when he was abroad, then
3 the deputy was there --

4 Q. The --

5 A. -- assigned there by the commander. The deputy was
6 Jakup Krasniqi and the reporting went to him. Just like --

7 Q. The point I'm making --

8 A. -- myself and others.

9 Q. Yeah. The point I'm making is that the first time you said it
10 is in June 2024 and then in court; right?

11 MS. LAWSON: Asked and answered.

12 PRESIDING JUDGE SMITH: Sustained.

13 MS. ALAGENDRA:

14 Q. Now, going to the content of the intelligence reports that you
15 say you received. On 2 July 2024, you were asked by the Prosecution
16 whether the commander received the exact same information that you
17 received in terms of intelligence reports.

18 MS. ALAGENDRA: And this is at page 17435 for the Court's
19 record.

20 Q. And your answer was:

21 "At the time, as far as I remember, both sides would take the
22 same information ..."

23 Correct?

24 A. Yes, I've stated that.

25 Q. And in the Sainovic case - and for the Court's record, it is

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1 P1356, page 6219 to 6220 - you said that between January and March
2 1999:

3 "... the reports of the intelligence directorate were mainly on
4 the movements of the Serb forces, their positions and their state of
5 readiness ..."

6 Do you recall saying that?

7 A. Yes, that's correct.

8 Q. And that's what you've said in your preparation session with the
9 Prosecution as well; am I correct?

10 A. That's correct.

11 Q. So your evidence was that intelligence reports concerned mainly
12 operational and military matters; correct?

13 A. That's correct.

14 Q. And in Part 10, page 10 of your interview, you have clearly said
15 that you have never received any report that a collaborator had been
16 identified within the unit or that a collaborator had been arrested.
17 In 2019, that's what you said; correct?

18 A. That's correct.

19 Q. And since we have seen that you have said that you should have
20 been the one to receive such reports from the intelligence
21 directorate and the legal sector, and since you've said you did not
22 receive any such reports, it must mean that the command of the
23 General Staff did not receive any such reports either; am I correct?

24 MS. LAWSON: Speculative.

25 PRESIDING JUDGE SMITH: Sustained.

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1 MS. ALAGENDRA:

2 Q. On 9 July 2024, your evidence in response to questions from
3 Mr. Emmerson was that prior to the arrival of Mensur Kasumi, which is
4 around the end of January, beginning February, there was nobody
5 deputising or doing anything in relation to intelligence at the
6 General Staff level; correct?

7 A. That's correct.

8 Q. And yesterday, at page 49 to 50 of the provisional transcript,
9 you were asked by Judge Mettraux about Ferat Shala. Do you recall
10 that?

11 A. Yes, I do.

12 Q. The question to you was:

13 "And you met him because you were in Shala with Jakup Krasniqi
14 and Rame Buja?"

15 And you said:

16 "Yes, correct."

17 Do you recall that?

18 A. Yes, I recall it. And this is how it is.

19 MS. ALAGENDRA: If we could have on screen 077937-TR-ET Part 7,
20 page 10, please.

21 Q. And while that's being called up, Judge Mettraux then asked you
22 in what capacity was Ferat Shala there, and your response, at page
23 50, lines 4 to 5, was that -- this is a statement given by Ferat
24 Shala in which he described this visit. Have we got it?

25 A. That's correct.

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1 MS. ALAGENDRA: If we can go to page 10, please.

2 Q. Yeah. Your response was:

3 "Yes ..."

4 In response to Judge Mettraux's question, your answer was:

5 "Yes, he was there, but I don't know in what capacity. He was
6 together with a deputy."

7 Right?

8 A. Yes, that's correct. That's exactly what I said.

9 Q. Now, at page 10 of the statement given by Ferat Shala, he
10 described this visit, and let me read:

11 "During this visit, I even played the role of a driver. I had
12 the personal jeep, so we used that to do part of the trip. I was, if
13 I could say, the youngest -- the newest person in that group."

14 And the question asked is:

15 "How did you come to join the delegation for that trip? How did
16 you learn that you would be part of it?"

17 And his answer:

18 "At that stage, I was in Divjake. I had gone there several
19 times. I realise that Mr. Zyrapi and Mr. Krasniqi intended to go
20 through Drenica zone, to Shale, and Llap. It was a long itinerary of
21 rural roads, and you had to go through various front line
22 positions -- locations.

23 "I was offered -- I was asked by Mr. Krasniqi and Mr. Zyrapi
24 whether I could accompany them, so I accepted. It was a good
25 occasion for me to visit these operational zone in wartime

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1 conditions."

2 That's what Mr. Ferat Shala says.

3 Now, you will agree with me, Mr. Zyrapi, that according to
4 Ferat Shala you did not meet him in Shala. He says when he realised
5 that you and Mr. Krasniqi intended to go through the Drenica zone to
6 Shala and Llap, he offered and was asked by Mr. Krasniqi and you if
7 he could accompany you; correct?

8 A. When I was asked this question, I explained very well about
9 Ferat Shala. Ferat Shala was together with us when we went to Shala.
10 I did not meet him in Shala. We went together in Shala. So I know
11 what I said.

12 Q. Thank you for clarifying that. And you would not dispute the
13 fact that Ferat Shala accompanied you on this trip as a driver
14 because it was a long itinerary of rural roads; correct?

15 A. Yes, that's correct.

16 JUDGE METTRAUX: Ms. Alagendra, are you suggesting that
17 Mr. Shala operated as a driver on this occasion? Because if that's
18 the case, you should perhaps put to the witness his explanation as to
19 what he was doing in the various areas at the time. Or is your case
20 that he was a driver?

21 MS. ALAGENDRA: It's that they didn't meet there and they
22 travelled together, Your Honours.

23 JUDGE METTRAUX: I see.

24 MS. ALAGENDRA: And he says what he says. He says he was the
25 driver on that occasion, Your Honours.

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1 JUDGE METTRAUX: He also explains what he's doing in that --

2 MS. ALAGENDRA: Certainly.

3 JUDGE METTRAUX: In the various areas at the time,
4 Ms. Alagendra.

5 MS. ALAGENDRA: Certainly. Thank you, Your Honour.

6 Q. Now, Mr. Zyrapi, in the transcript at page 18359, you were asked
7 by Judge Barthe about who oversaw the work of Sokol Dobruna and the
8 legal sector. You were then asked by Judge Barthe whether the two
9 deputies were responsible to oversee the legal sector; and, if so,
10 which two were responsible to oversee the legal sector.

11 Do you recall those questions?

12 A. Yes.

13 Q. And your response was:

14 "Both of them, but mostly deputy Jakup Krasniqi because he was
15 ... closer there."

16 Do you recall giving that evidence?

17 A. Yes, that's correct. That's what I said.

18 Q. In the course of your evidence, Mr. Zyrapi, you will agree with
19 me that you have not seen any written instructions from
20 Jakup Krasniqi to Sokol Dobruna in relation to the legal sector;
21 correct?

22 A. That's correct. I have not seen anything in writing.

23 Q. And you also haven't seen any written report from Sokol Dobruna
24 to Jakup Krasniqi in relation to the legal sector; correct?

25 A. No, I could not see any reports because he was responsible to

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1 the command, and the report went directly to the command, not to me.

2 I had nothing to do with me -- it had nothing to do with me.

3 Q. Right. But you would agree with me, Mr. Zyrapi, that the head
4 of the legal sector, Sokol Dobruna, would know best if either of the
5 deputies were overseeing the legal sector and who he reported to, if
6 indeed he did report to anyone; correct?

7 A. He is competent and can say to whom he reported and before whom
8 he was responsible.

9 Q. Yes.

10 MS. ALAGENDRA: If I can have on the screen 054739-TR-ET Part 2,
11 page 10, please.

12 MS. LAWSON: Can I remind counsel about not putting these type
13 of documents on the screen. Thank you.

14 MS. ALAGENDRA: I can just read, Your Honours.

15 Q. Mr. Dobruna was asked the question:

16 "I would like to go back again to whom you reported to. I
17 believe in one of your testimonies you have stated that you reported
18 to Azem Sylá."

19 And Mr. Dobruna's response is:

20 "It's understandable. It's understandable, he was a commander."

21 And then he goes on to say:

22 "I do not remember as to how many times because we did not have
23 time to give regular reports to anyone."

24 You wouldn't have any reason to dispute that would you,
25 Mr. Zyrapi?

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1 A. Not at all. That's his testimony.

2 Q. Mr. Dobruna goes on to say --

3 MS. ALAGENDRA: And for the Court's reference, it's Part 9,
4 page 9, lines 4 to 9. He was asked:

5 "But to confirm: you did not have an official reporting line
6 with these people?"

7 Then the interpreter says:

8 "Official or unofficial?"

9 And the question goes on:

10 "Official. To make regular reports on the development of your
11 work."

12 And Mr. Dobruna's response is:

13 "No. There was no time for anything."

14 You wouldn't have any reason to dispute that, would you,
15 Mr. Zyrapi?

16 A. No, I wouldn't.

17 Q. Now, you were referred to P1105 --

18 MS. ALAGENDRA: If I could have P1105, please.

19 Q. -- by Judge Barthe. And while it's coming up, Judge Barthe
20 asked you if you personally saw Jakup Krasniqi, Rexhep Selimi, and
21 Fatmir Limaj in the command with Blerim Kuqi. Now, I'll read the
22 question to you:

23 "Mr. Zyrapi, how do you know that Jakup Krasniqi, Rexhep Selimi,
24 and Fatmir Limaj were in the command with Blerim Kuqi? Did you
25 personally see them?"

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1 And your answer was:

2 "When I mentioned that I was also present in the meeting when
3 they came, I then left with Drini and they remained inside with
4 Blerim Kuqi. Based on this, I'm stating this."

5 Do you recall that evidence, Mr. Zyrapi?

6 A. Yes, correct.

7 Q. And your evidence is that you left with Drini to the operational
8 directorate building; correct?

9 A. Correct.

10 Q. And you're aware that Blerim Kuqi knew Mr. Krasniqi prior to
11 that, didn't you?

12 A. Yes.

13 Q. And you knew that they had a good relationship and respected
14 them -- respected each other; correct?

15 A. They had a good relationship.

16 Q. So you will agree with me that Mr. Krasniqi having a
17 conversation with Blerim Kuqi is not in the slightest strange or
18 untoward; correct?

19 A. Correct. Nobody said it was untoward.

20 Q. You were then asked who made the decision to detain Blerim Kuqi,
21 and I'll read you your evidence. At page 18326, line 18 to 22, your
22 response was:

23 "First of all, I do not know who exactly issued the decision. I
24 do know that the decision was issued to detain Blerim Kuqi. Those
25 who were present know better who issued the decision. I was not

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1 physically inside, present there when this decision was drafted or
2 issued."

3 Just to be clear, Mr. Zyrapi, my question now is, just to be
4 clear, your evidence to this Court is that you were not present when
5 the decision to arrest Blerim Kuqi was made and you do not know who
6 made the decision to arrest Blerim Kuqi; correct?

7 JUDGE METTRAUX: Ms. Alagendra, he said it three times.

8 MS. ALAGENDRA: It's a question that came up during the Judges'
9 questions, Your Honour.

10 PRESIDING JUDGE SMITH: Just move on. That question's been
11 asked and answered and asked and answered.

12 We do recall his testimony, you know.

13 MS. ALAGENDRA: Thank you, Your Honours. I can then move on.

14 If I can call up 4D78 at page 053944, please.

15 Q. While it's coming up. In April 2011, Mr. Zyrapi, you will
16 recall that you were summoned as a witness in an investigation; yes?
17 April --

18 A. April 2011?

19 Q. Yes.

20 A. Yes.

21 Q. And your statement in April 2011 is:

22 "After his return, in December 1998, a decision was made to
23 arrest Kuqi and bring him before the military court to explain why he
24 left his position.

25 "He was arrested, and Dobruna asked me for advice several

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1 times."

2 MS. ALAGENDRA: It's the wrong document. 4D78, please. The ERN
3 is 053941 to 053952.

4 Q. Do you recall saying that in 2011, Mr. Zyrapi?

5 A. Yes, I remember very well what I said, and that's how it was.
6 Mr. Dobruna, not only on this occasion, but he asked for my advice
7 also on military aspects and also advice offered for support and
8 security. This was the context of the advice.

9 Q. Right. I can then move on. And in June 2013, you were summoned
10 as a witness in the Klecke trial; correct?

11 A. Yes, correct.

12 Q. And your evidence was that Blerim Kuqi was arrested by the legal
13 sector and interrogated. Do you recall giving that evidence?

14 A. Most probably.

15 MS. ALAGENDRA: For the Court's reference, it's in 4D77.

16 Q. And in 2019 in your SPO interview at Part 6, page 27, line 20 to
17 19, when asked whether the case of Blerim Kuqi was discussed at a
18 General Staff meeting, your answer was:

19 "Yes."

20 And at page 28, you say:

21 "That Mr. Blerim Kuqi was to be arrested and that the legal
22 department would deal with him, review the reasons why he had left,
23 and ... look at the damage that was caused to the unit."

24 Do you recall saying that in 2019?

25 A. Yes, correct.

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1 Q. And, finally, at page 29 of Part 6, lines 2 to 7, about who told
2 Sokol Dobruna about the decision, you responded:

3 "Jakup Krasniqi, but we were also present then."

4 That's also correct, yes?

5 A. Yes, that's correct.

6 Q. So looking at this, Mr. Zyrapi, you will agree with me that in
7 2019 you have accepted that you were present when the issue was
8 discussed; correct?

9 MS. LAWSON: It's -- I mean, that was kind of a general
10 question, and it doesn't exactly reflect what the witness said he was
11 present for.

12 PRESIDING JUDGE SMITH: Sustained.

13 MS. ALAGENDRA:

14 Q. In the course of your testimony to this Court, Mr. Zyrapi, you
15 have tried to distance yourself from this by saying that you were not
16 present when the decision was made. And the record is very clear.
17 I'm putting it to you that you have said several times in evidence
18 here and before that Sokol Dobruna consulted you about the cases he
19 was dealing with, including the case of Blerim Kuqi.

20 A. First of all, let us separate this in several parts about the
21 advice. I was clear on what issues he consulted me. The decision
22 for his arrest, I was not present when that decision was taken. I
23 was there before that decision was taken, but I was not there when it
24 was taken. So there is a distinction and difference between things
25 that we are discussing.

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1 Q. And going back to your answer to Judge Barthe that
2 Jakup Krasniqi oversaw the legal sector. In 2019, Part 6, page 30,
3 in the case of Blerim Kuqi, you said that not only did you advise
4 Dobruna, you also made recommendations to Sokol Dobruna "to receive
5 ... information and take all the notes and proof so that such cases
6 could then be judged in peace times."

7 Do you recall saying that in 2019?

8 A. Yes, correct. Taking notes means information on everybody,
9 those who cannot be processed at that particular time, so that that
10 can be processed after the war and proper measures can be taken, if
11 necessary.

12 Q. Right. So by your own evidence, you'll agree with me that
13 Sokol Dobruna went to you for advice and recommendations, not
14 Jakup Krasniqi; correct?

15 A. No, not correct. I gave advice on military aspects, and I
16 explained what my advice was. When we talk about responsibility, the
17 responsibility was of the commander and of the cabinets of the
18 commander. And when the commander is not there, it's the deputy.
19 Regardless of whether it's the first or the second deputy, whoever he
20 left him -- there, he is responsible. This is in line with the
21 system of leadership and command.

22 Q. Right. And in 2019 --

23 A. Despite fact that we were not a regular army, there was some
24 order.

25 MS. ALAGENDRA: Thank you.

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1 Q. In 2019 at Part 6, page 31 of your interview with the SPO, you
2 told them that you don't know whether Dobruna consulted with other
3 members of the General Staff. That's right, isn't it?

4 A. That's correct. He did not report to me for me to see whether
5 he was consulting or not.

6 Q. And if I can read to you what Sokol Dobruna has said to
7 investigators when asked who had the authority to order the release
8 of a convicted person, this is at 054739, Part 8, page 10. He says:

9 "The one who convicted him. The Court. This is how we acted
10 with Blerim Kuci. Because we convicted him ... we released him."

11 You wouldn't dispute that, would you?

12 A. I have no reason to dispute that. That's his right.

13 Q. And you'll agree with me that Sokol Dobruna, as the head of the
14 legal sector handling this case, should know who had the authority to
15 release Blerim Kuqi; correct?

16 A. Yes, correct.

17 Q. And if I can just read to you who else Sokol Dobruna says had
18 the authority to order the release.

19 MS. ALAGENDRA: For the Court's reference, it's at 054739,
20 Part 8, page 13, lines 15 to 18.

21 Q. The investigator asks Mr. Dobruna:

22 "So, it was the authority of Bislim Zyrapi. He had the
23 authority to order the release?"

24 Mr. Dobruna responds:

25 "Of course, because he had to undergo the rank."

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1 Do you dispute that, Mr. Zyrapi?

2 A. Can you please read it once again?

3 Q. Mr. Dobruna was asked:

4 "So, it was the authority of Bislim Zyrapi. He had the
5 authority to order the release?"

6 And Mr. Dobruna's response is:

7 "Of course, because he had to undergo the rank."

8 A. Hierarchy is something different. Overseeing somebody is
9 something different. I was not his supervisor and could not say to
10 him, "Release him" or "Do not release him." It was his
11 responsibility and of the command. I could only give advice.

12 Q. Sokol Dobruna did consult you about the release of detainees
13 when the NATO bombing started, didn't he?

14 A. Consulting, yes. But consulting is completely different from
15 what you suggested earlier.

16 Q. Right. And that included the case of Blerim Kuqi, and you
17 advised Sokol Dobruna to release him, didn't you?

18 A. Not only Blerim Kuqi but whoever was a soldier at the time, to
19 be released, to return to their units from where they were brought,
20 and then after the war to take the adequate measures from a legal
21 point of view.

22 Q. Yes. And, in fact, Blerim Kuqi was released, wasn't he?

23 A. Not only Blerim Kuqi but everyone. Because with the starting of
24 the bombing, all the soldiers dispersed and then returned to their
25 units and continued to fight with their units until the end of the

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1 war.

2 Q. You're aware, aren't you, Mr. Zyrapi, that Kurtesh Fondaj has
3 given evidence before this Court?

4 A. I know that he gave testimony, yes.

5 Q. And if I can read to you his evidence on the case of Blerim
6 Kuqi. This is on 25 June 2024, transcript 17149 to 17150, he's
7 asked:

8 "Do you recall speaking with Bislim Zyrapi about the Blerim Kuqi
9 case?

10 "Yes. I discussed this with Bislim Zyrapi in detail, and I told
11 him that Blerim Kuqi's case needs to be clarified because he did not
12 desert and that there is a mistake in interpreting his case and his
13 arrest, because Blerim Kuqi, just back then, had -- it was very clear
14 the help he had given to the KLA."

15 And Mr. Fondaj was then asked:

16 "No doubt you thought because Bislim Zyrapi was the chief of
17 staff he was in a position to do something about the Blerim Kuqi
18 case; correct?"

19 And his answer was:

20 "I was convinced that Bislim Zyrapi's statement had to be
21 decisive for Blerim Kuqi's fate, and that is why I communicated with
22 Bislim Zyrapi, clarifying in detail his going to Albania."

23 Do you have any reason to dispute what Mr. Fondaj says?

24 A. That's his testimony. I cannot dispute it.

25 Q. And you will recall that we have seen and heard your evidence

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1 earlier that when it came to the release of the five elderly Serbs,
2 Mr. Zyrapi, you had a conversation with Sylejman Selimi and you told
3 him to release them; correct?

4 A. It's normal that requests could be made, and I, as chief of
5 staff, also made a request for them to be released, and then it's on
6 him to decide what measures he will take.

7 First of all, he was not supposed to act like this at all based
8 on the order we had issued earlier, but they acted as they did, and
9 we had such actions undertaken.

10 Q. You were referred by Judge Barthe to the case of Cen Desku and
11 Jakup Kastrati, and you were then referred to page 37, Part 3, of
12 your interview with the SPO, when you said you talked to members of
13 the KLA General Staff about this case when you became the chief of
14 staff. Do you recall that?

15 A. Yes.

16 MS. ALAGENDRA: For the Court's reference, it is at transcript
17 page 18373.

18 Q. And it is after this that you issued the order of 28 November
19 1998; correct?

20 A. Not about this specific case, but I've explained that there were
21 complaints by zone commanders, but this was issued in the context of
22 that case. There were different actions at the time that had
23 negative impact on the KLA.

24 Q. And at Part 5, page 11 of your interview with the SPO in 2019,
25 you have stated that you had consulted with the commander and it was

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1 you who gave instructions on how things had to go forward and how
2 they had to act in the future. Do you recall saying that?

3 A. That's correct, yes.

4 Q. And you've also said yesterday that zone commanders, civilians,
5 and soldiers came to you with the complaints; right? And you've just
6 said that --

7 A. These were not only complaints addressed to me only, but they
8 were also addressed to other members of the staff. Information was
9 collected from commanders, from zones, from staffs, and just like I
10 did, others also collected information and such reports were then
11 compiled.

12 Q. Yes. But you'll agree with me that they came to you because
13 they knew or believed that the operational issues were your
14 responsibility; correct?

15 A. The operational issues were mine as chief of the operations
16 directorate, and this is not disputable.

17 Q. And at page 34, lines 9 to 14 of the transcript yesterday,
18 Judge Mettraux asked you if operational decisions were issued by
19 other members of the General Staff who were on the ground in Kosovo,
20 and your response was that:

21 "In the absence of the commander, the deputy approves or allows
22 for such actions or operations."

23 Do you recall saying that?

24 A. Yes, correct.

25 Q. You will agree with me, Mr. Zyrapi, that it was after you raised

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1 the complaints you had received with Azem Sylja, the general commander
2 of the army, Azem Sylja ordered you to send that instruction or he
3 instructed you to issue the order of 28 November to stop all the
4 negative incidents; correct?

5 A. Yes, correct. This is what I said then and what I'm saying now.

6 Q. Yes. And Azem Sylja didn't tell Jakup Krasniqi to send the
7 28 November 1998 order around, did he? It was you he instructed to
8 do that, isn't it?

9 A. Yes, correct.

10 Q. And at Part 5, page 11 of your interview, you've said when the
11 commander was not present at the time, it was you that issued the
12 order to all the zone commanders. Correct? That's at Part 5, page
13 11 of your interview.

14 A. Excuse me, can you please tell me which interview is this --

15 Q. SPO interview --

16 A. -- and the date?

17 Q. -- in 2019. My apologies.

18 PRESIDING JUDGE SMITH: Please say it again. You talked over
19 him.

20 MS. ALAGENDRA: My apologies, Your Honour.

21 Q. The reference is Part 5, page 11 of your interview. I can read
22 it to you:

23 "There was myself, Rexhep Selimi, Lahi Brahimaj, and
24 Fatmir Limaj. Things were discussed and I told them -- the commander
25 was not present at the time. I stated that I had consulted with the

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1 commander and I gave instructions how things had to go forward and
2 how they had to act in the future. And all the zone commanders and
3 the units had to be notified about this."

4 That's what you said in 2019; right?

5 A. Right. I said what you just read, yes.

6 MS. ALAGENDRA: Are we taking a break at 10.00, Your Honours?
7 Would it be appropriate to take it now?

8 PRESIDING JUDGE SMITH: We'll give you a ten-minute break,
9 Witness. Thank you. You may leave the courtroom with the usher.

10 [The witness stands down]

11 PRESIDING JUDGE SMITH: After the break, you'll have 20 minutes,
12 Ms. Alagendra, to the end of your time.

13 MS. ALAGENDRA: [Microphone not activated] ... Your Honour.

14 PRESIDING JUDGE SMITH: We're adjourned.

15 --- Break taken at 10.00 a.m.

16 --- On resuming at 10.11 a.m.

17 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness
18 in.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: All right. Mr. Zyrapi, we now will
21 continue with questions from the Krasniqi Defence.

22 MS. ALAGENDRA:

23 Q. Mr. Zyrapi, you'd agree with me that in answer to the questions
24 that the Judges have put to you on the 16th and 17th July, you have,
25 for the first time -- I'm going to put some propositions to you. You

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1 have for the first time said that the intelligence directorate was
2 reporting to Jakup Krasniqi. You have said that Jakup Krasniqi
3 oversaw the legal sector, and you have said that Jakup Krasniqi had
4 the authority to order the arrest of Blerim Kuqi. And you have for
5 the first time also said that one of the three at the command issued
6 the order to arrest Blerim Kuqi.

7 MS. ALAGENDRA: And that's at 18327 of the transcript on
8 16 July.

9 Q. Do you agree with me?

10 A. Yes, that's what I said.

11 Q. Now, in 2019 when you were interviewed as a suspect, you didn't
12 know at that time, did you, Mr. Zyrapi, whether you were going to be
13 charged?

14 A. No.

15 Q. Right.

16 MS. ALAGENDRA: And if I can call up DJK00924.

17 Q. While that's coming up. Mr. Zyrapi, have you heard of
18 Milaim Zeka, a well-known journalist in Kosovo?

19 A. Yes.

20 Q. Mr. Zyrapi, this is an article by Milaim Zeka dated 3 August
21 2015, published in 2015. You'll agree with me -- if I can take you
22 to the line that reads:

23 "Who will be indicted?

24 "These are the first four."

25 And the first person on that list is:

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1 "Bislim Zyrapi, former Chief of Staff of the KLA General Staff."

2 PRESIDING JUDGE SMITH: Is this something that the Judges
3 brought up? Because you're -- these are follow-up questions to the
4 Judges' questions.

5 MS. ALAGENDRA: Yes --

6 PRESIDING JUDGE SMITH: You're --

7 MS. ALAGENDRA: -- Your Honour.

8 PRESIDING JUDGE SMITH: -- introducing new material.

9 MS. ALAGENDRA: Yes, Your Honour. And it is my submission,
10 Your Honours, that -- maybe we can do it in the absence of the
11 witness.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MS. ALAGENDRA: Right. Because for the first time, in answer to
14 the Judges' questions, this witness has alleged new facts against
15 Mr. Krasniqi. He has never made such an averment in the ICTY and in
16 all the EULEX cases that he has testified --

17 PRESIDING JUDGE SMITH: I'm talking about this document that
18 you're showing. What does that have to do with this?

19 MS. ALAGENDRA: Your Honour, it is our position that this
20 witness -- this witness's evidence has evolved. And when the Judges
21 put questions to him, he appeared to feel compelled to give answers
22 that the Judges were looking for. That's our position, Your Honours.
23 And I have a duty -- I have an ethical duty to allow him to respond
24 to my questions.

25 PRESIDING JUDGE SMITH: Please take that document down. This

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1 document has nothing to do with the Judges' questions. Please just
2 continue this particular line and go on.

3 MS. ALAGENDRA:

4 Q. Mr. Zyrapi, given it's my position that you have changed your
5 account in several areas - you now say that Jakup Krasniqi oversaw
6 the legal sector, a suggestion that Sokol Dobruna reported to
7 Jakup Krasniqi, the intelligence directorate reported to
8 Jakup Krasniqi, and, as I mentioned earlier, that Jakup Krasniqi had
9 the authority to order arrests - I am putting it to you that you have
10 deliberately exaggerated Jakup Krasniqi's authority and role. Do you
11 agree?

12 A. I don't agree because I have not exaggerated the role of
13 Jakup Krasniqi at all. I answered the questions relating to
14 responsibilities, military responsibilities.

15 Q. Right. And I must ask you, has anyone influenced you or asked
16 you to blame Jakup Krasniqi in the manner that you have and pin more
17 responsibility on Jakup Krasniqi to make him the fall guy, despite
18 the fact that you know the evidence that you have given is false?

19 A. First of all, I have not been under any pressure from anyone. I
20 explained what were the responsibilities, who had responsibilities,
21 answering to questions. I am explaining the same, who had what
22 responsibilities. I have not made any changes to my prior statements
23 compared to my testimony given in court under oath to tell the truth,
24 what I know, what I saw, and what I witnessed. Nothing else.

25 If you're claiming that when we were initially summonsed as

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1 witnesses we were suspects and witnesses, then every single person
2 who was summonsed as a witness in 2019 was also potentially a
3 suspect. I have only explained the truth of the reality of a system
4 that was in place at the time.

5 Q. Then I'm going to put it to you, Mr. Zyrapi, that you're here as
6 a suspect, you're here with your counsel, and the evidence that you
7 have given here is false and it's to save your own skin, Mr. Zyrapi.

8 MS. LAWSON: Asked --

9 MS. ALAGENDRA: Thank you, Your Honours. I have --

10 MS. LAWSON: -- and answered.

11 MS. ALAGENDRA: -- no further questions.

12 PRESIDING JUDGE SMITH: Sustained.

13 Mr. Zyrapi, you have completed your testimony. We appreciate
14 you having been here with us and being patient and doing your best to
15 answer the questions. We wish you well in the future. And we allow
16 you to now leave the courtroom with our thanks for being here.

17 Mr. Duty Counsel, we also thank you for being in attendance and
18 for assisting Mr. Zyrapi.

19 MR. VANREUSEL: Thank you, Your Honours. It has been an honour
20 and a privilege to be part of this trial.

21 [The witness withdrew]

22 PRESIDING JUDGE SMITH: If there's nothing further? It doesn't
23 appear to be.

24 Oh, Mr. Emmerson.

25 MR. EMMERSON: [Microphone not activated] ... taken my

1 headphones off.

2 Was Your Honour asking does anybody have any other issues? Yes,
3 very briefly.

4 We've notified the SPO in writing this morning that we have --
5 we are requesting a review of the translation of the ERN numbered
6 "KLA General Staff Provisional Regulations of Intelligence Subunits
7 in Combat," the document that I was dealing with when I was asked --
8 it was pointed out to me that it was not appropriately connected to
9 the Judges' questions, because we have official EULEX translations
10 which indicate that they are, in fact, reconnaissance, not
11 intelligence, and, indeed, that there was a mistranslation in the
12 title and, indeed, the content of the document makes that clear.

13 So we're going to ask that the title of the regulations be
14 reviewed by the SPO so that that mistranslation "for intelligence"
15 can be corrected, because clearly it was -- the document was admitted
16 in evidence at the ICTY with a different title which has
17 transmogrified into "intelligence" somehow in the SPO process.

18 So may we put that on the record and deal with it further
19 *inter partes* over the adjournment.

20 PRESIDING JUDGE SMITH: The record is made.

21 Anything from anybody else?

22 We're adjourned until the next meeting.

23 --- Whereupon the hearing adjourned at 10.23 a.m.

24

25