

Redactions applied pursuant to F1654.

1 Thursday, 18 May 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 We are in open session.

13 MR. KEHOE: Yes, Your Honour -- oh, sorry. Before we went into
14 private session, I just had one comment for the Court if I may.

15 PRESIDING JUDGE SMITH: Yes.

16 MR. KEHOE: Just per your order yesterday on how we were
17 conducting these proceedings in closed session, private session, and
18 open session. I just want to present and make the Court aware of
19 some difficulties here.

20 Obviously, as has been noted, we have opposed all of these
21 measures employed by the SPO for closed session, private session, and
22 protective measures, and we have wanted this in open session.

23 But just to bring to the Court's attention that not only do we
24 oppose it because we want this in the open, we think truth-telling is
25 better in the open, there is also very practical concerns for

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1 following the methods employed by the SPO.

2 They have the option to go in and out of private session, as you
3 will, based on their individual facts. As a Defence counsel, when
4 we're in private session or closed session, it's very difficult to do
5 that in cross-examination to have this flip-flopping back and forth.
6 And that's a very practical matter because -- I'm standing up on
7 behalf of the team, because I have these witnesses coming up as well,
8 it's not just the particular witness we have on now, but we have two
9 others that also have significant protective measures. But it's a
10 very practical concern.

11 And what has happened, and will happen, is that the
12 cross-examination of these witnesses, albeit some would come out in
13 open session by the Prosecution, I fear very little of that
14 cross-examination is going to be shown to the public for the
15 particular reasons -- the practical reasons that I just announced and
16 spoke about.

17 So it's a very real concern on the Defence part that the public
18 understand what we're cross-examining on, all of those difficult
19 issues. And, again, it was yet another reason why we wanted these
20 entire proceedings open, but it has -- the procedure is much more
21 difficult on our end of it, Judge, than it is on the Prosecution end.
22 It's a practical concern.

23 We're officers of the Court and will work through Your Honours'
24 edicts there, but we just thought it was necessary, given the fact
25 that the SPO has advanced this position for protective measures, and

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1 asked for protective measures for all of these witnesses, that we
2 wanted to inform you of our concerns.

3 The second issue there is another very practical concern that as
4 opposed to waiting for a period of time, Judge, we have -- this is
5 the fifth witness in a row with protective measures. We have six and
6 seven, they have protective measures. So we're going to go the first
7 seven witnesses in this case that are going to be for the most part
8 in private session. Would it not be incumbent upon the SPO to
9 re-evaluate the next two witnesses, because we have two more
10 witnesses to go in this block who have significant protective
11 measures, to see if those protective measures are necessary or
12 absolutely necessary or are based on just some discomfort, which is
13 an experience that we have had.

14 And that will allow us to at least embark on the next several
15 witnesses as we finish this block of at least doing some of these
16 witnesses in the open as opposed to just going throughout the first
17 however many weeks of trial with everybody in open session.

18 Well, thank you, Judge. I just wanted to bring that to the
19 Court's attention.

20 PRESIDING JUDGE SMITH: Thank you.

21 MS. MAYER: Your Honour, if I may be heard just in brief
22 response. There are a few matters I would like to address.

23 Number one, as the Court knows, and observed yesterday on the
24 record, protective measures are an individualised consideration for
25 each witness that the Court makes based on an application and that's

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1 specified by the parties, and that decision has been made in each
2 case.

3 In addition, the underlying concerns are not prompted by the
4 SPO. The concerns about witness intimidation, their fears, are not
5 conditions that the SPO can control or prevent. I am sure the Court
6 knows that if we could somehow prevent that, we would.

7 And, finally, my understanding is that except for one witness up
8 until now, all of the witnesses have testified at least in some
9 portion in public session and that there have been times when the SPO
10 has asked to go into public session and the Defence has indicated it
11 is not prepared to do that. We very much appreciate that when it is
12 for the protection of witnesses, but it is being portrayed as an
13 entirely one-sided matter and it is not.

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. KEHOE: If I may respond, Judge, just briefly.

16 PRESIDING JUDGE SMITH: [Overlapping speakers] ...

17 MR. KEHOE: It is an entirely one-sided matter. We have opposed
18 these protective measures from the SPO over the course of the several
19 years here. So it's --

20 PRESIDING JUDGE SMITH: You're repeating. You've already said
21 that.

22 MR. KEHOE: Yes, Your Honour. So the bottom line is we --

23 PRESIDING JUDGE SMITH: I know what the bottom line is.

24 MR. KEHOE: Of course, Judge. We disagree with the position and
25 we want these sessions in open.

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1 PRESIDING JUDGE SMITH: You know, I would kindly ask everyone to
2 re-read what we wrote yesterday. We're not casting blame on anybody.
3 We're trying to get you to, on your own, come up with some practical
4 methods. This doesn't require a comment. If you can't do it, we
5 will. But we're asking you to do it, because it will be a better
6 solution.

7 MR. KEHOE: And, Your Honour, we have attempted to do that on
8 many witnesses in the past and we will --

9 PRESIDING JUDGE SMITH: Well, try again.

10 MR. KEHOE: As an officer of this Court, Judge, we will follow
11 orders and we will do exactly that and come up with practical
12 concerns.

13 PRESIDING JUDGE SMITH: Thank you.

14 I think Victims' Counsel wanted to make a comment.

15 MR. LAWS: Your Honour took the words out of my mouth. This is
16 a matter that we should discuss *inter partes*. But I should say, on
17 behalf of the participating victims here, that it would be quite
18 wrong for anyone to have the impression that the SPO have in some way
19 used private session for reasons that were not well founded.

20 There is, as everybody knows, a real climate of fear. And on
21 behalf of the victims, may I say that the protective measures that
22 have been in place and which have been enforced are necessary.

23 PRESIDING JUDGE SMITH: And bear in mind that we have an
24 organisation, the witness protection organisation, that have only one
25 duty and that is to deal with these witnesses and to make

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1 recommendations, and those recommendations are made regularly as to
2 each witness, and we certainly have to at least take into
3 consideration those recommendations. Sometimes we follow them
4 completely, sometimes we alter them some, and sometimes we do not
5 follow them. But that's the process.

6 Ms. O'Reilly.

7 MS. O'REILLY: Your Honour, I just wanted to make clear that we
8 have been trying to engage in *inter partes* discussions for the last
9 two and a half years with the SPO in order to get some materials
10 earlier and to minimise the redactions so that we can investigate and
11 present our case. It hasn't been fruitful.

12 So we fully take into account the order you issued yesterday,
13 and this is not a blame game or anything of that nature, but at this
14 point I think we would all expect a little bit more scrutiny from the
15 Judges. I appreciate that you want us to engage in *inter partes*
16 discussions, but it may be the case you need to intervene sooner
17 rather than later.

18 PRESIDING JUDGE SMITH: Thank you.

19 Before we continue with our first witness today, the Panel
20 wishes to address one matter that came up yesterday when the SPO
21 offered statements and associated exhibits of W03165. Counsel for
22 Mr. Veseli recorded an objection to the admission of two documents

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 These two documents have already been found appropriate for
2 admission by the Panel in its decision in F01380 at paragraph 126.
3 Objections to admission which had been raised by the Defence in
4 filing F01308 have, therefore, already been addressed by the Panel
5 and a decision has been rendered in respect of those.

6 Once admitted or declared admissible, admission of an exhibit
7 can only be challenged under the rules by means of an application for
8 reconsideration under Rule 79.

9 Insofar as counsel's comments of yesterday is regarded as a
10 motion for reconsideration of the admission decision, the
11 requirements for reconsideration under Rule 79 have not been shown to
12 be met in respect of these documents.

13 The Panel, therefore, makes it clear that these two articles
14 were found appropriate for admission pursuant to decision F01380 and
15 are now admitted as a part of the records of these proceedings. No
16 further submission will be heard in respect of the admission of
17 those.

18 The Panel further notes that three other documents pertaining to
19 *[REDACTED]* are subject to a bar table application
20 for their admission. The objection to the admission of those were
21 already made by the Defence in filing F01387.

22 The Panel has received and is considering these submissions and
23 will render a decision in relation to these three other documents in
24 due course.

25 Would the Court Officer reconfirm the exhibit number assigned.

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1 The two documents, as I stated, are admitted as associated exhibits
2 under one P number.

3 Madam Court Officer.

4 THE COURT OFFICER: Your Honours, these items that can be found
5 under [REDACTED] will be assigned number P90.1.

6 PRESIDING JUDGE SMITH: Ms. O'Reilly, you had a comment?

7 MS. O'REILLY: Yes, Your Honour. I'm just trying to understand
8 the transcript. So I understand those two articles that are
9 associated with this statement are now admitted?

10 PRESIDING JUDGE SMITH: Yes. Yes, they are.

11 MS. O'REILLY: Okay. That's fine.

12 My only request would be that there are two documents that are
13 highly relevant to the contextual understanding of those documents.
14 They aren't documents that the witness can necessarily testify to
15 except that he was a witness in the case. These are the two
16 judgments. That trial court heard a significant amount of testimony
17 about those documents. And so with your permission, I would seek to
18 tender the trial and the appeals judgment into evidence for
19 Your Honours' benefit.

20 PRESIDING JUDGE SMITH: I'll defer on those at this time.

21 Please be seated.

22 [Trial Panel confers]

23 PRESIDING JUDGE SMITH: Let's continue with the testimony of
24 Witness 3165.

25 Ms. Mayer, do you intend to finish your direct examination by

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1 the end of the first session?

2 MS. MAYER: Yes, Your Honour. Well before then.

3 PRESIDING JUDGE SMITH: Okay. Thank you.

4 Madam Court Usher, please bring the witness in.

5 Ms. O'Reilly, you'll need to file a written document or a bar
6 table motion to bring those documents in at the appropriate time.
7 This is not that time.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: Good morning, Witness. Today we're
10 going to continue with the direct examination by the SPO. I remind
11 you to please try to answer the questions clearly with short
12 sentences. If you don't understand a question, feel free to ask
13 counsel to repeat the question and they will try to clarify for you.

14 Also, please remember to try to indicate the basis of your
15 knowledge of the facts and circumstances upon which you will be
16 questioned.

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

19 Please also remember to speak into the microphone, to wait five
20 seconds before answering a question, and to speak at a slow pace for
21 the benefit of the interpreters.

22 If you feel the need to take breaks, please make an indication
23 and an accommodation will be made.

24 Finally, please stop talking if I ask you to do so and also stop
25 talking if you see me raise my hand.

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1 Ms. Mayer, you may continue your direct examination.

2 MS. MAYER: Thank you, Your Honour.

3 WITNESS: W03165 [Resumed]

4 [Witness answered through interpreter]

5 Examination by Ms. Mayer: [Continued]

6 Q. Witness, I'll remind you that we're in open session, so not to
7 name the specificities that we talked about yesterday for your
8 protection. Do you understand?

9 A. Yes.

10 Q. We left off yesterday and we were talking about the fact that
11 KLA, members of the KLA took your relative. When these men took your
12 relative, did you go after them?

13 A. Yes.

14 Q. Why?

15 A. To find out what happened, why were they taken.

16 Q. As you were pursuing them, did you ever see Serbian police?

17 A. No.

18 Q. Did you ever see any Serbian military forces?

19 A. No.

20 Q. Did there come a time where you came to a place where you had to
21 make a decision about which way to go, which way to turn?

22 A. Yes.

23 Q. And can you tell us what was in each direction?

24 A. Yes. Are you -- do you mean when I took the car and followed
25 them or before, when they took my relatives, put them in the car, and

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1 I went towards them?

2 Q. Let me clarify. I mean after they took your relative and you
3 were in your car, did there come a point where you had to decide to
4 turn your car either left or right; and if so, without saying the
5 town names, if you can tell us what was in each direction?

6 A. So after I took my car and my weapon, I got into -- I followed
7 the car in which were my relatives taken by the masked people. At
8 the exit of the village, two of them had been pulled out of the car,

9 [REDACTED]

10 [REDACTED]

11 [REDACTED].

12 Q. Sir, I just want to remind you we're in open session, so please
13 limit your answers and don't use the town names or any specifics
14 about your relatives. I'm just asking -- I know it's only a part of
15 the story. If you can just focus on that part which is, at some
16 point, did you come to a decision where you had to turn left or
17 right? That's my first question.

18 Did there come a point where you had to decide to turn left or
19 right to try to find your relative?

20 A. To -- so I took this shortcut.

21 Q. After you took the shortcut, though, once you were in your car,
22 did there come a point after you met people on the road where you had
23 to make a decision about which way to turn?

24 A. Yes.

25 Q. Was there a difference between who was in each area? If you

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1 turned left, who was in one area; and if you turned right, was there
2 the same people or different people in the other area?

3 A. The road on the left was shorter to intercept them. The idea
4 was to intercept the car with my relatives. The road on the
5 right-hand side was longer, a longer path. So I chose to take on the
6 left, because it was a shorter path to intercept and stop my
7 relatives.

8 Q. Did there come a point where you had a decision about whether to
9 turn towards a Serbian-controlled area or a KLA-controlled area?

10 A. Yes.

11 Q. When you came to that point, which way did you turn?

12 A. I turned on the right, leaving the village.

13 Q. Who controlled the area that you went towards?

14 A. There were no police presence there. The police was stationed
15 8 kilometres from the village.

16 Q. My question is, was it a Serbian-controlled area or a
17 KLA-controlled area, the way that you turned?

18 A. At that time, it was mostly under KLA control.

19 MS. MAYER: Your Honour, I'd ask to go into private session at
20 this point.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MS. MAYER: The next area has specific information that I cannot
23 avoid eliciting.

24 PRESIDING JUDGE SMITH: We'll go into private session for the
25 protection of the witness.

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1 ~~[Private session]~~[Open Session] Reclassified pursuant to F1654

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

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MS. MAYER:

5 Q. Witness, I want to back up in the story. And before you got to
6 that decision point we were just speaking of, as you were pursuing
7 the car that had [REDACTED], did you encounter anyone on the road?

8 A. Yes.

9 Q. Who was that?

10 A. Two KLA soldiers armed and masked.

11 Q. Was that when you were in your car or outside of your car?

12 A. No, I was standing outside the car.

13 Q. I want to focus you after you get into your car and you start
14 driving and after [REDACTED] two other relatives [REDACTED].

15 That's where I want to focus. And after you saw your two other
16 relatives, did you continue to drive to try and find [REDACTED]?

17 A. Yes.

18 Q. And at that point, did you encounter anyone on the road?

19 A. Yes.

20 Q. Who was that?

21 A. When I pursued the car with [REDACTED] that I picked up by the
22 [REDACTED] as we leave the village, because he had -- so on the road,
23 at a location called [REDACTED], I encountered [REDACTED] who
24 was with another person whom I didn't know at that time but I learned
25 his name later on.

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1 Q. And what did you learn the other person's name was later on?

2 A. His name was [REDACTED].

3 Q. How were [REDACTED] and [REDACTED] dressed?

4 A. They had the same black clothes as the killers who were there.

5 Q. Do you know whether [REDACTED] was part of the KLA?

6 A. Yes.

7 Q. Was he?

8 A. Yes.

9 Q. And how did you know?

10 A. I had seen him during the war. He was commander of that area.

11 Q. I want to continue on as you're driving. After you saw

12 [REDACTED] and [REDACTED], did there come a point where you found

13 [REDACTED]?

14 A. I found [REDACTED] killed then.

15 Q. And I know you've previously explained how you found [REDACTED] what

16 condition [REDACTED] was in. Did you find anything [REDACTED]?

17 A. There were [REDACTED], and I found [REDACTED]

18 [REDACTED].

19 MS. MAYER: If we could pull up P90, the specific page is

20 [REDACTED], and the corresponding is P90.1. And the specific -- it's

21 page 12 of that PDF but the translation page that the Court read out

22 is [REDACTED].

23 PRESIDING JUDGE SMITH: While they are doing that, are we still

24 needing to have private session? There is no identifying names

25 coming in.

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1 MS. MAYER: Yes, Your Honour. You'll see his [REDACTED] name is
2 [REDACTED].

3 PRESIDING JUDGE SMITH: Okay.

4 MS. MAYER: And this [REDACTED] was [REDACTED] in the [REDACTED]
5 [REDACTED].

6 Q. Witness, looking at your screen, do you recognise that copy of
7 that document?

8 A. Yes.

9 Q. And is that the [REDACTED] or the [REDACTED] with [REDACTED]
10 [REDACTED]?

11 A. Yes.

12 Q. Can you tell the Court what it says, what accusation it makes
13 against [REDACTED]?

14 A. It reads:

15 [REDACTED]

16 [REDACTED]

17 Q. And after it says [REDACTED] does it make an
18 allegation against [REDACTED]?

19 A. Yes.

20 Q. And can you read what it says?

21 A. It's barely legible. I could not read the entire text now.

22 However, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED], but the name [REDACTED] and [REDACTED] village

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1 was written [REDACTED].

2 MS. MAYER: I'm going to ask the Court to pull up a more legible
3 copy. This is [REDACTED] -- I'm sorry, my apologies. The other
4 document is SPOE00067245, and its corresponding translation, which is
5 the same ERN, SPOE00067245-ET.

6 Q. Witness, if you look on the screen. I understand that's still
7 not completely legible. Is that easier for you to read?

8 A. I can see some, but half of it is still not legible. I can't
9 see it.

10 Q. Well, let me ask you about that. What happened when you found
11 this [REDACTED]? Did you leave it there or did you take it with you?

12 A. I took it with me.

13 Q. And what did you do with it?

14 A. I took this [REDACTED] with me and hid it somewhere. Because we
15 were
16 in wartime, one didn't know what happened, so I kept it in a secret
17 place.

18 Q. And when you took it out of that place, was it in the same
19 condition or had it deteriorated?

20 A. No, it had been damaged because I had put it on the ground, so
21 humidity had penetrated and damaged the [REDACTED]. When I first took
22 this

[REDACTED]

[REDACTED].

23 MS. MAYER: I offer SPOE00067245 and its corresponding English
24 translation SPOE00067245-ET as a more legible copy of an item in P90
25 and P90.1.

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1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 MR. MOSKOWITZ: None.

3 MS. O'REILLY: None.

4 PRESIDING JUDGE SMITH: SPOE00067245 is admitted. The
5 Court Officer will assign a number.

6 THE COURT OFFICER: Your Honours, that will be Exhibit P92.

7 PRESIDING JUDGE SMITH: Thank you.

8 MS. MAYER:

9 Q. Looking at that document, Witness, it makes an accusation
10 against [REDACTED] for being a collaborator. Had you ever heard
11 such an accusation before?

12 A. No.

13 Q. And to your knowledge, did [REDACTED] support the KLA or not?

14 A. He did, very much so.

15 Q. How so? What would he do?

16 A. He did support the KLA financially and with any technical
17 equipment they needed.

18 Q. I want to now show you --

19 MS. MAYER: If we can bring up P90. The specific page is
20 [REDACTED], and its corresponding English translation is in P90.1 at
21 page 15 of the PDF, and the specific page or pages are [REDACTED] to
22 [REDACTED].

23 Q. Witness, looking at the screen, do you see this article from
24 [REDACTED]?

25 A. Yes, I do.

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1 Q. And this article was written by [REDACTED], and you've
2 previously said that you agree with everything that's in it; is that
3 right?

4 A. Yes.

5 Q. I want to point you to, on the left-hand column, about
6 two-thirds of the way down the page, where it says that [REDACTED]
7 aided Kosovo. Are those the things that we were just talking about
8 in terms of support for the KLA?

9 A. He would support the KLA financially. He would provide
10 financial means. And at the same time, they provided cisterns. He
11 provided everything that the KLA would ask of him.

12 Q. If you continue to look down the article, a little further down
13 on the same column on the left-hand side, the article [REDACTED]
14 writes and says he doesn't want others to suffer his fate and have
15 [REDACTED] killed, their honour insulted, and for someone to be
16 killed brother by brother.

17 Can you explain your understanding of this?

18 A. What this reads is that somebody that contributes to their
19 homeland, to their own country, it is not fair to stain you with
20 things that you have not done. So that's outrageous. That is
21 condemning you twice for something that you've not done.

22 Q. I want to focus after [REDACTED] murder in [REDACTED]
23 [REDACTED].

24 MS. MAYER: If we could pull up P90, specifically page
25 [REDACTED]. And the corresponding page in P90.1 is page 13 of the

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1 PDF, and the page is [REDACTED].

2 Q. Witness, do you recognise that article?

3 A. Yes.

4 Q. Did you see that at the time it was published back in [REDACTED]
5 [REDACTED]?

6 A. Yes.

7 Q. And was that because you were interested in information about
8 [REDACTED] murder?

9 A. Yes, indeed.

10 Q. Do you see the date there on the top right, that it's [REDACTED]
11 [REDACTED]? Is that about [REDACTED] was murdered?

12 A. Yes, it is. [REDACTED] after the murder,
13 because the murder happened on [REDACTED], whereas this [REDACTED]
14 [REDACTED].

15 Q. And you mention that it's [REDACTED]. Does it say in the
16 article [REDACTED]?

17 A. Yes.

18 Q. What does it say?

19 A. It says the [REDACTED].

20 Q. And then focusing within the article, on the left-hand column,
21 on the second half of the left-hand column, it says [REDACTED]
22 [REDACTED] Do you see that?

23 A. Yes, yes.

24 Q. And what's your understanding of what that's a reference to?

25 A. It refers to the arrest and to [REDACTED]. And

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1 this is not at all relevant to what happened. This is something that
2 they have written in order to cover the crime they committed.

3 Q. I understand. I would like to focus on what's written in the
4 article where it says, in the left-hand column and then again in the
5 middle column, [REDACTED] What's your
6 understanding of what that entity is or who that entity is?

7 A. This is [REDACTED]. I don't know how to put it. But it
8 worked under the leadership of somebody, and I don't know how to put
9 it in words. I don't know how to explain it. I don't know who
10 worked for [REDACTED].

11 Q. [REDACTED]

12 [REDACTED]

13 A. Yes, this is how it reads.

14 Q. And just to back up to what you just said. You said this also
15 accuses [REDACTED] but that that was not true. Am I understanding
16 your answer correctly?

17 A. Yes.

18 Q. I'd like to show you one more article.

19 MS. MAYER: It's P90. The specific page is [REDACTED]. And the
20 corresponding English translation is P90.1, page 14 of the PDF, and
21 the page is [REDACTED].

22 Q. Witness, on the screen do you see this article as well?

23 A. Yes, yes.

24 Q. And I'm going to ask you some of the same questions as I did
25 with the last article. Did you see this at the time it was printed

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Examination by Ms. Mayer (Continued)

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1 [REDACTED]?

2 A. Yes.

3 Q. And like the other article, does it refer to both [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 A. Yes.

7 Q. Did you continue to look for information about [REDACTED]
8 murder after you saw these articles?

9 A. Yes.

10 Q. Why did you do that?

11 A. Can you please repeat that again?

12 Q. Of course. Why did you continue to look for information about
13 [REDACTED] murder even after you saw this?

14 A. Because nothing written was true. Everything that they wrote
15 was to stain [REDACTED]. I met with the people that [REDACTED], I
16 talked directly to people that [REDACTED], and none of them knew
17 [REDACTED].

18 Q. Did you ever hear the KLA had denounced [REDACTED]?

19 A. No, they never denounced it.

20 Q. And after this was reported, did you ever hear of the KLA
21 denying executing [REDACTED]?

22 A. No.

23 Q. I want to turn to a new area. You've previously discussed that
24 after the Serbian offensive in July 1998, that when members returned
25 to your village, that the Serbian police approached [REDACTED] about

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Examination by Ms. Mayer (Continued)

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1 [REDACTED]. Do you
2 remember talking about that?

3 A. Yes.

4 Q. And that ultimately your village [REDACTED]
5 [REDACTED] on behalf of the village and that [REDACTED]
6 [REDACTED] was [REDACTED]. Do you know how [REDACTED] was [REDACTED]?
Did

7 [REDACTED]

8 A. [REDACTED]. There were about
9 100 people from the village, the army of the village as well, so they
10 [REDACTED].

11 Q. And to your knowledge --

12 MR. MOSKOWITZ: [Microphone not activated].

13 Can we establish the foundation for his knowledge of that?

14 MS. MAYER: I'm happy to ask that follow-up question.

15 PRESIDING JUDGE SMITH: Go ahead.

16 MS. MAYER:

17 Q. How do you know about this meeting?

18 A. I was told by [REDACTED] when he returned back and by [REDACTED]
as

19 well. Other people that were attending the meeting told me as well.

20 Q. And do you know if the meeting actually happened and what the
21 result of the meeting was?

22 A. Yes, there was this meeting happening. The outcome of the
23 meeting was: [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 Q. Do you know if anyone in your village [REDACTED],
4 including [REDACTED], going to this meeting?

5 A. Yes.

6 Q. Who was that?

7 A. It was the leadership of the village. There were over 100
8 co-villagers who [REDACTED] as well as the army of the
9 [REDACTED] village.

10 Q. And was someone named [REDACTED] involved in [REDACTED]
11 [REDACTED] this meeting?

12 A. Yes.

13 Q. And who was he as far as you understood?

14 A. He was a soldier of the KLA. He was the oldest amongst the
15 other soldiers of the [REDACTED] village, and he spoke on behalf of
16 all the soldiers that were present there. On behalf of the other
17 soldiers, he [REDACTED]

18 Q. And after this meeting happened, [REDACTED]
19 [REDACTED] until the NATO bombing?

20 A. No.

21 Q. What did the people in your village, again, to your knowledge,
22 [REDACTED] Were they in favour of it or
23 against it or something else?

24 A. The co-villagers were [REDACTED]
25 [REDACTED].

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1 Q. Do you know if [REDACTED] was [REDACTED]

2 meeting?

3 A. No, I do not know.

4 Q. You've previously said that [REDACTED] had openly announced

5 when he came to your village that he would [REDACTED]

6 [REDACTED] and that he did

7 that shortly after the first Serbian offensive in the summer of 1998.

8 Do you remember that?

9 A. Yes.

10 Q. And you've said the reason why he had said that is because

11 [REDACTED] had survived untouched without any houses burned; is that

12 right?

13 A. Yes. In the first offensive, no house was touched.

14 Q. And [REDACTED] was upset about that.

15 A. I have not seen him. I can't say that. I don't know how to

16 answer this.

17 Q. I understand. I want to turn to one last area. I'm going to

18 ask to go back into open session. So, again, if you can make sure

19 your answers just mention a relative, not [REDACTED], and that they

20 don't mention your town.

21 PRESIDING JUDGE SMITH: Open session, please, for the protection

22 of the witness -- or, I'm sorry. At the end of the closed session.

23 MS. MAYER:

24 Q. Witness ...

25 ~~{Open session}~~

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Examination by Ms. Mayer (Continued)

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1 THE COURT OFFICER: Your Honours, we're now in open session.

2 PRESIDING JUDGE SMITH: Thank you.

3 You can proceed.

4 MS. MAYER:

5 Q. Witness, did you continue to serve in the KLA after your
6 relative's murder?

7 A. Yes.

8 Q. When you were performing your duties after [REDACTED] murder,
9 what would you wear?

10 A. After my relative was killed, I was wearing civilian clothing.
11 I did not put on a uniform of the KLA since then.

12 Q. And do you still have your KLA uniform?

13 A. No.

14 Q. Why didn't you have your uniform anymore?

15 A. Because it was damaged back then, and I did not receive -- I did
16 not buy any other uniform. So in the first round, I bought one
17 uniform, but then I decided not to buy one. And I could not wear
18 that uniform because [REDACTED] was killed because of that uniform,
19 and it was a problem to me to get that uniform in my house. It was a
20 problem for the whole family.

21 Q. I understand.

22 PRESIDING JUDGE SMITH: [Microphone not activated]

23 MS. O'REILLY: Your Honours, could we move into private session
24 for a moment?

25 PRESIDING JUDGE SMITH: [Microphone not activated] Into private

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1 session.

2 ~~[Private session]~~ [Open Session] Reclassified pursuant to F1654

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

4 MS. O'REILLY: We've just had two references, one to [REDACTED]
5 [REDACTED] and another to [REDACTED] in open session. So we
6 may need a redaction for that is all I wanted to say.

7 PRESIDING JUDGE SMITH: Yes, thank you for pointing that out,
8 and we have the ability to pick those up and redact them on the run.
9 Thank you.

10 MS. MAYER: We're also requesting that, so we're being vigilant
11 about that as well, but we appreciate Ms. O'Reilly's pointing that
12 out.

13 Those are all of my questions, Your Honour. So if we go back to
14 public -- or I don't know if the Defence is prepared to start in
15 private or public.

16 PRESIDING JUDGE SMITH: Mr. Moskowitz, it's your witness. Do
17 you wish to be in public or private session?

18 MR. MOSKOWITZ: Your Honour, I think we can try to continue in
19 open session for a little while. And when I reach a point where I
20 think it might be appropriate to close, I will notify the Court.

21 PRESIDING JUDGE SMITH: Thank you.

22 Back to public session then, Madam Court Officer.

23 Ms. Mayer, is there something else?

24 MS. MAYER: I didn't know if you wanted me to end my examination
25 in public session or not.

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1 participate in that defence of that village against Serb forces.

2 Would that be accurate?

3 A. Yes. The person that came and approached me has a name. I know
4 who he is.

5 Q. Okay. Well, maybe we'll discuss that name later, but we don't
6 need to do that now.

7 Now, when you joined the KLA on that day or evening, did you
8 have to sign anything to indicate that you were now a member of the
9 KLA?

10 A. No.

11 Q. Did you receive any kind of identification card or piece of
12 paper to show that you were now a member of the KLA?

13 A. I left at 2.00 in the morning that morning, whereas the next
14 day, the commander, or whoever was there, took notes.

15 Q. Took notes. But you were not given any particular
16 identification card or piece of paper to verify that you were, in
17 fact, in the KLA? By the way, I don't dispute you were in the KLA.
18 Of course you were. I'm just asking whether there was anything that
19 you had that you could demonstrate to people that you were now in the
20 KLA.

21 A. No, they didn't give me anything.

22 Q. Okay. What about a uniform? Did they issue you a uniform at
23 that time?

24 A. I had bought the uniform previously myself. There were no
25 uniforms back then, and you had to buy the uniform yourself. So we

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1 paid to buy the uniform, the camouflaged uniform.

2 Q. So they didn't give you any money to buy a uniform. You had to
3 buy it yourself?

4 A. That's correct.

5 Q. Did you buy the uniform already made, or did you have to buy the
6 fabric and then have someone make it for you?

7 A. We would buy the fabric and we would make a uniform out of the
8 fabric.

9 Q. How did you know which kind of fabric to buy? Were there some
10 regulations about what the uniform should look like back in the
11 summer of 1998?

12 A. The fabric was a camouflaged fabric. That is the type of fabric
13 we bought, and we made uniforms out of them.

14 Q. When you joined the KLA, did they issue you a weapon?

15 A. I had received a weapon from a co-villager.

16 Q. Okay. We don't need to mention the name. But without
17 mentioning the name of this co-villager, how did it come about that
18 he gave you his weapon? Wasn't he in the KLA at the time?

19 A. He was tired. He was sad. And he told me that, "Whoever is
20 interested to join, I can give him the weapon," and I got his weapon.

21 Q. So you say "he was tired." You mean he just didn't want to
22 be -- he just didn't want to do it anymore. He was tired of being in
23 the army?

24 A. I can't say anything, because he joined the army later on. I
25 can't say anything.

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1 Q. So he was sometimes in the army and sometimes he was not in the
2 army. It was up to him.

3 A. I don't know.

4 Q. Okay. Okay. By the way, you say you had your uniform made.
5 You had to buy your own fabric. Would it be possible for almost
6 anyone to go and do that even if they weren't in the KLA? Could
7 anyone go and have a uniform made for themselves? Was that possible?

8 A. You wouldn't -- if you didn't have a weapon, and you didn't go
9 out to join the KLA, in this case, you wouldn't even need to buy the
10 fabric or sew one or make one. I'm again referring to what happened
11 to me. I cannot speak for others.

12 Q. Sure, but --

13 PRESIDING JUDGE SMITH: Mr. Moskowitz.

14 MR. MOSKOWITZ: Yes.

15 PRESIDING JUDGE SMITH: Between questions, turn the microphone
16 off.

17 MR. MOSKOWITZ: Sorry, Your Honour. I forgot. I guess it's on
18 now. I'll ask my next question.

19 Q. I'm only asking -- and I understand that you know only what you
20 did. But given the fact that no identification was issued to people
21 who joined the KLA, it would be possible, wouldn't it, for anyone who
22 wanted to have the uniform to go and have it made even if they were
23 not in the KLA? It's possible, wasn't it, back then, because
24 everything was so kind of informal?

25 A. I don't think that people would buy a uniform without being

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1 members of the army.

2 Q. Okay. When you joined the KLA, did you receive any training,
3 formal or informal, before you went into action?

4 A. I was -- I had been prepared shortly before.

5 Q. What do you mean "prepared"? Could you explain?

6 A. Use of weapons.

7 Q. Anything else besides use of weapons?

8 A. No.

9 Q. [Microphone not activated]

10 THE INTERPRETER: Microphone, please.

11 MR. MOSKOWITZ: This is going to be complicated.

12 Q. I think you testified earlier that you went to another village
13 then to participate in an action against Serb forces; is that
14 correct?

15 A. Yes, because there had been an ambush there. That was a defence
16 line to protect villages that were behind the lines.

17 MR. MOSKOWITZ: Your Honour, we may need to go in closed session
18 for a short while.

19 PRESIDING JUDGE SMITH: Please go into closed session to protect
20 the witness. I'm sorry, private session, not closed session.

21 MR. MOSKOWITZ: [Microphone not activated]

22 ~~[Private session]~~[Open Session] *Reclassified pursuant to F1654*

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

24 PRESIDING JUDGE SMITH: Mr. Moskowitz, you can continue.

25 MR. MOSKOWITZ: Thank you, yes.

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1 Could we pull up DHT00577. It's a map. Is it possible
2 technologically to zoom in on that using the village or city of
3 [REDACTED] as the centre point or is -- yes. Maybe [REDACTED] down --
4 there, that's good. Perfect.

5 Q. I think -- Mr. Witness, do you see the map? Can you see it on
6 your screen?

7 A. Yes.

8 Q. Now, I've circled two villages in red. You see that?

9 A. Yes.

10 Q. One of the villages that we circle, of course, is [REDACTED].

11 A. Yes.

12 Q. And if you look, looking down along that road, that red line
13 that connects [REDACTED] at the top or in the middle of the map to
14 [REDACTED] towards at the bottom of the map, you see that we've put a
15 square box around [REDACTED]. Can you see that?

16 A. Yes.

17 Q. And that's the village you went to to fight for your country,
18 isn't it, when you joined the KLA? That's the village of [REDACTED].

19 A. Yes.

20 Q. Can you explain maybe, for us just to get some better sense of
21 what was going on back then, how the Serb forces came into [REDACTED]
22 and

22 attacked your flanks, the flanks of the KLA? Is it possible for you
23 to describe how they did that?

24 A. The Serb forces were in [REDACTED].

25 Q. They were in [REDACTED]. Do you know how they got to [REDACTED]?
Did

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1 they take that road from [REDACTED]? Were they using that?

2 A. No, they had been there before I went there. They had been
3 stationed and positioned in the village of [REDACTED].

4 Q. I see. So you don't know how they got there because you got
5 there after they were already there; is that right?

6 A. Correct.

7 Q. By the way, were the Serbs using heavy mechanised weapons or was
8 it just soldiers with guns?

9 A. They had also mechanised equipment.

10 Q. That would include, what, tanks?

11 A. There might have been, but I did not see any.

12 Q. Okay. Now, I think you testified that you were in [REDACTED]
13 defending your country for several days but you were defeated. Would
14 that be a fair statement?

15 A. Yes.

16 Q. Serb forces were just too powerful?

17 A. The Serb forces had breached the other position on the other
18 side. They had defeated the entire [REDACTED], and they were then
19 willing to join points from [REDACTED]. They wanted to
20 surround us and catch us alive, closing in from both sides. So we
21 then withdrew, retreated upon the order from the commander.

22 Q. And do you remember where you retreated to? Oh, I'm sorry,
23 before you answer that question, I'm sorry. You say you retreated.
24 Do you remember how your commander told you to retreat? What did he
25 say, if you can recall?

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1 A. I did not see the commander at that time, but we soldiers there,
2 one of us was older than us, informed us, saying, "The commander has
3 ordered us to retreat because they," meaning the Serbs, "have
4 breached in the positions in [REDACTED]. They are closing in towards
5 us."

6 Q. Did he tell you where you should go when you retreated?

7 A. No, he didn't.

8 Q. So you just went wherever you thought would be safe?

9 A. Yes.

10 Q. And you went with a fellow soldier or did you go alone?

11 A. I went with the others.

12 Q. Did you go then first to a village called [REDACTED]? And you
can

13 see it on the map there. It's in a square box not far from
[REDACTED],

14 going towards the left.

15 A. Yes.

16 Q. Now, why did you go there?

17 A. This was far from the main road, paved road, on the foot of a
18 mountain. So there were soldiers and the commander said there.

19 Q. And when you say it was far from the main road, you mean that
20 road that links [REDACTED]? That's the main road you're
21 talking about?

22 A. Yes.

23 Q. So that would be the road that the Serbs would use to attack the
24 villages in the area. Would that be correct?

25 A. Yes.

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1 Q. Especially if they had mechanised forces, they would need a hard
2 surface in order to push the attack, wouldn't they?

3 A. What do you mean by paved hard-surface road?

4 Q. Asphalted road so that the mechanised units could roll easily
5 into the area.

6 A. We did not have a mechanised equipment. We only had a weapon or
7 weapons we could carry on our back.

8 Q. I know.

9 A. We didn't have any such big equipment.

10 Q. But the Serbs did.

11 A. They did, correct.

12 Q. And that's why you needed to get off the road as far as you
13 could, for safety, and you went to [REDACTED]?

14 A. Yes.

15 Q. And then how long did you stay in [REDACTED]? Was it just for
16 one day, one evening?

17 A. So we stayed there until dusk, the evening. In the evening, I
18 went then to visit my family who were in the village of [REDACTED].

19 Q. They were already in [REDACTED] at that point?

20 A. Yes.

21 Q. And we can see [REDACTED] on the map, so I think we can orient
22 ourselves as to where you were.

23 And, ultimately, you returned to [REDACTED], didn't you, you and
24 your family, after several -- was it days or weeks that you
25 ultimately could return?

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1 A. I don't know exactly. It could have been a week later. I don't
2 know the exact number of days.

3 Q. Okay. And at that point, by the way, did you have a clear
4 understanding of what unit you belonged to after your defeat and
5 retreat from [REDACTED]? Did you know what unit you were attached to
6 at
7 that point or was it unclear?

8 A. It was unclear.

9 Q. Why was it unclear?

10 A. I wouldn't know. There was this [REDACTED] which became part of
11 [REDACTED] I didn't follow through then how these things worked
12 and what happened.

13 Q. So there was no one there in any command position to sort of
14 tell you where you belonged and where you should go. You were
15 basically seeking safety as you could on your own?

16 A. No. We gathered all of us in the village and we were standing
17 guard in the village when these brigades started being formed.

18 Q. Now, when you say "the village," are you talking of [REDACTED] or
19 after you returned to [REDACTED]?

20 A. After I returned to [REDACTED].

21 Q. After. So while you were in [REDACTED], you weren't forming any
22 units. You were basically seeking safety from the Serbs on your own.
23 You were sort of left on your own devices. Would that be correct?

24 A. We all soldiers went up there, and then we were told that there
25 was no solution for the time being. And the commander said, "You
have to figure out what to do yourselves." As a result of which, we

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1 all joined our families or went back to our families and stayed with
2 them.

3 Q. So the commander said: Go do what you gotta do to save
4 yourselves, you're on your own, basically. That's what the commander
5 said. Would that be accurate?

6 A. More or less.

7 Q. More or less. Okay. So when you returned to your village,
8 [REDACTED], I believe you -- you've already testified that you
9 remained in the KLA and operated like a village guard at that point,
10 not knowing which unit you really belonged to. Is that accurate?

11 A. Yes.

12 Q. And were you in uniform when you returned to [REDACTED], or did
13 you decide to just wear civilian clothes, or did you some days wear
14 uniforms and some days wear civilian clothes?

15 A. In uniform.

16 Q. So every day you were in your uniform at that time?

17 A. Yes.

18 Q. What about the other soldiers who had returned to [REDACTED].
19 Were they in uniform too all the time, or were they also sometimes in
20 civilian clothes?

21 A. Majority of them wore uniforms, those who stood guard.

22 Q. I just want to refresh your recollection about something.

23 MR. MOSKOWITZ: So it might be useful if we could call up
24 SPOE00068032-SPOE00068043, which is the English translation. I think
25 the Albanian translation is the same. And we're looking at

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1 page SPOE00068039. Yes.

2 Q. If you look -- by the way, just to refresh your recollection,

3 this is from [REDACTED]

4 [REDACTED]. I think you

5 may recall that. And if you look -- unfortunately, there are no

6 [REDACTED]. But if you look where it says:

7 "When you returned to the village of [REDACTED] from the village
8 of [REDACTED] ... did you see any KLA soldiers?"

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. It depends on the context in which you're asking the question.

20 When we initially first returned, they were wearing uniforms. Now,

21 it all depends on the context this question was put to me back then,

22 and I cannot establish a connection between your question and his

23 question.

24 Q. Well, I mean, at some point, the soldiers were in civilian

25 clothes. Do you know when that happened, when they started taking

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1 off your uniforms and wearing civilian clothes?

2 A. They wore uniforms only when they had to take duty shifts. They
3 didn't need to wear a uniform when they went home, because they were
4 villagers. In their -- they wore civilian clothes in their homes.
5 But when they had to go out there on duty shifts, they would wear
6 uniforms, but it doesn't mean it was a strict rule. Some would go
7 taking duty shifts wearing civilian clothes as well.

8 Q. So there was no strict rule at the time. It was pretty much you
9 were on your own. There were no commanders in the village at this
10 time, was there?

11 A. There was a commander. We had a commander in the village.

12 Q. And who was that?

13 A. At that time, he was -- it was [REDACTED].

14 Q. Ah, yes. Okay. Thank you. Just to sort of summarise a little
15 bit about this part of the story. Would you agree with me that at
16 this time that we're talking about, this time that you were in
17 [REDACTED], you were on the run after the Serb forces attacked you,
18 you
19 found safety away from the main road, you returned to [REDACTED], and
20 you remained in [REDACTED] pretty much until the NATO bombing in April
21 1999. Is that accurate?

22 A. Yes, we stayed there.

23 Q. And during this whole period of time, you remained in the
24 village as a village guard, essentially, within the KLA?

25 A. No, I left the village also.

Q. Oh. Where did you go?

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1 A. I cannot know now exactly how and when. I didn't leave the
2 village to go and take part in any action, but I might have left the
3 village for other reasons. I don't know.

4 PRESIDING JUDGE SMITH: Mr. Moskowitz, we need to take a short
5 break.

6 MR. MOSKOWITZ: Yes, Your Honour.

7 PRESIDING JUDGE SMITH: We'll go back into public session for
8 that moment.

9 And, Madam Usher, you can escort the witness out for that time
10 being.

11 [The witness stands down]

12 ~~{Open session}~~

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

14 PRESIDING JUDGE SMITH: All right. We'll take a short break,
15 about five to ten minutes, and we'll be back.

16 --- Break taken at 10.27 a.m.

17 --- On resuming at 10.34 a.m.

18 PRESIDING JUDGE SMITH: Bring the witness in, please.

19 MR. MOSKOWITZ: Your Honour --

20 PRESIDING JUDGE SMITH: Do you wish to remain in closed --
21 sorry, in private session?

22 MR. MOSKOWITZ: Yes, this is what I wanted to talk about. I
23 would like to try to keep it in open session as much as possible, but
24 what I want to get into now is the sort of details of what happened.
25 And I think we can maybe come up with a scheme or an idea to try to

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1 avoid names but still understand what we're talking about.

2 [REDACTED]

3 [REDACTED] --

4 PRESIDING JUDGE SMITH: Just a second.

5 MR. MOSKOWITZ: We're in closed? Are we in closed? I think we
6 should be in closed at this point so I can discuss this.

7 PRESIDING JUDGE SMITH: All right. Let's go into closed
8 session, please.

9 ~~[Private session]~~ [Open Session] *Reclassified pursuant to F1654*

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

11 MR. MOSKOWITZ: So, you know, understanding the Court's
12 legitimate concern about keeping this trial open as much as possible,
13 I would like to try to do that here, but it requires, I think, that
14 we have some understanding of how we refer to people as we go through
15 this.

16 I'm intending to ask the witness to really describe in some
17 detail what happened in the village during the kidnapping, from the
18 point of when he leaves his house and what he saw, where he was, to
19 the point in which he left the village in pursuit of the kidnappers.

20 PRESIDING JUDGE SMITH: If you want, may I suggest, you could
21 bring the witness in in private session and identify the various
22 parties you want to identify and give them a number and then you can
23 use that. You'll have to give him a piece of paper with it written
24 on it so that he will be able to refer back to it and not get
25 confused about the names and the numbers, and leave the name of the

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1 village out also, of course.

2 Yes, Madam Prosecutor.

3 MS. MAYER: Your Honour, I normally would support any other
4 accommodation. I think the trouble with this, and it's a little bit
5 counterintuitive, is that because [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 And I appreciate my colleague across the aisle sharing that's
20 their intention. The more detail we go in, [REDACTED]
21 [REDACTED].

22 MR. MOSKOWITZ: No, I appreciate the concern. And it is
23 difficult to thread the needle here. But we'll try -- I'm trying to
24 do that. I don't, of course, intend to name the village. We'll just
25 call it "the village." And we can give numbers to the relatives.

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1 The only two landmarks that I think we would go into would be
2 the [REDACTED], but [REDACTED], and the [REDACTED] at the
3 end of the village road.

4 PRESIDING JUDGE SMITH: I think the Prosecutor's position,
5 though, is that any detail is going to reveal by reference the
6 parties involved.

7 Just give us a moment.

8 MS. MAYER: If I could just make one suggestion, Your Honour. I
9 take your point --

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 [Trial Panel confers]

12 PRESIDING JUDGE SMITH: We will give public session a try.
13 We're going to be very careful with it. And I want you to help guide
14 it and to suggest. And we suggest that the landmarks you give some
15 code-name as well, position 1, position 2, something like that.
16 Somebody's going to have to prepare that for him also so that the
17 witness knows what the code is, so to speak.

18 MR. MOSKOWITZ: Yes, we are willing to try that. Could you give
19 us just a minute or two to make the preparations?

20 PRESIDING JUDGE SMITH: Yes, yes, of course.

21 And, Madam Prosecutor, I didn't mean to cut you off. If you
22 have something more you want to say, do so.

23 MS. MAYER: No, I believe I was cutting you off, and my
24 apologies, Your Honour. I was just going to suggest that as the
25 Court had directed in its order when it ordered protective measures,

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1 another way to do this would be to diligently look at the transcript
2 afterwards to release anything publicly so that we can get the story
3 out.

4 As I think Your Honours observed, as I was questioning the
5 witness, even though I was very careful to point to specific points,
6 I had to re-ask my question about six times, a few times, in order to
7 get the answer and not get other information, and we've still done
8 about, I think, ten or so redaction requests this morning.

9 PRESIDING JUDGE SMITH: Yes, this is a very important part of
10 this case, and I think it deserves to be given a chance to be
11 publicised. And I know you're not arguing against that concept, but
12 you're trying to deal with your issues.

13 MS. MAYER: Thank you, Your Honour.

14 MR. MOSKOWITZ: If we have just a few minutes to prepare the
15 document.

16 PRESIDING JUDGE SMITH: Yes, go --

17 MR. MOSKOWITZ: And, of course, he only reads Albanian, so it
18 may be that he will have to write it himself in Albanian.

19 PRESIDING JUDGE SMITH: That's okay.

20 You just tell me when you're ready.

21 MR. MOSKOWITZ: [Microphone not activated]

22 PRESIDING JUDGE SMITH: [Microphone not activated]

23 MR. MOSKOWITZ: Our proposal is this, and I will run this by the
24 Prosecutor and see if there's agreement or not. Nothing terribly
25 complicated. His [REDACTED], we would designate as number 1; his

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1 [REDACTED], number 2; and his [REDACTED], number 3. Okay?

2 Is that okay?

3 And in terms of the landmarks that I think we would discuss,
4 [REDACTED]

5 [REDACTED], we would make that position A, since that happens first in
6 the story; and [REDACTED], which is located at the end of the
7 village, and marks the end of the story -- this part of the story, we
8 would call position B.

9 And I would propose this to the Prosecutor to see if there's
10 agreement here. And, if so, in closed session we could call the
11 witness in and see if he agrees.

12 PRESIDING JUDGE SMITH: There's also some references to the
13 direction the road is going to another village, and you should
14 probably deal with that as well.

15 MR. MOSKOWITZ: Yes, Your Honour. I think in this part of the
16 examination, I'm really going to try to be focused just within the
17 village of [REDACTED] before they go out on the road, because I just
18 want to get clarification on where he was, how far away he was --

19 PRESIDING JUDGE SMITH: All right.

20 MR. MOSKOWITZ: -- what he saw, and I think at this point it
21 just isn't very clear.

22 PRESIDING JUDGE SMITH: All right. And as to -- we'll do the
23 best we can.

24 And, Madam Prosecutor, we would expect that your office would go
25 over the transcript afterwards to see if any additional redactions
are necessary and present those to the Court and to counsel.

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1 MS. MAYER: Understood, Your Honour. We have no objection to
2 the system proposed by --

3 PRESIDING JUDGE SMITH: Okay, fine.

4 MS. MAYER: -- counsel.

5 PRESIDING JUDGE SMITH: So with that, we'll bring the witness in
6 if you're ready.

7 MR. MOSKOWITZ: Yes, Your Honour. We will remain in closed
8 session while we explain this to him?

9 PRESIDING JUDGE SMITH: Yes. It's not closed, though. It's
10 private.

11 MR. MOSKOWITZ: [Microphone not activated]

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: Witness, we are in -- Witness, we are in
14 closed session right now. That means nobody outside of this room is
15 going to hear what you're saying, but we will shortly be going to
16 public session for the next part of this cross-examination.

17 Mr. Moskowitz is going to explain some of the things that we
18 want to do in order to protect you and other people and your village.
19 Do you understand that?

20 THE WITNESS: [Interpretation] Yes.

21 PRESIDING JUDGE SMITH: All right. Go ahead, Mr. Moskowitz.

22 MR. MOSKOWITZ: Thank you, Your Honour.

23 Q. Mr. [REDACTED], we're going to now go into an area of examination
24 where we are going to be in your village on the day of [REDACTED]
25 kidnapping, and we need to discuss it in some detail, but we want to

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1 do it so that it can be in open session without disclosing your
2 identity. Do you understand so far? So far. I'm not done yet.

3 In order to do that, we're not going to use any names, but
4 instead we're going to refer to numbers and each number will refer to
5 a name. So, for example, if we need to talk about [REDACTED],
6 [REDACTED], we won't mention [REDACTED], you won't mention [REDACTED],
but you
7 will mention the number that corresponds to [REDACTED]. There is only
8 three people that we will be referring to: [REDACTED], number 1;
9 [REDACTED], number 2; and [REDACTED], number 3. 1, 2, 3. And we'll
give you a
10 piece of paper so you have it in front of you so you don't forget.

11 We'll also be referring in this part of the examination to two
12 landmarks in [REDACTED] that you know well. That's [REDACTED], which
13 we will refer to as A. And [REDACTED] at the end of the village,
14 which we will refer to as B.

15 So there's a lot to keep in your head. I know there's a lot to
16 keep in your head anyway, but now here's more to remember. All in an
17 effort, you know, that we want to keep this trial as open as
18 possible. Okay.

19 We're going to give you a piece of paper that has what I just
20 said on it and so you will be able to see it. Unfortunately, we
21 don't -- we're not good at writing in Albanian, so we can go over
22 that piece of paper with you and you can jot it in in Albanian so you
23 can see it and know for sure what each number refers to so there's no
24 confusion.

25 Does that sound okay to you?

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1 A. Yes, I can write down myself.

2 Q. Okay.

3 MR. MOSKOWITZ: So if I could have the clerk deliver this paper.

4 Q. I see you're already writing, which is a good sign. But you see
5 at the top is [REDACTED] name, number 1. And then under him --

6 A. Yes.

7 Q. -- there is [REDACTED], number 2.

8 A. Yes.

9 Q. And then [REDACTED], number 3.

10 A. Yes.

11 Q. And [REDACTED], position A -- you got it.

12 A. [REDACTED], yes, okay.

13 Q. Okay. This is not exactly high-tech, but it might work.

14 A. Okay.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 We only have about ten minutes left in this session, but it was
17 a good exercise, and we'll see how it works.

18 Go ahead, Mr. Moskowitz.

19 MR. MOSKOWITZ:

20 Q. Now, I want to turn your attention, Witness, to that terrible
21 day on [REDACTED] --

22 PRESIDING JUDGE SMITH: Excuse me, Mr. Moskowitz. My mistake.
23 We're still in private session.

24 MR. MOSKOWITZ: Oh, I'll wait for open.

25 PRESIDING JUDGE SMITH: So we should go to open session.

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1 ~~[Open session]~~

2 THE COURT OFFICER: Your Honours, we're in open session.

3 PRESIDING JUDGE SMITH: Thank you.

4 Now you can proceed.

5 MR. MOSKOWITZ: Thank you, Your Honour.

6 Q. Mr. Witness, I want now to turn your attention and focus your
7 mind, if you can, to that [REDACTED], and I want you to, as
8 best you can, give me an estimate of time. I'm going to ask you for
9 an estimate of time, and I want you to give me how much time elapsed
10 or how much time went by from the time you left your house after
11 hearing gunshots, you left your house, to the time you left the
12 village. So the time you left your -- you hear gunshots, you leave
13 your house, to the time you left your village at position B.

14 A. It was about ten minutes in total.

15 Q. Could it have been less than ten minutes, more than ten minutes,
16 or is this your best recollection now?

17 A. Approximately this is how long it was. I can't exactly tell you
18 in exact minutes how long it lasted.

19 Q. And I assume that during this period of time, let's say ten
20 minutes, a lot was going on, wasn't there? It was pretty tense,
21 pretty fast-moving, pretty chaotic. Would you agree with that?

22 A. Yes.

23 Q. There were gunshots; correct?

24 A. Yes.

25 Q. There were people talking loudly. There was crowds; correct?

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1 A. Yes.

2 Q. And you had just come out of your house and were trying to make
3 some sense of what was going on, I imagine.

4 PRESIDING JUDGE SMITH: Mr. Moskowitz, remember the microphone.

5 MR. MOSKOWITZ: Oh.

6 PRESIDING JUDGE SMITH: If you don't --

7 THE WITNESS: [Interpretation] Yes.

8 PRESIDING JUDGE SMITH: -- we pick up other sounds.

9 MR. MOSKOWITZ: I understand.

10 Q. Yes. So it was a difficult, difficult day for you that day,
11 wasn't it?

12 A. Yes.

13 Q. I think when you testified earlier this morning, you said that
14 when you first saw -- when you first saw the kidnappers, you were
15 maybe 150 to 200 metres away; is that right?

16 A. Yes.

17 Q. And at that point, where were you without -- were you by your
18 house or were you somewhere else when you were at a point where you
19 saw them 150 to 200 metres away?

20 A. I departed in order to go towards their direction. So I heard
21 the shooting and I left my house.

22 Q. [Microphone not activated]

23 THE INTERPRETER: Microphone, please.

24 MR. MOSKOWITZ:

25 Q. And at that point, they're 150 to 200 metres away; is that

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1 correct?

2 A. Yes.

3 Q. And then I think you mentioned after that you took some sort of
4 shortcut?

5 A. Yes.

6 Q. How long were you in this shortcut?

7 A. Two minutes, three minutes. I didn't see the watch, though.

8 Q. So you come out of your house, you hear gunshots, it's a
9 confusing situation, and then you go into this shortcut that takes
10 you two or three minutes. Would that be fair?

11 A. Approximately.

12 Q. And while you're in this shortcut, were you able to see the
13 kidnappers? While you were in the shortcut.

14 A. Yes, I met with the kidnappers.

15 Q. Specifically when you're in this shortcut that you're
16 describing -- could you describe this shortcut a little bit? I'm
17 having a hard time visualising it, you know.

18 A. There was this shortcut that led to the main road. So you had
19 to go through the shortcuts, it was closer to [REDACTED], it was
20 about 150 metres away from A. I went through the shortcut, and the
21 shortcut was about 70, 80 metres.

22 Q. You also testified earlier today -- or yesterday that you heard
23 shouts at some point from some people in a crowd, and that because of
24 those shouts you knew that relatives were in a car taken by people
25 wearing masks. Could you explain where you were when you listened to

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1 those shouts?

2 A. I was going towards the direction of A, where the shots were.
3 People told me that the three of them were taken, and the car left
4 downwards.

5 Q. You knew about what was happening to your relatives because of
6 what the people told you, not what you saw?

7 A. I did not see them myself if they were in the car. But while I
8 was in this shortcut, I saw them in the car. Inside the car.

9 Q. Did you see 1, 2, and 3 in the car, or only 1 and 2, or 1 and 3?

10 A. I saw 1 and 2. I did not see 3. But he was inside as well. I
11 did not see him, though.

12 Q. You did not see 3 in the car at that point?

13 A. Come again, please? Can you ask the question once again?

14 Q. The question is, you testified yesterday that you heard people
15 in a crowd tell you that relatives were in a car with kidnappers or
16 people in masks, and that because of that you -- let me find the
17 exact reference here. Because of that, you testified, "I knew that
18 my relatives were taken in a car by people that were wearing masks."

19 So the question was that you knew this because you heard it from
20 the people in the crowd, not because you saw it at that point. Would
21 that be correct?

22 A. They told me that they were taken, but it is with my own eyes
23 that I saw 1 and 2 inside the car while the car was being driven.

24 Q. And at that point was the car being driven to position B, in
25 that direction? Would that be accurate?

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1 A. Yes.

2 Q. And that it was at that point that you approached the car and
3 got closer? Is that what you testified to yesterday, and that's your
4 memory now?

5 A. I was a bit closer to the car. However, the people that were
6 wearing masks and had arms, because two of them were wearing masks,
7 they did not allow me to get closer to the car. So they were
8 following the car and they pointed the arms towards myself and told
9 me, "You don't have to get closer to the car."

10 PRESIDING JUDGE SMITH: If this is an appropriate time for the
11 break, please let me know. If you have one or two more questions,
12 that's --

13 MR. MOSKOWITZ: [Microphone not activated]

14 PRESIDING JUDGE SMITH: Okay.

15 MR. MOSKOWITZ: [Microphone not activated]

16 Q. So the people walking or behind the car wouldn't let you get
17 close to the car, so you only saw 1 and 2, not 3, in the car. And
18 this was by [REDACTED]; correct?

19 A. Before we went to position B, because position B was further
20 afield --

21 Q. [Microphone not activated]

22 A. -- from where I was staying.

23 Q. [Microphone not activated]

24 PRESIDING JUDGE SMITH: We will redact the word you used.

25 MR. MOSKOWITZ: Yes, thank you, Your Honour. I'm sorry.

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1 Q. One more question: Did you see 1, 2, and 3 exit the car at
2 position B?

3 A. No.

4 Q. Where were you when they exited the car at position B? Were you
5 not there?

6 A. No, because I wasn't allowed to get closer. And, therefore, I
7 went back, I got my car and my arm from my house, and I went the same
8 direction afterwards. When I went at B, I saw that 2 and 3 had
9 already gotten off the car.

10 Q. So to summarise really briefly. You went back to your house to
11 get the car and your weapon before you saw -- or before 1, 2, and 3
12 exited the vehicle. You saw them outside the vehicle when you
13 returned with your car.

14 Is that a fair statement?

15 MS. MAYER: Objection. I just --

16 THE WITNESS: [Interpretation] When I got back on my car --

17 PRESIDING JUDGE SMITH: Just a second, Witness --

18 THE WITNESS: [Interpretation] -- only 2 and 3 were outside.

19 MS. MAYER: The witness's answer clarified. I think my
20 colleague misspoke and said 1, 2, and 3.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MS. MAYER: I think the evidence is that -- there is no evidence
23 that 1 got out of the car until later on when 1 was found.

24 PRESIDING JUDGE SMITH: So maybe correct for the record.

25 MR. MOSKOWITZ: Sorry, I have to correct that for the record.

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1 That was a mis -- misspoke. I'm sorry.

2 PRESIDING JUDGE SMITH: Ask the question again with the
3 correct ...

4 MR. MOSKOWITZ:

5 Q. Let's be a little more accurate, and it's my fault not yours.
6 When you came back with the car to position B, you saw 2 and 3
7 outside the car, not 1.

8 A. Yes.

9 MR. MOSKOWITZ: I think we can stop there.

10 PRESIDING JUDGE SMITH: Okay. We will take the morning break.
11 We will take a half-hour break, Witness. You will be escorted
12 out of the courtroom now.

13 [The witness stands down]

14 PRESIDING JUDGE SMITH: And we can go into public session -- we
15 are in public session.

16 We will be adjourned until 11.30. Thank you.

17 --- Recess taken at 11.05 a.m.

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

19 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
20 in.

21 I think somebody asked a question to [REDACTED] about the paper
he's
22 got in front of him. We'll certainly introduce that into evidence so
23 that there's a record made of exactly what he was looking at.

24 MR. MOSKOWITZ: Thank you, Your Honour.

25 I would like to, at this time, since we're talking about

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1 introducing things into evidence, having been reminded by counsel for
2 the SPO that I haven't yet done this, which I appreciate, I want to
3 move the map into evidence if we could. That would be DHT00577.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. MOSKOWITZ: Yes, DHT00577.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 THE INTERPRETER: Microphone, please.

8 PRESIDING JUDGE SMITH: Any objection to that tender?

9 MS. MAYER: No objection, Your Honour.

10 PRESIDING JUDGE SMITH: From any of the Defence? No.

11 DHT00577 is admitted and will be assigned a number.

12 THE COURT OFFICER: Your Honours, that will be Exhibit 1D13.

13 PRESIDING JUDGE SMITH: All right.

14 MR. MOSKOWITZ: I think now I'm going to be getting into an area
15 where we need to review his prior statements on this -- in his
16 village where he was, because those statements add additional detail.

17 PRESIDING JUDGE SMITH: All right.

18 MR. MOSKOWITZ: They will necessarily involve names and places.
19 I don't think there's any way around it. So we may need now to go
20 into private session.

21 PRESIDING JUDGE SMITH: Thank you for that information.

22 Madam Court Officer, into private session, please.

23 [The witness takes the stand]

24 ~~[Private session]~~ [Open Session] *Reclassified pursuant to F1654*

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

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1 PRESIDING JUDGE SMITH: All right.

2 Witness, we are now in private session because the next
3 questions will be asked to you concerning [REDACTED]
4 [REDACTED], and there's no way of avoiding some of the words and
5 locations and people listed. So Mr. Moskowitz will begin again with
6 his cross-examination. I just wanted you to know that information.

7 Go ahead, Mr. Moskowitz.

8 MR. MOSKOWITZ: Thank you, Your Honour.

9 Q. I'm going to now ask you a series of questions about some
10 statements you have made before your testimony here today.
11 Statements that you made -- beginning in the year 2000 up until 2017,
12 you made a number of statements.

13 I want you to understand something. I am not introducing these
14 statements for you to look at in any way to criticise you. Okay?
15 What you went through that day was horrendous, and we appreciate
16 that. And the ability to remember and to perceive accurately over
17 time things that have happened in a very brief span of time, in a
18 very tense and emotional situation, fast moving, chaotic, that's
19 difficult to remember everything that happens, and it would be
20 natural that there may be differences from one statement to another.
21 So this is not meant in any way as criticism of you. Do you
22 understand?

23 A. I do.

24 Q. Okay. I'm glad. The first statement I want to talk to you
25 about has already been introduced as P90.

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1 MR. MOSKOWITZ: And we would like to look at page [REDACTED] in
2 the English, and [REDACTED] in the Albanian. Yes, I misspoke. I am
3 sorry. The proper page, again, in English, it's [REDACTED].
4 Apologies. [REDACTED]. And it looks like the Albanian -- we need to
5 find the Albanian page. I think the page you have there -- hold on.
6 Yes, that's it. Yeah.

7 Q. Do you see that on your screen, Mr. [REDACTED]?

8 A. Yes.

9 Q. What I want you to focus on, if you would, is the top of that
10 page, which begins with the words, in English, "But anyway ..." Do
11 you see that?

12 MS. MAYER: I believe the page number that you want in Albanian
13 ends in [REDACTED].

14 MR. MOSKOWITZ: Ah, thank you for that.

15 JUDGE METTRAUX: I think it's [REDACTED], at the bottom of the
page.

16 MR. MOSKOWITZ: There you go. Is that it? Yes. And then it
17 goes on to [REDACTED]? Yes. Thank you, counsel.

18 Q. So, again, looking, for your -- in the Albanian, the bottom of
19 the page, and then going on to the next page, until the paragraph
20 that ends with the words: "... I was a member of the KLA that time."

21 Let me know when you're done reading those paragraphs.

22 A. Yes.

23 Q. [Microphone not activated]

24 THE INTERPRETER: Microphone, please.

25 MR. MOSKOWITZ:

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1 Q. Just to summarise the high points in this statement, and correct
2 me if you think I've misstated anything, but you hear shots, you come
3 out of your house. The first thing you see is [REDACTED], and
4 [REDACTED] inside a [REDACTED], and that the car was leaving
5 the village. You saw three masked men following behind the car. You
6 grabbed one of the masked men. Then you saw the car stop at
7 [REDACTED]. Then you saw [REDACTED] and [REDACTED] pulled from the
8 car. And
9 then after talking to them - I think that is referring to [REDACTED]
10 and
11 [REDACTED] but you can clarify - you ran to your house to pick up your
12 car
13 and your Kalashnikov, drove back, picked up [REDACTED] at [REDACTED],
14 and
15 then we stop there.

12 So --

13 MS. MAYER: Objection. Objection, Your Honour. I understand
14 Mr. Moskowitz is just trying to orient the witness to the statement,
15 but he did make clarifications already, including to one of those
16 portions about whether this witness saw his [REDACTED] and [REDACTED]
17 be
18 pulled out of the car or not. He's corrected that in what's been
19 introduced into evidence as P91.

20 So I think it's a little bit confusing of a question to the
21 witness to confirm this story when he's already corrected a portion
22 of it and said that the portion that Mr. Moskowitz just summarised is
23 not correct.

24 PRESIDING JUDGE SMITH: Overruled.

25 Go ahead, Mr. Moskowitz.

MR. MOSKOWITZ: Thank you, Your Honour. The issue, of course,

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1 here is what did he remember back then.

2 Q. So I've summarised what's in this statement. And I know you've
3 corrected, as the Prosecutor has indicated. But this is what you
4 said back then, right? And you signed this statement, affirming that
5 this is what you remember back then. Would that be correct?

6 A. I did not read it. It was not read back to me. This was in
7 English. I didn't know English. And the corrections made were
8 accurate. The accurate account is the corrected version in the
9 possession of the Prosecutor.

10 Q. Yes, I understand that that was the correction you made last
11 week. And we understand that correction. But you said it wasn't
12 read back to you; is that right? Are you sure of that?

13 A. Maybe it was. Maybe it wasn't. I did not look into the exact
14 content of this statement. So if there was any misunderstandings or
15 small errors can occur, like it happened now. So it could happen and
16 it is possible that there could have been errors, but nothing of
17 major consequences.

18 Q. No, I agree with you. It's absolutely possible errors can
19 occur, mistakes can be made. You're only human, and you're going
20 through a pretty difficult period in your life that you have to
21 remember.

22 But I just wanted to refresh your recollection about whether
23 this statement was read back to you. And I'll just read it to you
24 rather than have to pull up the document.

25 MR. MOSKOWITZ: But for reference purposes, [REDACTED].

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1 Q. The interpreter says, at paragraph 2:

2 "I have been informed by [REDACTED] that he speaks and
3 understands the Albanian language.

4 "I have orally translated the above statement from the English
5 language to the Albanian language in the presence of [REDACTED] who
6 appeared to have heard and understood my translation of this
7 Statement.

8 "[REDACTED] has acknowledged that the facts and matters set out
9 in his Statement, as translated by me, are true to the best of his
10 knowledge and recollection ..."

11 And at [REDACTED], there is a certification that says:

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 So rather than -- yes, sorry.

16 "That the above-mentioned witness was provided with a version of
17 the said statement in a language that he understands."

18 So whether you were given the actual statement to read or it was
19 read to you, does that refresh your recollection that the statement
20 was reviewed by you before you signed it, or do you still not
21 remember?

22 A. I don't remember.

23 Q. Okay. Fair enough. I just want to emphasise, though, that in
24 this statement that we just reviewed with you, there is nothing about
25 seeing KLA emblems on any of the masked men, is there?

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1 A. It depends on the question or how the question was put to me.
2 Was I asked the question whether there were emblems or not. So this
3 is the distinction. It all depends on the question that was put to
4 me by the person I was communicating with during this statement.

5 Q. Well, I just -- as you look at your statement, it's quite
6 detailed about a lot of things, including, actually, grabbing one of
7 the masked men, yet no mention of the KLA -- I understand they may
8 not have asked you, but would you agree that you didn't offer that as
9 something you saw during this interview?

10 A. I am certain I didn't say this. I was not asked the question.
11 I didn't answer. I answered to all questions that were put to me.
12 He didn't ask me in relation to this particular point.

13 Q. Okay. And, again, no criticism of you whatsoever. I understand
14 how difficult it is to remember things, especially something that
15 happened that day. So, please, don't take this as any criticism of
16 you. But I'd like to go to another statement with you.

17 This is one that you gave when you were interviewed by [REDACTED]
18 [REDACTED].

19 MR. MOSKOWITZ: Can we call up [REDACTED] in English.
20 And [REDACTED] to [REDACTED]. I think that's also in Albanian, the
21 same pages. But we want to look at [REDACTED], that page in
22 particular. Yes, I think that's it.

23 Q. So what I want you to focus on, Mr. [REDACTED], is the answer
24 that
25 begins: "No, but ..." "No, but I ..." And this is your statement
regarding what you saw as you got out of your house after hearing

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1 gunshots.

2 A. Which paragraph you need me to read or the entire text?

3 Q. If you could start with the paragraph beginning, "No, but I
4 heard the shootings and ran out in the street." That paragraph. And
5 the paragraph that ends with: "I left him behind at [REDACTED]."

6 A. In -- I don't see your question when I look at the description
7 here, or it could be that I'm not understanding -- I don't understand
8 your question.

9 Q. Well, that's because I haven't asked a question yet. I was just
10 waiting to see when you were finished.

11 A. Okay.

12 Q. Okay. Can I summarise the basic points in this description of
13 what you saw when you left your house after hearing the shots. And
14 in this statement, which was given in [REDACTED], so fairly close to
15 the
16 events, closer than really any other statement we have that you
17 signed, you say that you saw [REDACTED] and [REDACTED] when you exited
18 your house inside [REDACTED].

19 Now, I'm not worried about the colour of the car. You corrected
20 that a little bit later. So don't worry about that.

21 But you saw [REDACTED] and [REDACTED] in the [REDACTED] car. You
22 don't

23 say that you saw [REDACTED] in the car. And I think that's consistent
24 with

25 what you said earlier this week or yesterday. Okay.

26 A. Yes.

27 Q. You see masked soldiers by --

28 A. Can I ask a question?

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1 Q. Yeah, go on.

2 A. How can one see three persons sitting in the car when you're on
3 the opposite side? A person cannot see the three of them. The car
4 was moving, so you cannot see in that span of time three persons
5 sitting in the car. So what you're saying is just pointless and
6 meaningless.

7 Q. No, I totally agree with you. I think you're saying exactly
8 what I think happened, that it was difficult to see. It was
9 difficult to observe. And, of course, your ability to see and
10 observe was restricted. We understand that. Okay? All right.

11 You do say you saw masked soldiers in this statement, but you
12 don't talk about grabbing any of them or even talking with them.
13 That's not in there. Would you agree with that?

14 A. I mentioned it. I talked to one of them and I asked, "Where are
15 you taking my relatives?" And to which he replied, "We will just
16 question them and release them." I tried to approach to get closer,
17 and he pointed his weapon at me and said, "Don't get any closer."

18 Q. I understand that. But my question was it's not in this
19 statement, is it? And this statement was given [REDACTED].
20 Very -- you know, within [REDACTED] of the incident. But it's just
21 not in the statement. That's all I'm saying. Would you agree it's
22 not in the statement?

23 A. Perhaps it's not, or perhaps I was not asked the question, or
24 depending on the type of question or the manner it was put to me.
25 Like you are asking questions now. I could not add an answer to a

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1 question that was not put to me.

2 Q. Of course. The statement also seems to indicate that you ran
3 home to get your weapon and your car before [REDACTED] and [REDACTED]
4 exited

5 the kidnappers' car. So you did not see [REDACTED] and [REDACTED]
6 exit the

7 kidnappers' car. You weren't there to see it. That's what this
8 statement says. Would you agree with that, and is that true?

9 A. I don't remember now exactly. Were they getting out of the car
10 or was this before they exited the car? I -- this means -- this
11 is -- I don't know.

12 Q. Yes, it's hard to remember, especially so many years later.

13 A. When I went there, they had already exited the car, and I took
14 [REDACTED] with me in my car.

15 Q. Okay. Yes, and that's what it says here. You picked up
16 [REDACTED] at

17 [REDACTED] and then that's when you proceeded out of the village.

18 Again, I note in this very early statement no indication about seeing
19 KLA emblems on any of the masked men, even though you say that you
20 saw these masked men. No description about KLA emblems on the
21 shoulder or anywhere. It's just not in there. Would you agree with
22 that? It's just not in there.

23 A. If it's not in there, then it means that I was not asked the
24 question. I answered to questions that were put to me. Perhaps my
25 question was what were -- what did they wear, and I answered to that
question. If I was not asked the question about the KLA emblem, then
I did not answer.

Q. Well, you must have been asked what they wore because you

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1 indicated in this statement that they were in black uniforms. So I
2 guess they asked you what they wore and you said black uniforms. But
3 you didn't then volunteer, well, black uniforms with KLA badges. You
4 didn't say that.

5 MS. MAYER: Objection as to characterisation. Mr. Moskowitz is
6 presuming a conversation between the two, and I don't think he has
7 that information.

8 PRESIDING JUDGE SMITH: Sustained.

9 MR. MOSKOWITZ:

10 Q. But it's not in this statement about KLA badges. It just isn't
11 in there. You agree with that?

12 A. If it's not there, if I was not asked the question, it's not
13 written in there, and I don't have any further comments to make on
14 this.

15 Q. Okay. Again, no criticism of you whatsoever. People forget.
16 People make mistakes.

17 MR. MOSKOWITZ: Can we call up the next statement,
18 SPOE00067084-SPOE00067089 English. The Albanian should be the same
19 page or pages. And the page we want to look at is SPOE00067086.

20 Q. Okay. I think that's on your screen now. And it would be in
21 the middle of the page that I would like you to focus on, and it's
22 the part that begins -- [REDACTED]: "What
23 happened then?" Do you see that? "What happened then?"

24 A. Yes.

25 Q. Okay. Let's summarise the basic high points of that statement.

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1 [REDACTED] asking you: Tell us what you remember.

2 And you then give this account. After you hear the shots in your
3 house, you come out, and one of the villagers told you that persons
4 with masks had taken away [REDACTED] and [REDACTED] and [REDACTED].
You then
5 went home at that point to go get your car and weapon.

6 So in this version, you go home to get your car and weapon quite
7 early in the incident after you hear from the villagers what had
8 happened to your relatives. So there's nothing here about seeing a
9 car, seeing or talking with soldiers, or seeing any KLA emblems.

10 You then drive toward the exit of the village. Why? You say
11 because the villagers told you that your relatives went in that
12 direction. So according to this statement, you didn't see the car or
13 the soldiers at all. You saw then [REDACTED] and [REDACTED] near the
exit of
14 the village -- [REDACTED], and then you picked them up. They told
15 you that they had been taken out of the car. You didn't see that.
16 And then you picked up [REDACTED] and you did the pursuit.

17 MS. MAYER: Objection. That was, like, four questions in there.
18 If you could just break it up.

19 PRESIDING JUDGE SMITH: It was just a statement. There isn't a
20 question yet.

21 MR. MOSKOWITZ: No, I'm just -- I mean, the point is well taken.
22 Q. But I'm just trying to give you the highlights and get you to
23 respond. So I know you're shaking your head and I know you have
24 something to say. So please.

25 A. I can answer. I was not asked the question. This was a brief

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1 summary. I was not asked the question if I went out before or not,
2 as I stated in the other statement. So it all depends on the
3 question that was asked to me. Please understand this. She did not
4 asked me which direction I went to. This question was not asked. I
5 answered to all questions that were put to me. They did not ask me
6 the specific question.

7 Q. That's true. I think they were asking you just to give you your
8 best recollection of what happened and to provide a narrative account
9 of what happened. So that's a fair point. I agree with that. Yes.
10 And you gave a narrative account of what happened to the best of your
11 recollection, didn't you?

12 A. Not as far as I remembered, but they asked me questions, I gave
13 them answers. I didn't go in details telling them everything that
14 happened. So they what asked me -- they asked me -- but, actually,
15 the questions were not: Did you go there, when did you go there.
16 Everything depended on the types of questions that I was asked.

17 Q. Well, later on in that very same interview --

18 MR. MOSKOWITZ: And this would be at page SPOE00067087. And I
19 think in Albanian it should be the same page.

20 Q. You have that in front of you. If I could focus your attention,
21 because I think it supports what you just said. At the bottom of the
22 page where [REDACTED] now kind of reminds you, wait a minute,
23 what about the car? Didn't you see a car there? Do you see that
24 part? [REDACTED] says:

25 "When you left the house and went towards the exit of the

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1 village, did you meet the car in which [REDACTED] was?"

2 Kind of reminding you, wait a minute, you left out the part
3 about the car.

4 A. Yes.

5 MS. MAYER: Objection as to characterisation. There is no
6 indication he didn't remember.

7 PRESIDING JUDGE SMITH: Sustained. Just let him answer just
8 what's read.

9 MR. MOSKOWITZ: Okay.

10 Q. So at this point you're providing a slightly different account
11 of what happened. And let me summarise, if I can, rather than read
12 it word for word, but correct me if I'm wrong.

13 Here now you say you saw the car with [REDACTED],
14 and [REDACTED] sitting in the back. So you did see them, all three of
15 them, sitting in the back. You saw two masked soldiers in front of
16 the car. You saw two masked soldiers with guns behind, and here you
17 mention KLA emblems. You talked to one of them, but you don't say
18 anything about grabbing them. You then run back home to get your car
19 and weapon, and this would be then before [REDACTED] and [REDACTED]
20 were
21 removed from the car at [REDACTED]. Then you met up with [REDACTED]
22 and [REDACTED] near [REDACTED], and they told you that they had been
23 removed from the car. And this confirms that you didn't see them
24 removed from the car.

25 So we see now KLA emblems, I believe, for the first time in your
many statements, and this would be in [REDACTED], which would be

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1 about [REDACTED] years after the incident if my math is correct. Am I
right

2 about that?

3 A. I have no answer to your question. I have tried to answer the
4 questions that they asked to me.

5 Q. [Microphone not activated]

6 A. So probably the interpreter was not a good one either, but I
7 have not read everything word for word up until the end of the
8 statement. There might be mistakes there as well.

9 Q. No, I understand. I just want to again stress that this
10 exercise was not to criticise you but to show how memory can play
11 tricks, how you can misremember things, how things can be not
12 accurately remembered particularly in a fast-moving and chaotic
13 situation. And I think you have to agree that there are quite a
14 number of inconsistencies in these statements. Would you agree with
15 that?

16 MS. MAYER: No objection to the final question. But
17 Mr. Moskowitz has given a number of speeches to the witness about
18 lack of memory, and I would just ask -- I think the explanation is
19 well taken, but we've completed that at this point.

20 PRESIDING JUDGE SMITH: Overruled.

21 You can go ahead.

22 MR. MOSKOWITZ: Yes.

23 Q. Let me ask: Do you think it's possible that you might be
24 mistaken about the KLA emblems, that you may have misremembered them,
25 or that your memory has been influenced by talking with other people

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1 over the years about what you saw or what they saw and now you
2 remember it that way? Is that possible?

3 A. No.

4 Q. Okay. Do you know other eyewitnesses to the scene did not see
5 these masked men wearing KLA symbols? Did you know that? Were you
6 aware of that? That other witnesses --

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. MOSKOWITZ: I'm sorry.

9 PRESIDING JUDGE SMITH: Ask one question all the way through,
10 and then you'll get an answer.

11 MR. MOSKOWITZ: I'm sorry. Thank you, Your Honour.

12 THE WITNESS: [Interpretation] Do you mean in the place of the
13 event?

14 MR. MOSKOWITZ:

15 Q. Yes.

16 A. Yes, I saw two people.

17 Q. [Microphone not activated]. I'm sorry, I didn't hear your
18 answer. Could you repeat?

19 A. In the place of the incident, there were two soldiers that came
20 from the hill. They were not wearing masks. They were wearing
21 uniforms. Like I said, there were two soldiers coming from the hill
22 and they heard the shots, like myself, and they wanted to know what
23 had happened.

24 Q. Yes, we'll talk about that in a minute. But now I'm talking
25 about other witnesses in the village who had an opportunity to

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1 observe the soldiers or the people who were wearing masks and who
2 said they did not see KLA insignia on their uniforms. Were you aware
3 of that?

4 A. No.

5 Q. Okay.

6 MR. MOSKOWITZ: Can we pull up SPOE00067951-SPOE00067992 at page
7 SPOE00067991.

8 Q. I would like you to look at this page -- by the way, this is
9 part of [REDACTED]. I think it's
10 [REDACTED]. [REDACTED]. You recall that,
11 don't you, Mr. [REDACTED]?

12 A. Yes.

13 Q. And now this is [REDACTED] the issue of whether [REDACTED]
14 [REDACTED] the
15 masked men in your village who kidnapped [REDACTED], whether
16 [REDACTED]
17 they were, in fact, wearing KLA emblems.

18 And perhaps just to save some time, focus on one sentence if you
19 would. In the middle of the page, the sentence that begins:

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 I'm just showing this to you to see if maybe, having read this,

2 [REDACTED]

3 [REDACTED], whether that might

4 change your mind at this point that perhaps it's possible that's not

5 something you actually saw that day, the KLA emblems.

6 A. This is my testimony. I haven't been there when this was said.

7 This was something that was said by other witnesses, and [REDACTED]

8 [REDACTED]

9 MR. MOSKOWITZ: [Microphone not activated].

10 Q. Sorry, could you repeat your answer, please? I was disconnected

11 for a moment.

12 A. [REDACTED]. The witness

13 [REDACTED] changed his statement about what happened in

14 [REDACTED]. So [REDACTED] changed [REDACTED].

15 Q. Did [REDACTED] change [REDACTED]? And, by the way, we don't

16 need numbers right now. I'm speaking about [REDACTED]. Did he

17 change [REDACTED]?

18 A. So probably [REDACTED] has forgotten things here and there
because

19 of [REDACTED], because I don't think that he has changed [REDACTED].

20 Like I said, I was not present in [REDACTED]

21 [REDACTED], and I can't give you answers to those questions because

22 I've not been there.

23 Q. Let us move on to a different topic, if we could. And now I

24 want you to think about leaving the village in pursuit of the

25 kidnappers. As you left the village, [REDACTED] was in the car with
you;

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1 is that correct? You had picked him up at [REDACTED]. He's in
2 your car.

3 PRESIDING JUDGE SMITH: Excuse me --

4 MR. MOSKOWITZ: Again, I'm sorry.

5 PRESIDING JUDGE SMITH: -- counsellor, does this need to be in
6 private session or in public session?

7 MR. MOSKOWITZ: Give me a moment, Your Honour. This will be
8 about seeing [REDACTED] along the way, so his name will probably --
9 will have to be mentioned. Unless we can also go through that
10 exercise of assigning him a number. That would be possible.

11 PRESIDING JUDGE SMITH: Is it the Prosecution's position that
12 [REDACTED] name cannot be mentioned?

13 MS. MAYER: Not in public session. It's identifying because
14 [REDACTED]

15 [REDACTED]

16 [REDACTED]. So I

17 think we do need to stay in private session if we're talking about --

18 PRESIDING JUDGE SMITH: I believe [REDACTED]

19 [REDACTED]

20 MS. MAYER: [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 PRESIDING JUDGE SMITH: You can certainly assign him a number.

25 MR. MOSKOWITZ: We will do that, Your Honour.

PRESIDING JUDGE SMITH: All right.

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1 You may proceed. We will go into public session.

2 MS. MAYER: I would just ask that we do the numbering in the
3 same way we did it -- that we did that in private session before we
4 move to public, Your Honour.

5 PRESIDING JUDGE SMITH: I agree. My mistake.

6 [REDACTED], we'll stay in private.

7 Please determine the numbering.

8 MR. MOSKOWITZ:

9 Q. Mr. [REDACTED], I'm going to ask you some questions about
seeing

10 [REDACTED]. We're not going to mention his name. We're going to
11 assign him a number. Let's say number 4.

12 PRESIDING JUDGE SMITH: [Microphone not activated]. Please put
13 that on the same sheet, Witness.

14 MR. MOSKOWITZ:

15 Q. Are we clear now? If we're going to mention [REDACTED] name,
16 we will say "number 4" instead of his name. And I was just reminded
17 that there is a second man in the car who you came to know as
18 [REDACTED]. We will assign him number 5. Okay? You can jot that
down

19 on that same piece of paper.

20 So are you ready?

21 A. Yes.

22 Q. Good.

23 MS. MAYER: Might I suggest that we add another place as well,
24 to add to C for location [REDACTED] where they
25 met, just that so the witness can tell the whole story.

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1 MR. MOSKOWITZ: Okay.

2 Q. So did you -- yeah, I think there is a place where you ran into
3 [REDACTED] along the road. And that place was [REDACTED], if I
4 pronounced that correctly? Yes. We're going to assign that a
5 position letter. This would be position C.

6 PRESIDING JUDGE SMITH: All right. Assuming that's all of the
7 identification marks, we will go into public session.

8 ~~{Open session}~~

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

10 PRESIDING JUDGE SMITH: Thank you.

11 Go ahead, Mr. Moskowitz.

12 MR. MOSKOWITZ: Thank you, Your Honour.

13 Q. So just to pick up the story where we left off, you were in your
14 car with [REDACTED] and now you're pursuing the kidnappers. Do you
15 see
16 where we are? Yes. And what road are you taking to pursue the
17 kidnappers? And just to make it easier for you, is this the same
18 road we saw on the map that leads --

19 PRESIDING JUDGE SMITH: Don't -- do not use --

20 MR. MOSKOWITZ: Yes, I know.

21 PRESIDING JUDGE SMITH: -- the names of any of the villages.

22 MR. MOSKOWITZ:

23 Q. That leads to another village where Serbs were concentrated?

24 A. The Serbs were concentrated about 8 kilometres away. That is a
25 road that connects [REDACTED]. I don't know how to explain
it otherwise.

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED].

19 ~~[Private session]~~ [Open Session] *Reclassified pursuant to F1654*

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

21 PRESIDING JUDGE SMITH: I realise we didn't ask you to organise

22 this this way before you began your presentation, but we'll need to

23 fix it now. So we will redact those words.

24 We're in private session. You may assign the direction issues

25 now by village.

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1 MR. MOSKOWITZ: [Microphone not activated]

2 PRESIDING JUDGE SMITH: Yes.

3 MR. MOSKOWITZ:

4 Q. So we're in private session. We can now talk openly about the
5 villages and their names and the people as well.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 I'm not asking you to stay in private session. I'm asking you
8 to assign a letter to them so that we can go back to public session.

9 MR. MOSKOWITZ: [Microphone not activated]. Misunderstood. So
10 let us --

11 PRESIDING JUDGE SMITH: Yes.

12 MS. O'REILLY: Your Honour, just a clarification. We've had a
13 redaction there. We are in private session right now; right?

14 PRESIDING JUDGE SMITH: Yes.

15 MS. O'REILLY: We've had a redaction --

16 THE INTERPRETER: Microphone, please.

17 MS. O'REILLY: We've had a redaction with respect to his
18 reference to the [REDACTED] road, which also covers the fact
19 that wherever he was was [REDACTED] away. Are [REDACTED] and
20 [REDACTED], did those have to be in private session, or is it just his
21 proximity from that location?

22 PRESIDING JUDGE SMITH: We're going to put them in private.

23 MS. O'REILLY: Sorry, we're going to --

24 PRESIDING JUDGE SMITH: We're going to leave them disguised with
25 a letter so that we can use them without mentioning the name.

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1 MS. O'REILLY: Okay. So we're not -- no names of any towns in
2 the surrounding region?

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MS. O'REILLY: Okay. Thank you, Your Honour.

5 MR. MOSKOWITZ:

6 Q. So, Mr. [REDACTED], we're going to add yet another This
7 position.

7 would be [REDACTED]. This would be position D as in day. D. Okay?

8 PRESIDING JUDGE SMITH: Is that everything?

9 MR. MOSKOWITZ: [Microphone not activated]

10 PRESIDING JUDGE SMITH: All right. Now we will go back to
11 public session.

12 MR. MOSKOWITZ:

13 Q. Just to recap, and then we'll start from there. You're in your
14 car -- not yet.

15 MR. MOSKOWITZ: Sorry.

16 ~~{Open session}~~

17 THE COURT OFFICER: Your Honours, for the record, we are in
18 public session now.

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 MR. MOSKOWITZ:

21 Q. You're in your car with 3, number 3. You're on the road heading
22 to -- in the direction of D. Is that correct?

23 A. Yes.

24 Q. How fast are you driving at this point?

25 A. 100 kilometres per hour approximately. I didn't see how fast I

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1 was, but I guess this is the range.

2 Q. And at some point you see a car parked along the side of the
3 road; is that correct?

4 A. Yes.

5 Q. When you first see that car, are you still travelling at high
6 speed?

7 A. When I saw the car, I stopped. When I saw that there was a car
8 there, I stopped because I wanted to ask -- I didn't know who was in
9 the car at that time.

10 Q. So you stopped the car to ask a question of whoever was in the
11 car. But at that point when you stopped your car, you didn't know
12 who was in the car; is that correct?

13 A. Correct. I didn't know who was in the car before I saw who was
14 in the car.

15 Q. And then you exited your car and approached this other car; is
16 that right?

17 A. Yes.

18 Q. Did you go alone or did you go with number 3?

19 A. I got off the car myself and asked number 4.

20 Q. Again, were you alone when you approached the car or were you
21 with number 3?

22 A. I do not remember on whether number 3 got off my car, but
23 personally I've talked to number 4. I didn't know number 5 as a
24 person, and I didn't know his name up until recently.

25 Q. And could you describe the car that was parked alongside the

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1 road, the colour, the make, if you remember?

2 A. It was a Golf III type vehicle. It was blue, resembling -- so
3 it was just very dark blue. Very much like a dark colour, like a
4 black colour.

5 Q. At what point did you first recognise that one of the people in
6 this car was 4?

7 A. When I saw him, I knew him from before.

8 Q. Had you seen him before or did you just know of him?

9 A. I had seen him before. [REDACTED].

10 Q. And, of course, number 4 -- did you have a conversation with
11 number 4 while he was -- while you were at the car?

12 A. Yes.

13 Q. If I can suggest that that conversation was very brief, probably
14 lasting -- well, you tell me. How long were you at that car talking
15 to number 4?

16 A. I just stopped and I asked him, "Did you see a car going in this
17 route with some masked people? Because [REDACTED] was in the car."
18 He answered, "No." And I got in my car and I went towards the
19 [REDACTED].

20 Q. So your best recollection is the car was parked, it was a
21 Golf III make, and that number 4 was wearing black clothing. That is
22 correct; right?

23 A. Yes.

24 Q. I just want to know if you are aware that number 3 has a
25 slightly different recollection of that incident. Were you aware of

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1 that?

2 A. I thought his name was different, but that was not the case. In
3 2016, I learned the name. The name of number 5. So I learned of the
4 name of number 5 in 2016.

5 Q. But you didn't know who he was that day. He was not familiar to
6 you?

7 A. No.

8 Q. But now my question was focused on number 3. Are you aware that
9 number 3 gave a statement to the UNMIK authorities in January 2003 in
10 which he describes this incident in a slightly different way? Are
11 you familiar with that?

12 A. No, I don't know.

13 Q. Maybe I can --

14 A. I don't recall.

15 Q. -- refresh your recollection. Let me see if that's possible.
16 Number 3 told UNMIK authorities in a signed statement --

17 MR. MOSKOWITZ: And for reference purposes, it is
18 SPOE00067135-00067137 at page SPOE00067136. I won't bother to have
19 it called up for purposes of time, but I will summarise a couple of
20 points that number 3 made in that interview.

21 Q. First, he says that the car that you saw by the road was not
22 parked. It was driving. That that car was, in fact, a Fiat, not a
23 Golf. That number 3 went with you to the car, so he had an
24 opportunity to observe number 4. And that he describes number 4 as
25 wearing camouflage, not black. Does that refresh your recollection

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1 at all about number 3's account of this incident?

2 PRESIDING JUDGE SMITH: Well, counsel, it's not accurate. It
3 isn't his recollection because he said he didn't remember it and
4 wasn't there.

5 MR. MOSKOWITZ: [Microphone not activated]

6 Q. You say you don't remember it, but now I'm asking you whether
7 this generates a memory of what number 3 recalls or not?

8 A. I was not present when [REDACTED] gave this evidence. I can't
remember
9 any single word uttered by -- in this -- [REDACTED].

10 MR. MOSKOWITZ: Your Honour, I think at this point I have a
11 point to make that will require us to go into closed session.

12 PRESIDING JUDGE SMITH: All right. Into closed session. I'm
13 sorry, into private session.

14 MR. MOSKOWITZ: I'm sorry, I --

15 PRESIDING JUDGE SMITH: You're leading me astray.

16 MR. MOSKOWITZ: I am sorry.

17 PRESIDING JUDGE SMITH: Into private session for the protection
18 of the witness.

19 THE WITNESS: [Interpretation] Can I have a very short break
[REDACTED]

20 [REDACTED], please?

21 PRESIDING JUDGE SMITH: Yes, you may. You have to just hold on
22 a moment.

23 Are we still in public session?

24 THE COURT OFFICER: [Microphone not activated]

25 PRESIDING JUDGE SMITH: All right. Please escort the witness

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1 out.

2 Everybody can just stand at ease.

3 ~~{Private session}~~[Open Session]*Reclassified pursuant to F1654*

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

5 PRESIDING JUDGE SMITH: We are in private session.

6 [The witness stands down]

7 PRESIDING JUDGE SMITH: Could I ask you not to converse aloud.

8 This is still recording.

9 MR. KEHOE: [Microphone not activated]

10 PRESIDING JUDGE SMITH: It's my mistake too.

11 [The witness takes the stand]

12 PRESIDING JUDGE SMITH: Go ahead, Mr. Moskowitz.

13 MR. MOSKOWITZ: And can we call up, for purposes of the next
14 couple of questions, the map, which is Exhibit 1D13. And can we
15 enlarge it a little bit using [REDACTED] as the centre of the map.
16 Yes, that's good.

17 Q. Now, Mr. [REDACTED], you see the [REDACTED] there in the
18 middle of the map?

19 A. Yes.

20 Q. You see that red line that represents the road that goes through
21 or near [REDACTED], your village, and continues on to [REDACTED],
which
22 you've testified about, and then ultimately to [REDACTED]. So you see
23 the direction of that road and where it goes -- where it comes from
24 and where it goes to?

25 A. Yes.

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1 Q. We've circled the town of [REDACTED]. You see that, very close
to

2 [REDACTED] but a little bit farther up the road; is that correct?

3 A. Yes.

4 Q. And I know we talked about this place where you met [REDACTED]
5 in a car with another man you didn't know. Would that be near the
6 town of [REDACTED]

7 A. It's somewhere in between the village of [REDACTED] and
[REDACTED].

8 Q. So midway between or closer to [REDACTED] or closer to
[REDACTED]?

9 The best you know.

10 A. Closer to [REDACTED].

11 Q. Okay. [REDACTED] at that time was a commander, wasn't he?

12 A. Yes.

13 Q. He was a commander of [REDACTED], wasn't he? [REDACTED]?

14 A. I don't know if it was -- he was commander of [REDACTED] or
15 [REDACTED] commander of [REDACTED], including [REDACTED].

16 However, he was the main commander.

17 Q. And his area of responsibility would have been in this area
18 around [REDACTED] and other villages along that road, wouldn't it have
19 been?

20 A. I don't know, because [REDACTED]. He was the main person
21 in charge. [REDACTED]

22 [REDACTED] and [REDACTED] remained with [REDACTED], and [REDACTED] and
the

23 other remaining villages were left with [REDACTED].

24 Q. Okay. So I think we can agree then that [REDACTED]
responsibility

25 was in the area around [REDACTED] at least. Maybe more, but at least

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1 around [REDACTED]. Yes?

2 A. Correct.

3 Q. And at this time, this would be [REDACTED], the Serb forces were
4 now concentrated, weren't they, in [REDACTED]?

5 A. Yes.

6 Q. In fact, as you were pursuing the kidnappers, you made sure that
7 you wouldn't continue on that big road to [REDACTED] because you were
8 afraid you might get caught in a Serb checkpoint and so you avoided
9 it. Didn't get near [REDACTED].

10 MS. MAYER: Objection as to characterisation. I don't believe
11 the witness said that.

12 PRESIDING JUDGE SMITH: [Microphone not activated]

13 MR. MOSKOWITZ: Oh, I'm just -- well, let me ask the question
14 then.

15 Q. As you were pursuing the kidnappers, you came to a point where
16 you had to make a decision about either staying on that road, which
17 would take you into [REDACTED], or veering off to the left or the
18 right, which would take you away from [REDACTED]. Which direction did
19 you choose?

20 A. There were other villages connected to this paved road from
21 [REDACTED]. I knew -- I thought they didn't go towards
22 [REDACTED] because of the presence of the Serbian forces. And from
23 the village of [REDACTED] [phoen] onwards, the road was open. There
24 was no Serbian police presence but there was the KLA. So in
[REDACTED]
25 you turned left.

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1 Q. Thank you. So you turned left rather than proceed to [REDACTED];
2 is that correct?

3 A. Yes, but approximately from [REDACTED], C, I drove for another 1
4 and
5 a half kilometre before taking the road to the village, before I
6 turned left. So 1 and half kilometre, approximately. After driving
7 1 and half kilometres, I turned left.

8 Q. Okay. Now, as you already testified, Serb forces had attacked
9 villages all along that road and also in the interior in [REDACTED]
10 [REDACTED] before they reformed themselves back in [REDACTED]. Is
11 that
12 accurate?

13 A. Can you say that again, please?

14 Q. Yes, I will. You've testified that [REDACTED] when you joined
15 the
16 KLA, you were under attack in [REDACTED], there were Serb forces all
17 around, and that these Serb forces were along the road leading from
18 [REDACTED]. Is that correct?

19 A. Yes.

20 Q. And, in fact, when you retreated or left [REDACTED], you went
21 away
22 from the road because you didn't want to encounter the Serb forces
23 who were there; is that correct?

24 A. We were asked to leave the area and we did so.

25 Q. And you left in a way that took you away from that road; is that
26 correct?

27 A. Yes.

28 Q. Because you didn't want to encounter Serb forces which were
29 using that road, weren't they?

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1 A. Now, we were informed to withdraw and we did. We were told to
2 retreat and we did so. I don't know what else to add. We received
3 the news, announcement that we had to retreat and we did so.

4 Q. Okay. And then after a while, the Serb forces left and reformed
5 themselves or concentrated their forces in [REDACTED]. Were you aware
6 of that?

7 A. I don't know how long after they went into their positions in
8 [REDACTED].

9 Q. Do you think it was possible that even [REDACTED], after the
10 Serb forces had left the area and entered [REDACTED], that it would be
11 possible that at any moment Serb forces from [REDACTED] could once
12 again come down that road and attack all the villages along that
13 road? Do you think that would be a possibility?

14 A. I don't know what to say.

15 Q. Well, do you think if you were a commander [REDACTED] that had
16 responsibility in that area to protect the villages and to provide a
17 defence against possible Serb attacks, that if you were that
18 commander, you would make sure that you knew and that you monitored
19 the Serb movements around, in and around [REDACTED], so that you could
20 be prepared to deal with any assaults from the Serb forces?

21 A. I was not there, and I cannot give an assessment in that
22 respect.

23 Q. Do you think it would be reasonable for the commander of this
24 [REDACTED] to be stationed at some point along this
25 road to monitor potential Serb movements so that he could respond

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1 appropriately within his responsibility as a commander?

2 MS. MAYER: Asked and answered.

3 PRESIDING JUDGE SMITH: Overruled. He can answer the question
4 if he knows.

5 THE WITNESS: [Interpretation] I don't know.

6 MR. MOSKOWITZ:

7 Q. Okay. Let's turn to the [REDACTED].

8 MR. MOSKOWITZ: P92, if we can pull that up.

9 PRESIDING JUDGE SMITH: We're in private session. Do you need
10 to be in private session for this?

11 MR. MOSKOWITZ: Yes, I'm afraid we do, Your Honour.

12 Q. And while they're pulling that document up, I want to ask you
13 some questions about your going to [REDACTED] to file
14 a complaint with them about the murder of [REDACTED].

15 Would it be fair to say that you were -- that you wanted to find
16 out who killed [REDACTED]? That is something you want more than
17 anything.

18 A. Yes.

19 Q. And so as soon as [REDACTED]

20 [REDACTED]

21 [REDACTED], you filed

22 a complaint [REDACTED], didn't you?

23 A. I initially went to [REDACTED], and then I
24 probably gave 100 statements [REDACTED], and I presented
25 myself and I gave statements from my home and ...

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1 Q. Well, it wasn't 100 statements, but a number of statements.

2 That would be fair.

3 A. Many. A lot. A lot of statements.

4 Q. But your first statement was [REDACTED],

5 wasn't it? If you recall.

6 A. I don't remember the date.

7 Q. But you remember it was in [REDACTED]

8 [REDACTED]

9 A. I don't know. I don't know which year was it.

10 Q. Well, I'll try to refresh your recollection on that.

11 MR. MOSKOWITZ: If we could call up SPOE -- and I know we have

12 that note up there now. But if we could call up

13 SPOE00067703-00067703 English, and SITF00316587-SITF00316587

14 Albanian.

15 Q. Does this refresh your recollection, looking at this document,

16 as to the date in which you filed your complaint?

17 A. I don't remember the date. I might have given this statement,

18 but I don't remember the date or the year. As I mentioned earlier,

19 I've given a number of statements, and I can't remember the dates.

20 JUDGE METTRAUX: Mr. Moskowitz, the date is further down and we

21 can't see it on the screen. That might be why.

22 MR. MOSKOWITZ: It's not on the screen, okay.

23 JUDGE METTRAUX: We will have to scroll down the English

24 version. There we are.

25 MR. MOSKOWITZ: Okay.

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1 Q. Do you see the date now? Do you see it on the bottom of the
2 screen? On the English version, it's pretty clear.

3 A. Yes, I do.

4 Q. Okay. Thank you. Does that refresh your recollection on the
5 date that you first went to [REDACTED] to issue your complaint
6 about the death of [REDACTED]?

7 A. I don't remember the date. It could be that it was this day,
8 but I don't remember.

9 Q. [Microphone not activated]

10 THE INTERPRETER: Microphone, please.

11 MR. MOSKOWITZ:

12 Q. That after this filing of your initial complaint you then were
13 interviewed [REDACTED]. And I don't think we need to
14 have the specific date, and you don't need to remember the exact
15 date, but do you recall then being interviewed [REDACTED] shortly
16 after
17 filing this statement?

18 A. I gave a statement [REDACTED]. As I said, I don't remember the
19 dates.

20 MR. MOSKOWITZ: All right. Let's call this one up then.
21 SITF00316701-00316702. That's the English. And SPOE00067109 to
22 00067110 in the Albanian.

23 Q. Again, I don't want to go through the statement with you. We
24 don't need to do that right now. But just the date, and I think it's
25 at the bottom again. Yes, you see it on the English. Do you see
that, Witness?

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1 A. A written -- handwritten?

2 Q. Handwritten, yes.

3 A. Yes, it reads [REDACTED].

4 Q. Can you recall it now?

5 A. I already told you that I don't remember the dates on which I
6 gave interviews. I'm sorry.

7 Q. Okay. The next interview, do you -- and you gave a statement
8 actually at that point, on [REDACTED]. Do you remember
9 actually giving a statement that you signed in [REDACTED]
10 [REDACTED]?

11 A. Maybe I did. Maybe I even signed it. But I do not remember the
12 dates.

13 Q. [Microphone not activated]

14 THE INTERPRETER: Microphone, please.

15 MR. MOSKOWITZ:

16 Q. And then finally -- and this will be the last [REDACTED]
17 we'll talk about. Finally, after you gave your statement on
[REDACTED]

18 [REDACTED], which you signed, [REDACTED] asked you to review that
statement and

19 make any changes you wanted to, you did, and then you signed that as
20 well. And this would have been [REDACTED]. Do you recall
21 that?

22 A. I wouldn't know exactly.

23 Q. It's a long time ago. A long time ago. And then when you
24 talked to [REDACTED] those four times in [REDACTED],

25 I assume, and correct me if I'm wrong, that you were wanting to give

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1 these investigators as much information as you could in order to help
2 them find the people who killed [REDACTED]. Am I correct in that
3 assumption?

4 A. I did not have any information to give them apart from what is
5 written in there. The [REDACTED], the [REDACTED]
6 that was found [REDACTED], and the incident. So I mentioned
7 these everywhere I went to.

8 Q. Well, that [REDACTED], that would be an important
9 clue, wouldn't it, to the identity of the killers?

10 A. I [REDACTED] and mentioned it on every
11 occasion. I mentioned [REDACTED] on every occasion and any --
12 everywhere I went to find out about [REDACTED].

13 Q. Let's take a look at these documents and see where you mention
14 this [REDACTED].

15 MR. MOSKOWITZ: Again, let's call up the first -- well, let's
16 call up the interview on [REDACTED], which would
17 [REDACTED] English; [REDACTED], the same page,
18 Albanian.

19 Q. Could you quickly read through your statement and let me know
20 when you're done.

21 A. I read it.

22 Q. [Microphone not activated]. Is there anything in that statement
23 that you gave on that day [REDACTED] to indicate that you told them
24 about the note [REDACTED]?

25 A. No, I didn't see any in relation to the [REDACTED].

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1 Q. Would be fair then to assume you did not mention the [REDACTED]
to

2 them when you talked to [REDACTED]?

3 A. Perhaps I mentioned it earlier, or they didn't ask me the
4 question on that day, or they had already had this information from
5 before, but it's not mentioned here.

6 Q. Are you saying that you wouldn't have mentioned the [REDACTED]
unless

7 they specifically asked you about it?

8 A. It probably -- perhaps didn't cross my mind or didn't come to my
9 mind.

10 Q. Well, you understood this [REDACTED] was a very important piece
of

11 evidence. How is it possible it didn't come to your mind? Can you
12 explain?

13 A. Perhaps I forgot to tell it. I cannot give you a precise answer
14 20 years later.

15 Q. Following that statement [REDACTED], they came back to you a
16 couple of days later and I believe asked you to review the statement
17 and make any changes you wanted to make. Do you recall that?

18 A. Perhaps they did call me. I see the date and the month of the
19 murder in this statement is wrong.

20 Q. It's wrong? Meaning it's wrong because you didn't mention the
21 [REDACTED]? Is that what you're saying? It's wrong because you
mentioned

22 the [REDACTED] and they didn't include it, or it's wrong because you
didn't

23 mention the [REDACTED]?

24 PRESIDING JUDGE SMITH: Well, there could be other reasons,
25 counsellor.

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1 MR. MOSKOWITZ:

2 Q. Or other reasons. If any, tell us.

3 MS. MAYER: Objection, I think the witness's answer was the date
4 is wrong in the statement that's still on the screen, which is a
5 different question than counsel is asking.

6 PRESIDING JUDGE SMITH: [Microphone not activated]. I'm not sure
7 about that. So straighten that out, counsel. Just let him answer
8 why he thought it was wrong.

9 MR. MOSKOWITZ:

10 Q. Why is it wrong? Why do you think that statement is wrong?

11 A. It reads here on [REDACTED] typed, and handwritten is on
12 [REDACTED]. So the date is not accurate as to when the day [REDACTED]
13 was killed.

14 Q. Yes, that's a good point. So the dates are wrong. But you're
15 not referring then to the fact --

16 A. The month is wrong. Not the day.

17 Q. Okay.

18 MR. MOSKOWITZ: This may be a good point to stop.

19 PRESIDING JUDGE SMITH: It is past 1.00, so we will break for
20 lunch.

21 We are in private session. We need to go to public session.

22 ~~{Open session}~~

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

24 PRESIDING JUDGE SMITH: Madam Usher, you can escort the witness
25 out.

Redactions applied pursuant to F1654.

1 We will take a lunch break. You'll be back here at 2.30.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: I failed to mention it this morning, but
4 Mr. Thaci, Mr. Krasniqi, and Mr. Selimi -- I mean, Mr. Thaci,
5 Mr. Selimi, and Mr. Veseli are present in court. Mr. Krasniqi is
6 appearing by videolink. And that has been all day.

7 Mr. Moskowitz, how much longer do you think your examination
8 will go?

9 MR. MOSKOWITZ: [Microphone not activated]

10 THE INTERPRETER: Microphone, please.

11 MR. MOSKOWITZ: I'm thinking perhaps an hour. I'll try to keep
12 it as brief as possible.

13 PRESIDING JUDGE SMITH: All right. An hour seems to be --
14 should be sufficient then.

15 MR. MOSKOWITZ: Should be.

16 PRESIDING JUDGE SMITH: We will be adjourned until 2.30 p.m.

17 --- Luncheon recess taken at 1.03 p.m.

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

19 PRESIDING JUDGE SMITH: Mr. Moskowitz, do you wish to stay in
20 public session?

21 MR. MOSKOWITZ: I think we will need to go into private session.

22 PRESIDING JUDGE SMITH: All right.

23 We will go into private session at this time.

24 And, Madam Usher, you can bring the witness in.

25 ~~[Private session]~~[Open Session]*Reclassified pursuant to F1654*

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

2 PRESIDING JUDGE SMITH: Thank you.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: Good afternoon, Witness. Can you hear

5 okay?

6 THE WITNESS: [Interpretation] Yes.

7 PRESIDING JUDGE SMITH: Mr. Moskowitz will continue.

8 Go ahead, Mr. Moskowitz.

9 MR. MOSKOWITZ: Thank you, Your Honour.

10 Q. I just want to recap so we can start fresh this afternoon. Last

11 session we reviewed statements that were given by you [REDACTED]

12 [REDACTED]. Do you

13 remember that discussion that we had this morning?

14 A. Yes.

15 Q. Now, I want to focus on the last interview or statement that you

16 had with [REDACTED]. This is dated [REDACTED].

17 I'll first ask you if you remember that meeting with [REDACTED]

18 on that date?

19 A. Of course, I have -- I was part of that meeting, but I don't

20 remember the date. I have not taken note of the dates.

21 Q. Understand.

22 MR. MOSKOWITZ: Can we pull up, just to refresh your

23 recollection, [REDACTED] in the English. The same number -- I'm
sorry,

24 [REDACTED] in the Albanian.

25 Q. So, Mr. [REDACTED], you see the date at the top there,
[REDACTED],

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1 [REDACTED]. Do you see that?

2 A. I can't see the date.

3 Q. If you look at the top of the -- well, I guess it's really --
4 yeah, you see it now.

5 A. Yes. Now, yes.

6 Q. Good. Now, you recall, if you will, and maybe you remember as
7 you look at this document, that you were given an opportunity to
8 review your previous statement that was given on [REDACTED] to
9 see if you wanted to make any changes or amendments to that
10 statement, and you were given this opportunity on this day to do
11 that. Do you see that in the document in front of you?

12 A. Yes.

13 Q. And you, in fact, did make some changes; correct?

14 A. Yes.

15 Q. You made a correction regarding who was in the car when they
16 drove from [REDACTED], where they were released, at [REDACTED].
17 You made those changes. And then you also volunteered some
18 information about [REDACTED], didn't you?

19 A. Yes, I was asked about that and I gave that information.

20 Q. You talked about how [REDACTED] was [REDACTED], a
21 [REDACTED]; correct?

22 A. Yes. They asked me and maybe at the time he was [REDACTED]
23 [REDACTED].

24 Q. But what you didn't do is tell them about the [REDACTED] in this
25 opportunity you had to correct and add to your first statement; isn't

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1 that right?

2 A. Probably I forgot, or probably they didn't ask for that
3 information, or probably I gave that information and that's not
4 recorded here. I'm not sure.

5 Q. I don't understand how -- I mean, are you saying you forgot
6 about the [REDACTED] when you were talking to criminal investigators
7 who
8 you wanted to have them find the killers of [REDACTED]? You forgot
9 the [REDACTED]? Is that what you're saying?

10 A. Probably I had it with me. Probably they had a look at it. I
11 can't tell you why they didn't have it as part of the file.

12 Q. You think they had a look at the [REDACTED] during this interview
13 and
14 they didn't include it in this report? Is that your testimony?

15 A. That is not reflected here. The paragraph that I'm reading, it
16 doesn't contain it.

17 Q. Okay. The first time you showed any investigator the [REDACTED]
18 was
19 [REDACTED] years later, wasn't it?

20 A. Maybe they asked for it then and I told them. Probably they
21 asked me [REDACTED], and I have sent the
22 [REDACTED] to them.

23 Q. No. The question is, do you agree that the first time you
24 showed any investigators this [REDACTED] was [REDACTED] years later
25 when you
26 talked to [REDACTED]?

27 A. I don't agree with you. I can't possibly know if this is
28 accurate.

29 MR. MOSKOWITZ: Can we call up, please, SITF00316634-00316637.

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1 I see that the English version has come up. This document is
2 [REDACTED], so it's difficult, I think, to display.

3 Q. So what I will do is read to you the relevant section that I
4 want you to think about, and then I'll ask you a question. This note
5 was written by [REDACTED] from the [REDACTED]
6 [REDACTED]. This note begins:

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Do you recall contacting [REDACTED]?

13 A. I might have contacted him. But about the second question,
14 about these two men, I did not talk to them and I have not talked
15 with them about this issue.

16 Q. Tell us about your contact with [REDACTED], if you remember.

17 A. He might have been an interpreter. So I know there was this
18 person from [REDACTED]. I don't recall his name, though. So that is
19 the only thing I know about him. I have not had any other contacts
20 with him.

21 Q. Did you talk to [REDACTED] and ask him to connect you with
22 [REDACTED] so that you could work with them to try to find the
23 identity of the killers of [REDACTED]?

24 A. From what I recall, this name, this person came personally to
25 the place that I lived. He gave me a business card, and he told me

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1 that, "If you need any collaboration, any cooperation, if you need my
2 help in terms of the language or languages, I can help you." So
3 that's what I can recall, but I don't know more than that.

4 Q. So he offered you -- if I can understand you correctly, he
5 offered to help you. And did you take him up on his offer? Did you
6 say that, yes, he could help you, that you wanted him to connect you
7 to [REDACTED]?

8 A. No, because I had already [REDACTED]. I didn't
9 know that person. And I thought that if he had anything, he would
10 approach me.

11 Q. And did he, in fact, get you in contact with [REDACTED]
12 [REDACTED]?

13 A. I don't remember.

14 Q. Do you recall talking to [REDACTED] in [REDACTED] and talking to
15 them about what had happened to [REDACTED]?

16 A. I don't recall.

17 Q. So you have no recollection of talking to [REDACTED], to
18 [REDACTED] at all about the investigation into the death of [REDACTED]
19 [REDACTED]

20 A. I might have spoken but I don't remember the time, because like
21 I have said, I have [REDACTED]. I don't have any notes.
22 I might have given some information if the document has my signature,
23 but I don't know for a fact. I can't tell you for a fact.

24 Q. Well, you could look at the document, I think, on your screen.
25 It's -- on the left side it is in Albanian. Does that refresh your

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1 recollection at all?

2 A. I can't read it. It's not clear.

3 Q. It is rather difficult to read. But this note indicates that
4 you, during this discussion [REDACTED], disclosed the existence of the
5 [REDACTED]. You actually showed it to them. Do you recall that at
all?

6 A. Perhaps I have, but I don't remember.

7 Q. Well, if you don't remember, then I guess we can't go into that.

8 Let's now turn to the scene where you found this [REDACTED]. And
we're

9 talking about when you and [REDACTED] found the bodies of [REDACTED]
and

10 [REDACTED]. How long did you stay at that scene, from

11 the time you arrived to the time you left?

12 A. I do not know exactly, five to ten minutes perhaps. I didn't
13 see the watch.

14 Q. Now, you say you found [REDACTED]; is that
15 correct?

16 A. Yes.

17 Q. Where was this [REDACTED] when you saw it?

18 A. Near the [REDACTED]

19 [REDACTED].

20 Q. Okay. Just so we're clear, you first saw the [REDACTED]
21 [REDACTED]; is that correct?

22 A. Near the [REDACTED]

23 [REDACTED]. I don't remember exactly where. [REDACTED]

24 [REDACTED]. I don't exactly

25 know. I don't know how to explain.

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1 Q. [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. Near. Near the [REDACTED].

5 Q. And when you saw this [REDACTED], what did you do with it

6 and -- what do you do? Let's put it that way.

7 A. [REDACTED].

8 Q. Did you show it to [REDACTED] who was there with you?

9 A. Yes, [REDACTED] saw it as well.

10 Q. And you showed it then to [REDACTED] either before you [REDACTED]

11 [REDACTED]

12 [REDACTED]?

13 A. I don't remember. I can't tell.

14 Q. Now, while you were there, did you see two KLA soldiers come out

15 of the forest near the road?

16 A. Yes.

17 Q. [Microphone not activated]. And did they tell you that they

18 heard some shots and that's what attracted their attention to the

19 area and that's why they came out onto the road? Do you remember

20 that?

21 A. Yes.

22 Q. And did you ask them anything when they came out? Did you speak

23 to them?

24 A. I asked them, "Did you see them?" They saw the event, the crime

25 scene. And they told me that, "No, we didn't see anyone. We just

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1 heard the shots and this is why we came here to see what had
2 happened."

3 Q. Did you show them the [REDACTED] and say something like: Well,
look

4 at this, do you know [REDACTED]? Do you know who did this?

5 Did you show them the [REDACTED]?

6 A. I don't think so. I don't think so.

7 Q. So at this point the [REDACTED] is -- you know about the
[REDACTED] and [REDACTED]

8 knows about the [REDACTED] but not the soldiers?

9 A. Correct, yes.

10 Q. And then where did the soldiers go after that?

11 A. The soldiers got back towards the forest. They had their own
12 direction.

13 Q. So would it be fair to say then you don't know where they went
14 after that? You don't know who they contacted or where they went; is
15 that correct?

16 A. I probably don't remember. Probably they remained there. I'm
17 not sure where they left or if they left at all, but I went home to
18 notify the people.

19 Q. So you, after five minutes of being at the scene, after talking
20 to the two KLA soldiers, after picking up [REDACTED]
21 [REDACTED], you went back to the village; is that correct?

22 A. Yes, yes.

23 Q. And you left [REDACTED] alone?

24 A. Yes, I left [REDACTED] there, and I left my weapon with him. I
came

25 back to my family in the village in order to tell them what had

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1 happened.

2 Q. And when you came back to the village to tell your family what
3 had happened, did you show them the [REDACTED]?

4 A. No, no, not immediately.

5 Q. Why did you leave a weapon with [REDACTED]? What was your
concern?

6 A. I left the weapon for self-protection. I just didn't want him
7 to be killed, because that could happen to him given that [REDACTED]
8 [REDACTED] killed. I left it for self-defence.

9 Q. So you really didn't know where the kidnappers or killers were
10 at the time you left the scene with [REDACTED] there alone with the
bodies;

11 is that correct?

12 A. No, I didn't know where they went.

13 Q. You didn't know who they were?

14 A. They went towards the direction of the village of [REDACTED].
15 That was the direction that was identified. They told me that the
16 car went in the direction of [REDACTED] because there was no other
17 option for them to turn to.

18 Q. When you say "they" told you, who do you mean by "they"?

19 A. The people. People started to come there and they said that
20 there is this car that took that direction. But at the place where
21 the crime happened, there was no other option for them to go. So
22 they either had to go backwards from where they came from or they had
23 to go to that direction.

24 Q. So are you saying that while you were at the scene of the crime,
25 in addition to the two KLA soldiers who showed up, other people also

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1 came? Is that what you're saying now?

2 A. I did not see the people that came afterwards, but [REDACTED]
talked

3 to them. So, personally, I only saw these two soldiers I mentioned.

4 Q. Thank you for that clarification. So as far as you knew, when
5 you left [REDACTED] at the scene, you yourself did not know where the
6 kidnappers or the killers were. As far as you know, they could have
7 been hiding in the woods, just around the curve of the road; isn't
8 that right?

9 A. Maybe. I don't know.

10 Q. Maybe. In fact, you don't know who these people were because
11 they were wearing masks and you could not identify them; is that
12 correct?

13 A. No, I couldn't know who they were. They were wearing masks.

14 Q. Yes, they could have been anybody, couldn't they have?

15 A. Yes, but it was somebody.

16 Q. [Microphone not activated]. They could have been people from
17 one of the local villages. They could have been Serbs dressed up in
18 KLA outfits. Could have been anybody. Is that correct?

19 A. If they were Serbs -- I wanted them to be Serbs, as a matter of
20 fact, rather than Albanians. But if they were Serbs, there would be
21 no [REDACTED]. The [REDACTED] is self-telling.

22 Q. Well, we'll talk about that [REDACTED] shortly. But the bottom
23 line is you didn't know who these people were and you didn't know
24 where they were when you left the scene of the crime and you left
25 [REDACTED] alone there with your gun.

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1 A. I don't know where they went to.

2 MR. MOSKOWITZ: Let's take a look at the [REDACTED] itself and
call up

3 P92.

4 Q. And as we look at that [REDACTED], we see a few things that I
would

5 like to draw your attention to. First of all, the [REDACTED] is

6 [REDACTED]. Is that correct?

7 A. Yes.

8 Q. The [REDACTED]. There's [REDACTED], is there?

9 A. No, there is [REDACTED]. I don't believe so.

10 Q. The [REDACTED], is

11 it?

12 A. It's not.

13 Q. The [REDACTED] is on is interesting. It looks like it

14 has [REDACTED]. Would that be correct?

15 A. I don't know. I can't see it clearly.

16 Q. Do you see that there are [REDACTED] on the left side of the

17 [REDACTED]? Were these [REDACTED] made by you, or were they original
to the

18 [REDACTED] as you found it?

19 A. The [REDACTED] were caused because of the fact that I put the
[REDACTED]

20 on the ground and because of the wetness there, the [REDACTED] was

21 damaged.

22 Q. No, I'm referring to the -- what looks like [REDACTED] on

23 the extreme left side of that [REDACTED]. I'm asking whether that was

24 original to the [REDACTED] or was it something you added later?

25 A. I don't know. Probably I've done them. I don't know.

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1 Q. Would you agree with me that as you look at this [REDACTED], that
the

2 [REDACTED] is -- while it is degraded, looks like it might have been

3 [REDACTED] of some kind. Would you agree with me with

4 that, or do you think it's not a reasonable observation?

5 A. What do you mean? Can you please explain?

6 Q. [Microphone not activated]. I have a [REDACTED]. Something

7 like this. I display it. It has [REDACTED] like that, and then
[REDACTED]

8 [REDACTED]. Do you see that? And then it has, like, [REDACTED]. And
it

9 kind of looks like what you see in the [REDACTED] here. I know it's
hard

10 to see, but wouldn't you agree with me it's kind of similar?

11 A. They can be similar. I'm not sure. I can't see very clearly,
12 and I don't know what to say.

13 Q. I mean, would you say it's reasonable that whoever [REDACTED]
14 [REDACTED]?

15 MS. MAYER: Objection, foundation.

16 PRESIDING JUDGE SMITH: Overruled. Go ahead.

17 MR. MOSKOWITZ:

18 Q. I'm just asking if it's reasonable or plausible in your view
19 that that might have been what happened.

20 A. I do not know.

21 Q. You don't know.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 There's a lot of questions being asked about this
[REDACTED], and

24 we're not too sure where you're going with it, and I'm pretty sure

25 that he isn't either. We'd ask that you put your case to the witness

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1 so that he can answer them with some knowledge of what you have in
2 mind.

3 MR. MOSKOWITZ: I was about to.

4 Q. Does it appear to you, Mr. [REDACTED], that this [REDACTED], the
way it's

5 [REDACTED], looks like it might have been produced by

6 somebody local, somebody at a very low level, maybe somebody who is a
7 local person, an amateur?

8 A. I don't know.

9 Q. Does it look like --

10 A. I can't possibly know.

11 Q. -- something that would have been produced by the KLA?

12 A. I don't know who has prepared it. I found that [REDACTED] there.

13 Q. The [REDACTED] itself says it is issued by the [REDACTED]
14 [REDACTED]; correct?

15 A. That's what it reads.

16 Q. Are you aware of the fact that the [REDACTED]
17 [REDACTED]?

18 MS. MAYER: Objection, foundation.

19 THE WITNESS: [Interpretation] I do not know.

20 PRESIDING JUDGE SMITH: He's answered he does not know, so move
21 on.

22 MR. MOSKOWITZ:

23 Q. Now, I [REDACTED] does not refer to [REDACTED]

24 [REDACTED]; correct? The [REDACTED] does not refer to [REDACTED]

25 at all, only to [REDACTED]; is that correct?

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1 A. Correct.

2 Q. Is it correct that [REDACTED]

3 [REDACTED]?

4 A. Correct. [REDACTED].

5 Q. And as you testified earlier, [REDACTED] was a very big supporter
6 of the KLA, wasn't he?

7 A. Yes.

8 Q. [REDACTED] was not involved in politics, was he?

9 A. No, there were no politics at that time. He had [REDACTED]
10 [REDACTED] and was not involved in politics.

11 Q. And [REDACTED] was not an LDK activist or even involved with the
12 LDK at all, was he?

13 A. Everybody in Kosovo was in the LDK at that time, but he didn't
14 hold an important position. He just gave his contribution just like
15 anyone else.

16 Q. And he didn't know -- [REDACTED] I'm going to mention to
17 you. He didn't know [REDACTED] and he didn't know [REDACTED], did
18 he?

19 A. [REDACTED] is -- I don't think [REDACTED] knew them, [REDACTED]
20 [REDACTED].

21 Q. Now, this [REDACTED] alleges that [REDACTED] collaborated with
22 invaders. He did not collaborate with invaders, did he?

23 A. Never. Absolutely never.

24 Q. And the [REDACTED] says that [REDACTED]. He
25 didn't do that, did he?

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1 A. Never.

2 Q. The [REDACTED] says that [REDACTED]. He didn't
3 do that, did he?

4 A. No.

5 Q. There is no truth to this [REDACTED], is there? It is a lie.

6 A. The content of this [REDACTED] is a lie.

7 Q. I want to turn to a different topic. It's about the [REDACTED]
8 [REDACTED]. Can we
9 turn our attention to that now, please.

10 You testified, I think, earlier that you had heard about this
11 [REDACTED]. You had heard about
12 it from [REDACTED] and also from [REDACTED]; is that right?

13 A. Yes, and from my co-villagers who were there.

14 Q. Right. You weren't there yourself. Am I right in assuming you
15 were not --

16 A. No, I wasn't.

17 Q. -- there? Right. So what you know about is only what you
18 heard; correct?

19 Now, I think you testified there were, like, [REDACTED]
20 from the village that participated in this discussion [REDACTED]
21 [REDACTED] that's correct?

22 A. I don't know the exact number, [REDACTED], but there were
[REDACTED]

23 [REDACTED] participating in this.

24 Q. And [REDACTED] was one of [REDACTED], wasn't he?

25 A. Yes, he was.

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1 Q. And, in fact, [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [REDACTED], as he was [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 and there that they discussed.

9 Q. [REDACTED]

10 [REDACTED]

11 [REDACTED]. He was a key element, wasn't he?

12 A. We can call him like that, perhaps.

13 Q. And, of course, as you testified earlier, the most senior KLA

14 soldier in the village, [REDACTED] this meeting,

15 didn't he?

16 A. Yes.

17 Q. Now, you testified in quite a bit of detail about what happened

18 in the morning -- or in the afternoon in your village when the

19 kidnappers took [REDACTED]. And also in the car with [REDACTED]

20 was [REDACTED], wasn't he? He was there in that car with [REDACTED]
on

21 that day.

22 A. Yes, he was also in the car. [REDACTED] was in the car.

23 Q. So the kidnappers actually had [REDACTED]

24 [REDACTED]

25 [REDACTED]?

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1 A. I didn't understand the question. Can you please repeat it?

2 Q. All right. You testified that in that car, the [REDACTED] car
3 in which [REDACTED], and [REDACTED] were placed, [REDACTED] was in
4 that car. He was one of the three relatives of yours in that car;
5 correct?

6 A. Yes.

7 Q. But as you testified, before that car left the village, the
8 kidnappers told [REDACTED] to leave that car, to get out of that car,
9 didn't they?

10 A. [REDACTED] and [REDACTED] were let go together. I was not there.

11 Q. But you knew that they were let go because you saw both of them
12 at [REDACTED] as you drove to the exit of the village, and they
13 told you that they had been let go from the car. [REDACTED] and
[REDACTED].

14 Is that correct?

15 A. Yes, they had let them go out of the car, and they said, "You
16 can leave the car. We will take him for a short conversation, and we
17 will release him then." This is what they reported to me.

18 Q. Yes. You weren't there to see that yourself but that's what
19 they said; right?

20 A. Correct.

21 Q. So, basically, what we're saying is that [REDACTED]
22 [REDACTED]

23 [REDACTED] and then they told him to get out of the car and let
24 him go. That's what we're saying; correct?

25 MS. MAYER: Objection as to [REDACTED] I don't

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1 believe that's the witness's testimony. It's a mischaracterisation.

2 PRESIDING JUDGE SMITH: Sustained.

3 MR. MOSKOWITZ: Well, I'll rephrase it.

4 Q. That [REDACTED] who

5 actually [REDACTED], to arrange

6 the meeting, that man, [REDACTED]

7 [REDACTED]; correct?

8 A. He was not [REDACTED]

9 the village, [REDACTED]. He was not at the

10 [REDACTED]. He did not organise the meeting. He just came

11 to the village and [REDACTED]

12 [REDACTED]

13 [REDACTED], not [REDACTED].

14 Q. And like [REDACTED], he was a [REDACTED]

15 [REDACTED]; correct?

16 A. Yes.

17 Q. But the only person that the kidnappers took was [REDACTED] and

18 they did not take [REDACTED]; correct?

19 A. The persons who came to abduct [REDACTED], they were not looking

20 for him. They were looking for [REDACTED]. They intended to abduct

21 [REDACTED] stood up to protect them and wanted to prevent

22 any killings from happening and asked them to go in the [REDACTED],

23 [REDACTED], to discuss this matter.

24 Q. Of course, you weren't there to actually see that. That's what

25 you heard; correct?

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1 A. This is what I heard and everybody said the same thing. There
2 is also a recording, [REDACTED], how it
3 unfolded, and who was involved. There were eyewitnesses who were
4 there and who are still alive probably.

5 Q. Were any of the other [REDACTED], were any of
6 them attacked or killed, or was it just [REDACTED]?

7 A. Only [REDACTED].

8 Q. Okay. I want to --

9 MR. MOSKOWITZ: I note the time, Your Honours, and I will wrap
10 up.

11 Q. I want to turn our attention, if you will, to this [REDACTED]
12 [REDACTED] that was [REDACTED]
13 [REDACTED].

14 As you testified earlier, [REDACTED]
15 [REDACTED]. Is that your
16 understanding?

17 A. Yes.

18 Q. So this would have been about [REDACTED] after the actual
19 incident
20 on [REDACTED]?

21 A. Yes, [REDACTED].

22 Q. The [REDACTED] is all we have. We do not have [REDACTED]
23 [REDACTED], do we?

24 A. This is what was [REDACTED].

25 Q. So do you have any knowledge of how this [REDACTED]
[REDACTED]?

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1 A. No.

2 Q. Do we have any knowledge of who wrote this document?

3 A. No, I don't.

4 Q. The document purports to be [REDACTED]

5 [REDACTED]. Are you aware that the [REDACTED]

6 [REDACTED] [Microphone not activated] --

7 THE INTERPRETER: Microphone.

8 MR. MOSKOWITZ:

9 Q. [REDACTED]

10 [REDACTED]? Are you aware of that?

11 MS. MAYER: Objection. Again, I don't believe there are any
12 facts in evidence yet about whether it existed or not.

13 MR. MOSKOWITZ: Well, I'm just asking if he was aware of it. He
14 may not and that's fine.

15 PRESIDING JUDGE SMITH: Overruled. You can ask the question.

16 MR. MOSKOWITZ:

17 Q. Were you aware, as a member of the KLA, that [REDACTED]

18 [REDACTED]

19 [REDACTED]?

20 A. I don't know, but there were [REDACTED] at that time.

21 Q. Yes, there were [REDACTED] at the time for sure, but [REDACTED]

22 [REDACTED]. Are you

23 aware of that?

24 A. I don't know.

25 Q. I also note [REDACTED].

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1 Are you familiar with that term, "subzone"?

2 A. I can't explain this precisely, exactly what it was.

3 Q. Were you aware that as of [REDACTED], the term "subzone" was
4 no longer used and it was only "zones" that were used to designate
5 the various areas of responsibility within Kosovo of the KLA?

6 A. I am not.

7 Q. As we actually look at this document, we see, don't we, and I
8 ask you if you agree with this observation, that really this document
9 is really not about the execution of [REDACTED]. It's really about
10 [REDACTED]. That's what
11 [REDACTED] is really all about. Isn't that true?

12 MS. MAYER: Objection, Your Honour. I believe counsel said "as
13 we look at the document." I don't think there is a document on the
14 screen in front of this witness.

15 PRESIDING JUDGE SMITH: Sustained.

16 MR. MOSKOWITZ: Let's call up the document, then. I believe
17 it's designated P90, page 13 in the Albanian. And I believe there is
18 a number, [REDACTED], page 13. This is one of them, anyway.

19 Q. Okay. Why don't you take a look and let's read that. When
20 you're done reading, let me know.

21 A. Yes. It says here that [REDACTED]
22 [REDACTED].

23 Q. But my question really is, looking at this document, it really
24 focuses not on the killing. It focuses on the [REDACTED]
25 [REDACTED], and it purports to provide an

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1 explanation for [REDACTED]. Wouldn't you agree with
2 that?

3 A. I don't have to agree, because this [REDACTED]
4 [REDACTED]
5 [REDACTED]. So there's nothing to
6 say about this.

7 Q. Yeah, but when you look at this document -- you have to read
8 pretty far down this document before you get to any mention about the
9 killings of [REDACTED] and [REDACTED]. It's not at the top of
10 the document. It's all the way down in reference to [REDACTED]
11 [REDACTED].

12 A. They are included here as [REDACTED]
13 [REDACTED] So we have both informations
14 reported in this document.

15 Q. Now, looking at this document, it makes no reference to the
16 [REDACTED]
17 [REDACTED]. There is no reference in this document to that
18 designation, [REDACTED]; is that correct?

19 A. I did not draft either these documents. This was [REDACTED],
20 and I read it, and the [REDACTED].

21 Q. Yes. And there's no reference in the [REDACTED], but
22 in this [REDACTED] we see there is a big reference to
23 [REDACTED], and they refer to him as one of the collaborators,
[REDACTED]
24 [REDACTED]. Is that correct?

25 A. [REDACTED]. It had -- [REDACTED]

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1 [REDACTED]

2 [REDACTED].

3 Q. Yes, and as we discussed earlier, the [REDACTED] had no
4 mention of [REDACTED] at all, did it?

5 A. The [REDACTED] did not, right.

6 Q. The [REDACTED] made no reference to [REDACTED], did it?

7 A. No, it didn't.

8 Q. This [REDACTED] to
9 [REDACTED], but [REDACTED] didn't [REDACTED],
10 did he?

11 A. That's correct.

12 Q. And this [REDACTED] makes reference to [REDACTED] as
13 being a collaborator with [REDACTED], and [REDACTED] did not know
14 [REDACTED], did he?

15 MS. MAYER: Asked and answered.

16 PRESIDING JUDGE SMITH: Sustained.

17 MR. MOSKOWITZ:

18 Q. Essentially, would you say that the information on this
19 [REDACTED]

20 [REDACTED] was not really consistent with the [REDACTED]
21 [REDACTED] and was not, with respect to [REDACTED], accurate at all?

22 A. I cannot assess the [REDACTED] or this one.

23 Q. Would you agree with me that if the KLA [REDACTED]
24 [REDACTED] because they, or the
25 KLA, was trying to indicate to everyone that any kind of
collaboration with the Serbs would be severely punished, that the KLA

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1 would have [REDACTED]

2 [REDACTED]

3 [REDACTED] and not [REDACTED]

4 [REDACTED]

5 [REDACTED]?

6 A. They had nothing against [REDACTED] that would allow them to

7 justify or cover their crime, the crime they committed. So after
[REDACTED]

8 [REDACTED], they included him as a collaborator. They could

9 find nothing to cover their crime. So in order to cover their crime,

10 they included him in [REDACTED]

11 [REDACTED].

12 Q. [Microphone not activated]. To summarise and wrap up, and I'm

13 almost finished, we don't know who the killers are, do we? To this

14 day we don't know.

15 A. I don't know who the killers are.

16 Q. We really don't know the motive for the killing, do we?

17 A. I don't know.

18 Q. We can speculate, but we don't really know. I wish we did, but

19 we don't. Is that correct?

20 A. We are here to find out who did it. The person who [REDACTED]

21 [REDACTED] knows who did it. The person who [REDACTED]

22 [REDACTED] knows best. He must explain, not me

23 seeking justice and trying to shed light on the killing of [REDACTED]

24 [REDACTED]. You should ask the person who [REDACTED], not me.

25 I did not [REDACTED].

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1 MR. MOSKOWITZ: Can I have one minute, Your Honour.

2 PRESIDING JUDGE SMITH: Yes.

3 [Specialist Counsel confer]

4 MR. MOSKOWITZ: Your Honour, that ends my cross at this point.

5 PRESIDING JUDGE SMITH: Thank you.

6 Ms. O'Reilly, do you wish to be in private session or public
7 session?

8 MS. O'REILLY: We're going to have to start off in private
9 session, Your Honour. If you will just give me a few moment to get
10 myself ready.

11 PRESIDING JUDGE SMITH: Perfectly all right.

12 Ms. O'Reilly will be asking you some questions, Witness, from
13 the Veseli Defence.

14 Cross-examination by Ms. O'Reilly:

15 Q. Okay. Good afternoon, Witness. My name is Annie O'Reilly and
16 I'm asking questions on behalf of Kadri Veseli. We're going to shift
17 gears. We're going to move away from the event of [REDACTED]. There
18 are other matters that you've given evidence about surrounding that
19 story which are relevant to the case that I need to ask you some
20 questions about.

21 I don't anticipate it's going to take very long. If we move
22 quickly, we should be done by 4.00, which is when we're going to end
23 today, which is in just over half an hour.

24 MS. O'REILLY: Could we please have 1D13 up on the screen again.
25 That's the map. Can we zoom in a little bit, but I would like to

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1 still be able to see [REDACTED] and, if possible, [REDACTED]. Well --
2 yes, no, that's fine. No, that's -- yes, that's fine. Thank you.

3 Q. Okay. Witness, I'm just going to take you quickly around the
4 locations that are relevant to your testimony. We've done this
5 already today, so it shouldn't take so long. But you can see your
6 village, [REDACTED], is there, the second red ring to the right; isn't
7 that right, Witness?

8 A. Yes.

9 Q. And then if we go down to the end of that road, we will see
10 [REDACTED], which is where you fought.

11 A. Yes.

12 Q. Now, on the other side of that road is [REDACTED], and that is
13 where the Serbs were firing at you; is that right?

14 A. They were firing from [REDACTED], not from [REDACTED]. I don't
15 understand what did you -- did you mean from [REDACTED] --

16 Q. No, Witness, that's fine. Yeah. And [REDACTED] is just to the
17 south of that; is that right?

18 A. I can't see [REDACTED] here.

19 MR. O'REILLY: Could we move -- it may not -- it may not be on
20 the map, actually. That's fine. That's fine.

21 Q. Okay, Witness. And the next location is the [REDACTED],
22 and I believe you spent some time there after you withdrew from
23 [REDACTED]; is that right? And that's in the blue box to the left.

24 A. Yes.

25 Q. And to the left of that in an orange box is [REDACTED]; is that

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1 right? Can you see that?

2 A. Yes.

3 Q. And [REDACTED] is where the fighting in your area started on
4 [REDACTED] 1998. Do you remember that?

5 A. I don't know the exact date. I was not there.

6 Q. Do you recall that there was fighting in [REDACTED] sometime
7 before
8 the fighting in your area?

9 A. There was fighting in [REDACTED] too, but I don't know exactly
10 when.

11 Q. Okay. Now moving up to [REDACTED]. That's also in an orange
12 box. That location also got destroyed over the course of that
13 offensive. Is that right, Witness?

14 A. Yes.

15 Q. Now if we go down that road, we'll get to [REDACTED]. That's in
16 that
17 red circle again; isn't that right?

18 A. Yes.

19 Q. And if you take the road south of [REDACTED] you get to
20 [REDACTED]

21 which is where you found [REDACTED] body; is that right?

22 A. Yes.

23 Q. And it also happens to be where your commander [REDACTED] was
24 located on that day in the mountains nearby. Do you know about that,
25 Witness?

26 A. I met [REDACTED] close to [REDACTED], in the village
27 of [REDACTED].

28 Q. I'm talking about [REDACTED], though. Are you saying you met him

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1 in [REDACTED] that day?

2 A. I did not meet him on [REDACTED]. I didn't --

3 Q. Would it surprise you to learn that he says he was based in the
4 mountains nearby, about [REDACTED] away from there at the time?

5 A. It wouldn't surprise me. Perhaps he was, but I did not see him.

6 Q. Okay. That's fine, Witness. Thank you. Now, if we go back up
7 the main road and we go right, we're going to get to [REDACTED],
8 which we've heard about before today. Now, there are two things that
9 happened there at different points in time. The first was that
10 [REDACTED]

11 [REDACTED] there at [REDACTED] that's right? That's where
12 that [REDACTED]?

13 A. Yes.

14 Q. And the second thing that happened there was that you say you
15 saw [REDACTED] in a car on [REDACTED].

16 A. Yes.

17 Q. Now, the road that it appears he had just come down is the road
18 that leads up towards the area where [REDACTED] was based, so first to
19 [REDACTED], and then behind [REDACTED] is [REDACTED]. Is that right?
Do you see

20 that?

21 A. Yes.

22 Q. Thanks. So let's come back down to the main road and then we go
23 I think it's about [REDACTED] or [REDACTED], and we're back in
24 your village of [REDACTED]; is that right?

25 A. Yes.

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1 Q. Okay. Thank you, Witness.

2 MS. O'REILLY: Now, Your Honours, I do have some documents to
3 show him that refer to this area. I don't need to mention his
4 village, but it's going to be pretty obvious which area it is that
5 we're talking about. So I'm in your hands as to whether you think
6 that needs to be in private session or not.

7 PRESIDING JUDGE SMITH: Given the circumstances, just stay in
8 private session for this.

9 MS. O'REILLY: Okay. Thank you, Your Honour.

10 Q. Okay, Witness. So we're going to go now to [REDACTED]. And this
11 is when someone comes and asks you to go and fight at [REDACTED].

12 Now, was the fighting -- were you there for the beginning of the
13 fighting, or was the fighting already raging by the time you got down
14 to [REDACTED]

15 A. He had joined [REDACTED] before myself. He was a soldier there.
16 And once I joined them, the fighting started. I went just a little
17 while before the fight started.

18 Q. Okay. Thank you. And you said that you withdrew around the end
19 of the month, when your commander told you that you could no longer
20 hold the positions and you needed to go away from the front line; is
21 that right?

22 A. Not towards the end of the month, but once there was a defeat --
23 yes, you are correct. It was the end of July or probably the
24 beginning of August. Then we were told -- about that time we were
25 told to go.

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1 Q. Okay. Thank you very much.

2 MS. O'REILLY: So could we have DVK003-005 up on the screen,
3 please.

4 Q. Now, Witness, the document I'm about to show you, unfortunately,
5 there isn't an Albanian translation, so I'm going to read a portion
6 of it to you, but what this document is is a situation report from
7 [REDACTED]
8 [REDACTED], and he was on the ground in Kosovo [REDACTED]
9 [REDACTED].

10 MS. O'REILLY: So we can stay on the first page for now.

11 Q. And the date of this document, Witness, is [REDACTED]
12 Those are the days that he's reporting on. And on the first page it
13 reads:

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 So what he's saying here when he says "civpop," that's short for
18 civilian population, and what he saying is that there are
19 approximately --

20 A. Can you please read a bit slowly?

21 Q. Of course, Witness. My apologies. So I'll start that passage
22 again if you would like.

23 A. Okay.

24 Q. It says:

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 So what he asking in this situation report, Witness, is where
5 are the [REDACTED] civilians [REDACTED]? Where are
6 they? And the answer to this question, I think as you know, is that
7 they were all, or at least mostly, [REDACTED]; isn't
8 that right?

9 A. From [REDACTED], first they came to our village. And from our
10 village, again the offensive came there and they went towards
11 [REDACTED] and elsewhere. At that time, my family moved to
12 [REDACTED].

13 Q. I'm sorry, Witness. Your family moved to [REDACTED] at that
14 time?

15 Is that what you meant to say?

16 A. No, what I meant to say was that there were families from
17 [REDACTED] that were refugees in my village. They were staying with
18 my
19 family.

20 Q. Right. And that's because the fighting had started earlier in
21 [REDACTED], so they'd been pushed over and then they were being pushed
22 out --

23 A. Yes.

24 Q. Okay. Thank you.

25 MS. O'REILLY: So now if we can turn to page 3 of that document.

Q. I'm going to read two further passages to you. And the first
one is at [REDACTED], and it says:

[REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 And then further on we have another entry that reads:

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Now, Witness, I probably don't need to tell you this but the
10 reference to MUP is of course Ministry of Interior, Serbian police.
11 But my question for you is, does the extent of the damage described
12 in this document, [REDACTED]

13 [REDACTED], is that something that you saw after the fall of
14 [REDACTED] 1998?

15 A. Yes, this is what happened. The murders, the burning, yes.

16 Q. Okay. Thank you. So at this point you are still in [REDACTED],
17 but you did return home to [REDACTED] at some point. Now, I think
18 there has been some confusion about when exactly that was, but can we
19 say that you were there for maybe a week or ten days before you came
20 back to [REDACTED]? Something like that? Or would you like to
21 correct that?

22 A. Can you repeat the question once again? I went to [REDACTED].
23 My family was in [REDACTED].

24 Q. Certainly, Witness. So after, after you withdraw from
[REDACTED],

25 you're in [REDACTED]. And I'm just wondering, can you give

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1 us your best estimate for the date that you got back to [REDACTED]
2 after that?

3 A. No, I don't know the date.

4 Q. Were you there for a week in [REDACTED]?

5 A. I don't exactly know. Probably it's not a week. I don't know.

6 Q. Okay. That's fine. I'm going to show you another document now,
7 and this one is from [REDACTED] 1998. So it appears that it would be
8 [REDACTED].

9 MS. O'REILLY: And the ERN for that document is SPOE00329250.

10 THE COURT OFFICER: Your Honours, while that is coming up, if I
11 can put on the record that the previous document is already 2D3.

12 PRESIDING JUDGE SMITH: So noted.

13 MS. O'REILLY: Are we okay? Yes.

14 Q. So most of this document, Witness, has been blacked out, but
15 there are two sentences that I would like you to look at. And the
16 first one is on the first page, and it reads:

17 "Recent events in Kosovo have seen the UCK receive a number of
18 serious operational reversals to the extent that they are not the
19 force they once were. If the Serb SF offensives continue there is a
20 possibility that the UCK may be defeated militarily ..."

21 Now, Witness, yesterday you gave some indication that that was
22 already happened, that there was already sort of a drop in morale and
23 serious defeats taking place, and you had even gotten your weapon
24 from somebody who had decided they could no longer or no longer
25 wished to fight. Do you remember that?

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1 A. The morale was not low. We got the news to retreat. I don't
2 know how to explain it, but we got this news to withdraw and that's
3 what we did.

4 MS. O'REILLY: If we can turn to page 2 of the document, there's
5 another passage that I'd like to look at.

6 Q. And it reads:

7 "Since the UCK command structure is fragmented," at this point
8 in time, "be cautious and assess the situation when proceeding in a
9 UCK area as commanders vary from area to area and village to
10 village."

11 So they're saying it might be fine when you're out observing,
12 these military observers, but it might not be. Every area and
13 potentially every village is different depending on who's in charge
14 or, indeed, whether there is someone in charge.

15 Based on your knowledge of your own area, would you agree with
16 that assessment? And based, in particular, on what happened to
17 [REDACTED]

[REDACTED], Witness.

18 A. No. Because in the moment in time that the point was defeated,
19 one week -- approximately one week from that time, the families got
20 back to their homes. Some villages had many damages. Whereas our
21 village did not suffer those damages. So the risk was not high.

22 Q. Indeed, Witness, that's my point, that the situation was very
23 uneven. Some places were fine and calm, and others weren't. And
24 you, I believe you said, at that time were in your village waiting to
25 find out if you were going to get orders to tell you if you were

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1 still in the [REDACTED] or perhaps joining the [REDACTED] or where,
2 indeed, you should fight, if anywhere. Do you remember saying that?

3 MS. MAYER: Objection, mischaracterises the testimony. I don't
4 believe he said he was waiting for anything. He indicated he came
5 back and didn't know which unit he was a part of.

6 PRESIDING JUDGE SMITH: Rephrase the question. It might be a
7 little shorter also would be helpful.

8 MS. O'REILLY:

9 Q. Witness, this was a time when you came back to your village and
10 you said that you didn't know for sure if you were in the [REDACTED].
11 Do you remember saying that?

12 A. We got back in the village, and us, the soldiers in the village,
13 were waiting to be notified. We started to stand guard in the
14 village.

15 Q. But, Witness, you said that there were no commanders coming to
16 your village at that time; is that right?

17 A. I haven't seen them. I can't say anything. I haven't seen
18 anyone.

19 Q. Thank you, Witness. Okay. We're going to move to another
20 document.

21 MS. O'REILLY: And that's SPOE00214458.

22 Q. So, Witness, the document that I'm about to show you, it's
23 another [REDACTED], but this one is going to bring us
24 up towards [REDACTED]. The report is dated [REDACTED], but
25 in fact it's covering the week of [REDACTED]. And I'm

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1 going to show you two passages.

2 MS. O'REILLY: The first one is on the second page, so if we can
3 just move to that page, please.

4 Q. And it relates to [REDACTED] And it says:

5 "Security forces," meaning the Serbian security forces,
6 "conducted major 'mopping-up' operations against armed Kosovo
7 Albanian groups in the general area of [REDACTED]
8 [REDACTED]

9 Witness, were you aware of those mopping up operations going on
10 at the end of the month from your position in your village in
11 [REDACTED]

12 A. In what month?

13 Q. We're dealing with the [REDACTED] --

14 A. No.

15 Q. -- so the main fighting has stopped now, but were you aware that
16 there were still Serbian forces around?

17 A. No, they were not in [REDACTED].

18 Q. Were there any on the main road between [REDACTED] and [REDACTED]

19 A. Probably they were there sometimes with observers.

20 MS. O'REILLY: Can we go to the next page, please, ending in
21 4460.

22 [REDACTED]

23 [REDACTED]

24 [REDACTED], MUP forces denied two KDOM patrols," that's

25 Kosovo Diplomatic Observer Mission, so they "denied two KDOM patrols

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1 access [REDACTED]. No reason was given. MUP forces
2 deliberately pointed their automatic rifles at the KDOM vehicle.
3 KDOM was denied access [REDACTED]
4 [REDACTED]. MUP forces fired
5 AK-47 rounds into the air. [REDACTED], KDOM was denied FOA [REDACTED]
6 [REDACTED]. KDOM was also denied access [REDACTED]
7 [REDACTED], KDOM was denied access
8 [REDACTED], a joint KDOM team was denied FOA
9 [REDACTED],
10 another joint KDOM team had no ... restrictions."

11 So, Witness, I would suggest that the passage I've just read
12 indicates that [REDACTED] the Serbian authorities may not
13 have had a permanent presence on the road but they were in control of
14 the roads around [REDACTED], and [REDACTED]. Would you agree
15 with that?

16 A. Probably they were there sometimes, but in [REDACTED] they were
17 non-stop. In [REDACTED], I didn't see them. Or probably when they
18 came to [REDACTED] and [REDACTED], they only sent some observers
19 there.

19 Q. Witness, it would make sense that they had control of the roads
20 at this time because this was -- when [REDACTED] attended that
21 meeting at [REDACTED] is when the police were located in that
22 building; isn't that right?

23 MS. MAYER: Objection, mischaracterises the evidence. I don't
24 believe he said this meeting was [REDACTED].

25 PRESIDING JUDGE SMITH: Overruled. Thank you.

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1 MS. O'REILLY:

2 Q. Witness, do you know when that meeting took place,
3 approximately, that [REDACTED] attended?

4 A. No, no.

5 Q. Did it happen before the offensive in [REDACTED]?

6 A. After the offensive, but I don't know when.

7 Q. Okay. Thank you, Witness. There is one more document that I
8 would like to show you in this series.

9 MS. O'REILLY: And the ERN for this document is SPOE00304206.
10 And, sorry, just one moment, Your Honour.

11 Q. Okay, Witness. This is the last document in this series. And
12 it's [REDACTED], which is taking us up to just about
13 [REDACTED] what happened to [REDACTED]. And I'd like to bring
14 you to paragraph 5, which is on page 3 of the document, please.

15 And it reads, the passage that I want to bring to you:

16 "Mutual accusations of executions and atrocities are likely to
17 rise already high tensions and line out a new stage of the conflict:
18 the psychological war. On top of this, the Serb success in defeating
19 UCK and destroying the command structure, resulted in numerous small
20 groups of Albanian resistance scattered over the province and
21 neighbouring Albania without any unified command and control. The
22 humanitarian situation is worsening every day."

23 Now, Witness, is that a description that you say you don't
24 recognise of what was happening in Kosovo at that time?

25 A. No, it wasn't this catastrophic. It wasn't a real risk. It

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1 wasn't a real danger. That was not that huge danger in our area.

2 Q. In your area, you say, Witness, that you were on village guard
3 duties as -- for your service in the KLA at that time. Did you
4 partake in any actions outside of your village during that time? Any
5 military actions?

6 A. No, only in the village.

7 Q. And you say, to reiterate, that you didn't know whether you were
8 still in the [REDACTED], and that no commanders had come to see
9 you; isn't that right? During this period?

10 A. I don't know. We got back home and we were waiting for some
11 orders.

12 Q. You were waiting for some orders. So I put it to you, Witness,
13 that you were one of those small groups of scattered resistance that
14 didn't have a commander.

15 A. Well, when we distributed, each and every one of us got back to
16 their homes, and we started to have guard duties in the village, and
17 we would have guard shifts in turns.

18 Q. Thank you, Witness.

19 MS. O'REILLY: Just one moment, Your Honour.

20 All right. Those are my questions, Your Honour.

21 PRESIDING JUDGE SMITH: Thank you, Ms. O'Reilly.

22 Mr. Roberts, I don't want to start you and then cut you off
23 immediately. Do you have a time estimate?

24 MR. ROBERTS: I would suggest a maximum of an hour, Your Honour.

25 But I'll relook over the next couple of days and see in light of the

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1 questions and answers that were obviously given today. But at
2 present count, it's about an hour, Your Honour.

3 PRESIDING JUDGE SMITH: Okay. [Microphone not activated].

4 MS. ALAGENDRA: Your Honours, it's me. I'll probably need
5 another hour as well.

6 PRESIDING JUDGE SMITH: So, Witness, you will be excused today.
7 You will be back here on Monday at 9.00. The attorneys have
8 indicated that you will likely be finished on Monday. Thank you for
9 being with us. The Court Usher will escort you out of the courtroom.

10 Remember not to talk to anybody about your testimony in any way.
11 Do you understand that?

12 THE WITNESS: [Interpretation] Yes.

13 PRESIDING JUDGE SMITH: Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: Oh, I'm sorry. I didn't see you back
16 there, Mr. Misetic.

17 MR. MISETIC: I'm hiding back here, Mr. President. Are we in
18 public session?

19 PRESIDING JUDGE SMITH: We are in private session.

20 MR. MISETIC: This can be in public session.

21 PRESIDING JUDGE SMITH: All right. Anybody else need anything
22 in private session before we leave this?

23 MS. MAYER: No, Your Honour.

24 PRESIDING JUDGE SMITH: Okay. We'll go into public session,
25 then.

Redactions applied pursuant to F1654.

1 ~~[Open session]~~

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

3 PRESIDING JUDGE SMITH: All right, Mr. Misetic.

4 MR. MISETIC: Thank you, Mr. President. We would like to make
5 an oral application to the Tribunal for an extension of the word
6 limit. Our response to the Prosecution's application in respect to
7 co-counsel Mr. Pallaska is due Monday. We would like an extension
8 from 6.000 to 7.000 words. We've consulted with the Prosecution and
9 they have no objection. Thank you.

10 PRESIDING JUDGE SMITH: [Microphone not activated]. The
11 extension is, by oral order, granted.

12 MR. EMMERSON: And, Your Honour, I should withdraw an oral
13 application that I made on the record yesterday afternoon for an
14 order from the Court requiring the Prosecution to reconsider certain
15 of the agreed -- sorry, adjudicated fact proposals in light of the
16 fact that the adjudicated fact decision has since been handed down.

17 PRESIDING JUDGE SMITH: Thank you.

18 MR. EMMERSON: So I no longer pursue that application.

19 PRESIDING JUDGE SMITH: I would ask both of the two teams who
20 have not yet had their cross-examination to look over your questions
21 and see if we can do as much as possible in open session, and we'll
22 continue to try to do that.

23 And I thank you all for your attendance today. We are
24 adjourned.

25 --- Whereupon the hearing adjourned at 3.57 p.m.