

1 Monday, 18 November 2024

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: Good morning, everyone. I note for the  
11 record that the accused are all present in court today.

12 Before we start hearing the evidence of Prosecution  
13 Witness W04679, there are three preliminary matters the Panel would  
14 like to address.

15 First, the Panel notes that on 11 November 2024, in filing  
16 F02706, the Defence jointly requested leave to appeal the Panel's  
17 third oral order of 31 October 2024, an oral order admitting into  
18 evidence V0008.

19 Pursuant to Rule 77(1):

20 "When a Party seeks to appeal a decision of a Panel for which an  
21 appeal does not lie as of right according to the Law and the Rules,  
22 that Party shall request certification from the Panel that rendered  
23 the impugned decision within seven (7) days thereof."

24 Furthermore, pursuant to Rule 9(3):

25 "Time limits run from the first working day after the oral

1 order, decision or judgment is rendered."

2 Therefore, as P02706 was filed 11 days after the impugned order  
3 was issued, before issuing an oral order on this request, the Panel  
4 would like to invite submissions from the parties and participants on  
5 whether this filing should be considered out of time.

6 First, from the Victims' Counsel.

7 MR. LAWS: Well, Your Honour, we don't take any position in  
8 relation to that delay, accepting as we do that mistakes can happen.

9 PRESIDING JUDGE SMITH: Thank you.

10 Submissions from the SPO.

11 MS. IODICE: Nothing to add, Your Honour.

12 PRESIDING JUDGE SMITH: Defence, whoever wants to speak, or all.

13 MS. ROWAN: Your Honour, I'm grateful. We would invite the  
14 Panel, notwithstanding the provisions in the regulations, to consider  
15 the appeal out of time. Were this to be a request that would have  
16 caused prejudice to any of the parties involved, there, of course,  
17 could be a different course open. But in all of the circumstances,  
18 the short delay has caused no prejudice, and in those circumstances  
19 we would ask it still be considered.

20 PRESIDING JUDGE SMITH: Thank you.

21 Anybody else?

22 The Panel has heard the submissions of the parties and  
23 participants and will issue an order in respect of F02706 in due  
24 course.

25 Second, the Panel notes that in disclosure package 1413 and

1 1477, the SPO has disclosed revised versions of two documents which  
2 were respectively admitted as P00895-ET and P00181-ET. On Friday,  
3 the SPO circulated an e-mail requesting that these revised versions  
4 replace the versions admitted as P00895-ET and P00181-ET.

5 Any objections from the Defence? There appears to be no  
6 objection.

7 U002-0163 to 002-0208-ET Revised 1 will replace the version  
8 admitted as P00895-ET. And SPOE00226662 to SPOE00226674-ET Revised  
9 will replace the version admitted as P00181-ET.

10 This concludes this oral order.

11 The Panel will -- this will be the oral order in this regard.

12 On 15 November 2024, the SPO filed a request concerning  
13 presentation queues. This is in filing F02727.

14 On that same day, the Panel notified the parties and  
15 participants that it would take submissions in response and reply  
16 orally in court today.

17 Victims' Counsel, any response or -- I'm sorry, any, yeah,  
18 response?

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

20 PRESIDING JUDGE SMITH: Defence counsel, any response?

21 MR. MISETIC: Yes, Mr. President. We would oppose the motion.  
22 Our position is that there's an efficiency to allowing Duty Counsel  
23 to see the documents in order to be able to properly advise the  
24 witness before the witness takes the stand and during the time the  
25 witness takes the stand. And in order to avoid situations where

1 Duty Counsel says they haven't seen a document or need time to  
2 consult, we think there is an efficiency to allowing him to see  
3 what's in the queue first and whether any rights need to be asserted  
4 with respect to certain documents.

5 With respect to security measures, I note that Duty Counsel is  
6 bound by the same ethical obligations that the rest of us are. And  
7 if any other orders need to be issued by the Panel concerning  
8 security, we have no objection to that. But we would like to avoid  
9 interruptions in the trial. Thank you.

10 PRESIDING JUDGE SMITH: Anybody else from the Defence?

11 MR. DIXON: Yes, thank you, Your Honours. We would agree with  
12 that submission. This is the Prosecution's own witness, and there is  
13 no reason why their own witness shouldn't know what documents are  
14 going to be presented. So that the witness, when they do have a  
15 counsel as in this case, that counsel is the witness's lawyer after  
16 all, should not have any documents withheld. And it would ensure a  
17 smooth running of the proceedings as well to have it all done before  
18 rather than interrupting while it's ongoing.

19 Thank you, Your Honours.

20 MR. TULLY: Nothing further to add except to support those  
21 submissions. Thank you, Your Honour.

22 MR. ELLIS: We too support those submissions, Your Honour.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 The Panel will issue an oral order in due course.

25 Oh, SPO? I'm sorry.

1 MS. IODICE: Yes, Your Honour. Just --

2 PRESIDING JUDGE SMITH: You would like to reply?

3 MS. IODICE: Just very briefly that our request would allow the  
4 Duty Counsel to see the documents just at the same time as everybody  
5 else. Thank you. And we'd refer back to our submissions.

6 PRESIDING JUDGE SMITH: Thank you. And as I said, the Panel  
7 will issue an oral order in due course.

8 Any questions from the Panel on this?

9 JUDGE METTRAUX: Yes, thank you, Judge Smith.

10 Just maybe for the SPO. What's your position on Mr. Misetic's  
11 submission about counsel's ability to provide meaningful advice to  
12 the client by having seen the documents ahead of time? Do you have a  
13 position on that?

14 MS. IODICE: Your Honour, the parts -- the documents themselves  
15 wouldn't necessarily reflect on any inculpatory position. It's about  
16 the question that will be asked in court about that document and,  
17 therefore, there will be no efficiency because any question and any  
18 document presented in court will have a specific context of the  
19 question and the adjournment will be necessary no matter what.

20 PRESIDING JUDGE SMITH: I believe, Mr. Dixon, you wished to be  
21 heard on a matter of -- concerning this witness.

22 MR. DIXON: Yes, thank you, Your Honours. It's --

23 PRESIDING JUDGE SMITH: And we have read the e-mail, by the way.

24 MR. DIXON: Yes, that does set it out, so I needn't go into that  
25 detail.

1           Essentially, our application is for some time after the  
2           examination-in-chief of this witness, and not to disrupt the start of  
3           proceedings today, on the basis of the very late notice we received  
4           of the change in the order of the witnesses, which only came on  
5           Saturday morning on the weekend, having got the preparation notes on  
6           the Friday evening. Of course, that wouldn't have been a problem if  
7           the witness was going to come later in the week because it would  
8           allow for time to prepare based on the preparation notes and take  
9           instructions from our client.

10           So what we're requesting is because of this very late shift,  
11           where no reason was given by the SPO, that we are given a period of  
12           time after the closure of examination-in-chief to take necessary  
13           instructions, adjust accordingly, and then continue thereafter. We  
14           would ask to have until tomorrow morning to start the  
15           cross-examination.

16           Having consulted with the other teams, this is not going to  
17           affect the time-tabling overall this week, Your Honours. We will be  
18           cross-examining first on this particular witness. There will not be  
19           that much thereafter from the other teams. And the next witness can  
20           commence and complete his examination-in-chief and cross-examination  
21           based on the time estimates.

22           PRESIDING JUDGE SMITH: Rather than waste a good deal of time,  
23           is there any reason why the other Defence teams couldn't do their  
24           questioning first and then you follow up with your, I assume, longer  
25           and more specific examination later?

1 MR. DIXON: Well, the first is, Your Honours, I understand that  
2 there's not much else from the other Defence teams, because this  
3 isn't -- I won't go into the areas if it has to be covered now, but  
4 it's a witness that concerns my client and therefore that's why I'm  
5 going first and will do the lion's share of it.

6 PRESIDING JUDGE SMITH: Well, perhaps we should hear from them  
7 first, though, on their examination and then make this decision as to  
8 what delay is necessary. We just don't want to waste a whole half a  
9 day.

10 MR. DIXON: Yes. And I wouldn't want to do that either,  
11 Your Honours. It's just that it is a very late change.

12 PRESIDING JUDGE SMITH: Everyone --

13 MR. DIXON: And the Prosecution shouldn't be allowed to make  
14 such a late change. It's also an important point for future --

15 PRESIDING JUDGE SMITH: Well, also --

16 MR. DIXON: For the future.

17 PRESIDING JUDGE SMITH: Also I -- I don't want to get into  
18 questioning your preparation, but this guy was expected to testify  
19 tomorrow. Are you saying you hadn't prepared yet?

20 MR. DIXON: No, of course, we had prepared, Your Honour, and we  
21 would be ready to proceed --

22 PRESIDING JUDGE SMITH: This was just the preparation  
23 [Microphone not activated] which are not that extensive.

24 MR. DIXON: But, Your Honour, given the nature of the witnesses  
25 concerned, the witness who was meant to go today was meant to go for

1 much longer, so there would have been time to take instructions on  
2 the preparation notes and the new documents and all the related  
3 matters. And we're not asking for days and days and days. Just a  
4 short adjournment. Our alternative would be at least to have an hour  
5 or two between the two given the very late change. It has to be  
6 acknowledged that the Prosecution have done this without reason --  
7 without giving any reasons at the last moments, Your Honour.

8 PRESIDING JUDGE SMITH: You know, we give both sides credit for  
9 giving us an honest question or an honest statement. I'm not going  
10 to doubt the Prosecution has a reason why they can't do this witness  
11 in the order that they wanted. They probably wish they could. And  
12 I'm not going to doubt what you're telling me today. But I do think  
13 we are not in position anymore of wasting time, and we're going to be  
14 wasting a good deal of time.

15 We're going to start with the Prosecution's direct examination.  
16 We'll consider this. At the next break, we'll make a decision.

17 MR. DIXON: Thank you, Your Honours.

18 PRESIDING JUDGE SMITH: Does the Prosecution want to respond at  
19 all?

20 MS. IODICE: Your Honour, just briefly to note that the change  
21 in the witness order was beyond the SPO's control, and to note for  
22 the record that our preparation notes were submitted in line with  
23 paragraph 96 of the Order on Conduct of Proceedings.

24 PRESIDING JUDGE SMITH: All right.

25 MR. TULLY: Your Honour.

1           PRESIDING JUDGE SMITH: Oh, certainly, Mr. Tully.

2           MR. TULLY: I don't have anything to say specifically about this  
3 witness, but in anticipation of a witness who is appearing next week.  
4 His number evades me at the moment, but he's supposed to be the next  
5 witness on Monday.

6           This witness is in a position where he exercised his right to  
7 remain silent for the lion's share of information that's anticipated  
8 to be covered by the Prosecution. They've indicated, I think, four  
9 hours in direct. We've received more documents added to documents to  
10 be used with the witness in court. So we would ask, to avoid  
11 anything like this, that we get the preparation notes specifically  
12 for him long in advance of what's set out in the Order on Conduct of  
13 Proceedings because, as far as we see it, it will be effectively  
14 another statement from the witness with new information that we can't  
15 possibly anticipate.

16           Thank you.

17           PRESIDING JUDGE SMITH: Response from the Prosecution?

18           MS. IODICE: No, Your Honour.

19           PRESIDING JUDGE SMITH: All right.

20           Go ahead [Microphone not activated].

21           MR. ELLIS: Your Honour, can I simply, first of all, note our  
22 support for the position advanced by the Veseli Defence in principle  
23 in relation to this witness.

24           And, secondly, insofar as it helps the Court with scheduling, I  
25 expect my time estimate for cross to be very much less than the hour

1 previously indicated.

2 PRESIDING JUDGE SMITH: Well, what are you estimating it?

3 MR. ELLIS: 15 minutes or less.

4 PRESIDING JUDGE SMITH: Thank you.

5 MS. TAVAKOLI: I don't expect to have any questions, but I  
6 reserve my position --

7 PRESIDING JUDGE SMITH: Certainly.

8 Mr. Tully.

9 MR. TULLY: And we are the same. We have no questions at the  
10 present time.

11 PRESIDING JUDGE SMITH: Thank you.

12 All right.

13 Madam Court Usher, please bring the witness in.

14 [The witness entered court]

15 [Private session]

16 [Private session text removed]

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1 [Private session text removed]

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25 [Open session]

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1 THE COURT OFFICER: Your Honours, we are now in open session.  
2 And I can confirm that the protective measures have been removed, and  
3 from this point on the witness will testify without voice and face  
4 distortion. Thank you.

5 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.  
6 Do you understand that, Witness?

7 THE WITNESS: [Interpretation] Yes.

8 PRESIDING JUDGE SMITH: The usher will now provide you with --  
9 I'm sorry, please stand up.

10 The usher will now provide you with the text of the solemn  
11 declaration you are asked to take pursuant to Rule 141(2) of the  
12 rules. So look at the document and then read it aloud.

13 THE WITNESS: [Interpretation] Conscious of the significance of  
14 my testimony and my legal responsibility, I solemnly declare that I  
15 will tell the truth, the whole truth, and nothing but the truth, and  
16 that I shall not withhold anything which has come to my knowledge.

17 WITNESS: NEZIR COCAJ

18 [The witness answered through interpreter]

19 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated  
20 now.

21 Witness, today we will start your testimony which is expected to  
22 last approximately one day. As you may know, the Prosecution will  
23 ask you questions first, and then Defence has the right to ask  
24 questions of you, and members of the Panel might also ask questions  
25 of you.

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1           The Prosecution's estimate for your examination is one hour.  
2           The Defence estimates that it will need approximately four hours.  
3           And as regards each estimate, we hope that counsel will be judicious  
4           in the use of their time. The Panel may also allow for redirect  
5           examination if conditions for it are met.

6           Witness, please try to answer the questions clearly with short  
7           sentences. If you don't understand a question, feel free to ask and  
8           to ask counsel to repeat the question or tell them that you don't  
9           understand and they will clarify. Also, please try to indicate the  
10          basis of your knowledge of facts and circumstances that you will be  
11          asked about.

12          In the event you are asked by the SPO to attest to some  
13          corrections made regarding your statement or statements, you are  
14          reminded to confirm on the record that the written statement, as  
15          corrected by the list of corrections, accurately reflects your  
16          declaration.

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

20          During the next days while you are giving evidence in this  
21          Court, you are not allowed to discuss with anyone the content of your  
22          testimony outside of the courtroom. If any person asks you questions  
23          outside the court about your testimony, please let us know.

24          Please stop talking if I ask you to do so and also stop talking  
25          if you see me raise my hand. These indications mean that I need to

1 give you an instruction. If you feel the need to take breaks, please  
2 make an indication and an accommodation will be made.

3 We begin now with the questions from the Prosecution. They're  
4 to your left. Please give them your attention.

5 Madam Prosecutor.

6 Examination by Ms. Iodice:

7 Q. Good morning, Witness. My name is Vega Iodice, and today I will  
8 be asking you questions on behalf of the SPO. As explained during  
9 our last meeting, rather than asking you questions about every  
10 relevant issue you might have information about, it may be possible  
11 to admit your statement containing such information into evidence.  
12 There are a number of procedural steps to follow in order to do so.

13 Before turning to these, I will first establish your identity.  
14 Could you please tell us what your name is.

15 A. Nezir Cocaj.

16 Q. And what is your date of birth?

17 A. 27 September 1970.

18 Q. What is your country of nationality?

19 A. I am a citizen of Kosovo.

20 Q. What is your level of education?

21 A. I hold a master's, scientific master in education sciences.

22 Q. Thank you. Sir, you have given a statement to the SPO in the  
23 past and you were allowed to review it in preparation of testimony.  
24 Today we will seek to tender your statement into evidence.

25 MS. IODICE: Could the Court Officer please bring up

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1 091269-TR-ET Part 1 RED3 and its Albanian translation.

2 PRESIDING JUDGE SMITH: Counsel, was it RED2?

3 MS. IODICE: RED3.

4 PRESIDING JUDGE SMITH: RED3.

5 THE COURT OFFICER: Sorry, just a clarification. It was Part 3?

6 MS. IODICE: Part 1.

7 THE COURT OFFICER: Part 1, apologies.

8 MS. IODICE:

9 Q. And, sir, while we bring the document up, do you recall being  
10 interviewed by the SPO in 2021?

11 A. Yes.

12 Q. And do you remember reading this statement in your language last  
13 week?

14 A. Yes.

15 Q. Do you recall that you had the opportunity to make corrections  
16 and clarifications to your statement?

17 A. Yes.

18 Q. Do you recall that those corrections were written down in a note  
19 and read back to you?

20 A. Yes.

21 Q. Do you confirm what was read back to you in that note reflects  
22 your changes fully and accurately?

23 A. Yes.

24 Q. Now, if we include all of the corrections and clarifications  
25 that you made last week, is the information in your statement

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1 accurate and truthful to the best of your knowledge and belief?

2 A. Yes.

3 Q. If you were asked the same questions today about the same  
4 events, would your answers be the same?

5 A. Yes.

6 MS. IODICE: Having fulfilled the Rule 154 criteria, and in  
7 accordance with decision F02720, paragraph 96, we would like to  
8 tender 091269-TR-ET Part 1 RED3, Part 2 RED2, Part 3 RED2, Part 4  
9 RED3, Part 5 RED3, and the Albanian translations.

10 PRESIDING JUDGE SMITH: Any objection?

11 MR. DIXON: No objection, Your Honour.

12 MS. TAVAKOLI: No objection.

13 PRESIDING JUDGE SMITH: No objection is heard. 091269-TR-ET  
14 Part 1 through Part 5 as enumerated are admitted.

15 THE COURT OFFICER: Thank you, Your Honour. The first part of  
16 the statement, English and Albanian, will receive Exhibit P01834.1.  
17 Part 2, English and Albanian, will receive Exhibit P01834.2. Part 3  
18 will receive Exhibit P01834.3. Part 4 will become Exhibit P01834.4.  
19 And, finally, the last part, Part 5 will receive Exhibit P01834.5.

20 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.

21 Go ahead.

22 MS. IODICE: We would like to tender also Preparation Note 1,  
23 which is ERN 123591 to 123603.

24 PRESIDING JUDGE SMITH: Any objection to the note?

25 MR. DIXON: No objection, Your Honour.

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1 MR. TULLY: No, Your Honour.

2 PRESIDING JUDGE SMITH: None is heard. 123591 to 123603 is  
3 admitted.

4 THE COURT OFFICER: Preparation Note 1 will receive  
5 Exhibit P01835. Classification is confidential, as well as all parts  
6 of the statement, they're also classified as confidential. Thank  
7 you.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. IODICE: Yes, Your Honour. And we would like also to tender  
10 the two associated exhibits. These are ERN 091265 to 091268 and the  
11 English translation, and SITF00249032 to SITF00249032.

12 PRESIDING JUDGE SMITH: Any objection to the two associated  
13 exhibits?

14 MR. DIXON: No, Your Honours.

15 MR. TULLY: No, Your Honour.

16 PRESIDING JUDGE SMITH: None is heard. The two associated  
17 exhibits as enumerated are admitted.

18 THE COURT OFFICER: Thank you, Your Honour. The first  
19 associated exhibit, 091265 to 091268, Albanian and English, will  
20 receive Exhibit P01836. Classification is confidential.

21 And second associated exhibit with ERN SITF00249032 to  
22 SITF00249032, Albanian and English, will receive Exhibit P01837.  
23 Classification is confidential. Thank you.

24 PRESIDING JUDGE SMITH: Thank you.

25 You may proceed.

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1 MS. IODICE: [Microphone not activated].

2 Your Honour, with your leave, I'd like to read a short summary  
3 of the witness's evidence.

4 PRESIDING JUDGE SMITH: Leave is granted. Go ahead.

5 MS. IODICE: W04679 is a Kosovar Albanian who joined the KLA  
6 around March, April 1998. During his time with the KLA, he assisted  
7 with the organisation of the KLA in his area and later joined the  
8 Pashtrik operational zone.

9 W04679 provides evidence concerning the KLA's structure and  
10 organisation, including of the Pashtrik operational zone, his  
11 interactions with KLA General Staff members, and what he witnessed  
12 and observed at the former MUP building in Prizren in June 1999.

13 PRESIDING JUDGE SMITH: Thank you.

14 MS. IODICE:

15 Q. Witness, I now have a few questions for you. First, I would  
16 like you to focus on the KLA locations in Prizren in June 1999.

17 MS. IODICE: Could the Court Officer please bring up ERN 058255,  
18 and this can be broadcasted.

19 Q. Mr. Cocaj, do you recognise this building?

20 A. Yes.

21 Q. What building is it?

22 A. This is the dormitory building in Prizren.

23 Q. Did you visit this location in June 1999?

24 A. Yes.

25 Q. Who was based there?

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1 A. The command of the Pashtrik zone.

2 Q. Thank you.

3 MS. IODICE: Your Honours, I would like to tender this photo  
4 into evidence.

5 PRESIDING JUDGE SMITH: Objection?

6 MR. DIXON: No objections, Your Honour.

7 PRESIDING JUDGE SMITH: None.

8 ERN 058255 is admitted.

9 THE COURT OFFICER: The document will receive Exhibit P01838,  
10 and in Legal Workflow it's currently classified as confidential.

11 MS. IODICE: It can be public.

12 PRESIDING JUDGE SMITH: Reclassified as public.

13 THE COURT OFFICER: Thank you.

14 MS. IODICE: Thank you. And could we now move to page -- to  
15 ERN 058257-058258 and go to page 058258.

16 Q. Mr. Cocaj, do you recognise this building?

17 A. Yes.

18 Q. What building is it?

19 A. It should be the same building, student dormitory. But as we  
20 can see now, this picture was taken after renovation works.

21 Q. Thank you. And is this the same building as before where the  
22 zone command of the Pashtrik zone was based?

23 A. I think so.

24 Q. Okay. Thank you.

25 MS. IODICE: Your Honour, I would like to tender this page into

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1 evidence.

2 PRESIDING JUDGE SMITH: Any objection?

3 MR. DIXON: No objection.

4 PRESIDING JUDGE SMITH: No objection is heard. ERN 058257 to  
5 058258 -- and you just want the one page, correct?

6 MS. IODICE: Yes.

7 PRESIDING JUDGE SMITH: At page 058258 is admitted.

8 THE COURT OFFICER: That one page will receive Exhibit P01839.  
9 Classification is confidential.

10 PRESIDING JUDGE SMITH: Thank you.

11 THE COURT OFFICER: Thank you.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MS. IODICE: It can --

14 PRESIDING JUDGE SMITH: Reclassified as public, please.

15 THE COURT OFFICER: Thank you, Your Honour.

16 MS. IODICE:

17 Q. Mr. Cocaj, to your knowledge, which other buildings in Prizren  
18 were used by the KLA in June 1999 after the Kumanovo Agreement?

19 A. There was also the army house in Prizren and the deaf and mute  
20 school in Prizren.

21 Q. And do you know which unit was based in the army house?

22 A. I do not know for how long or when exactly, but the army house  
23 was used as a zone command for a while. And then some soldiers were  
24 stationed there, soldiers who were not residents of the Prizren area.

25 Q. And so that we are clear in terms of what building we're talking

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1 about, is the army house currently used as a municipality building?

2 A. Yes, it is used.

3 Q. And you mentioned the school for mute and deaf. Who was based  
4 there?

5 A. The command of Brigade 125 was stationed there.

6 Q. Thank you. And do you know who Samedin Xhezairi is?

7 A. Yes.

8 Q. To your knowledge, was he a member of the KLA?

9 A. He was.

10 Q. Thank you. Which brigade?

11 A. Brigade 125.

12 Q. Thank you. Do you know whether there were any KLA soldiers  
13 based in the area of Prizren called Tusuz?

14 A. There were certainly KLA soldiers coming from that  
15 neighbourhood.

16 Q. Coming from or based there? Do you know if there were any KLA  
17 soldiers in that area -- present in that area?

18 A. They came from that area. There most probably were as well.  
19 But people who wore KLA uniforms came literally from every  
20 neighbourhood.

21 Q. Thank you.

22 MS. IODICE: If I could now show a video. Could we have P01193.  
23 And there's no need to have an interpretation. If we can start the  
24 video and stop at 00:02.

25 [Video-clip played]

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Examination by Ms. Iodice

1 MS. IODICE:

2 Q. Mr. Cocaj, do you recognise the building in the background?

3 A. Yes.

4 Q. What is it?

5 A. On the right-hand side we see the Prizren court building.

6 Q. And on the left-hand side?

7 A. This was a building where ID documents were issued during the  
8 Serb regime.

9 Q. Thank you.

10 MS. IODICE: Can we now continue and stop towards 00:19.

11 [Video-clip played]

12 MS. IODICE:

13 Q. Have you ever seen this person before?

14 A. I must have seen him.

15 Q. Do you know whether he was a member of the KLA?

16 A. Yes.

17 Q. Yes, he was?

18 A. Yes, he was.

19 Q. Which zone was he a member of?

20 A. Pashtrik zone.

21 Q. Are you able to tell which of -- which unit was he part of?

22 A. He was a member of the military police.

23 MS. IODICE: If we can now continue.

24 [Video-clip played]

25 MS. IODICE: And if we can stop here.

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Examination by Ms. Iodice

1 Q. Do you recognise the building in the background?

2 A. Yes.

3 Q. What building is it?

4 A. This was the police building. Serb police building.

5 Q. The former MUP building?

6 A. Correct. Correct.

7 Q. Thank you.

8 MS. IODICE: Now we can play the rest of the video.

9 [Video-clip played]

10 MS. IODICE:

11 Q. Sir, I would like to now move to a different topic. Were you  
12 ever asked to join SHIK?

13 A. Yes.

14 Q. Who asked you?

15 A. Mr. Ferhat Shala.

16 Q. Why was he looking for you to join SHIK?

17 A. I don't know.

18 Q. Why was he looking for people to join SHIK? Do you know?

19 Rather than you in particular.

20 A. I don't know.

21 Q. Do you remember discussing this topic with me last week?

22 A. Yes.

23 Q. Do you remember that we -- what you said about this topic to me  
24 last week regarding why Mr. Shala was asking for people to join SHIK?

25 A. He came and spoke to me. He said, "We are interested in forming

1 the organisation called SHIK, and we want to have people in."

2 Q. And did he tell you who had given him the task to do that?

3 A. I think he received -- he said, "I have this task from the  
4 director, meaning, to talk to you, to select people."

5 Q. And who was the director?

6 A. Most probably at the time it was Mr. Kadri Veseli.

7 Q. Thank you. And before that time, to your knowledge, was  
8 Ferhat Shala a KLA member?

9 A. Yes, he was.

10 JUDGE METTRAUX: Ms. Iodice, it's not clear to me whether you've  
11 asked the witness when that request to Ferhat Shala was made. That  
12 would help, if you could.

13 MS. IODICE: Thank you, Your Honour. And apologies. I'll  
14 clarify.

15 Q. Before we move on to Ferhat Shala's role in the KLA, when did he  
16 come to you and ask you whether you were interested in joining SHIK?  
17 Do you know more or less?

18 A. I think it was sometime in 2001.

19 Q. Okay. Thank you.

20 JUDGE METTRAUX: And I wasn't very clear, Ms. Iodice. I was  
21 asking about the time when he thinks a director of SHIK asked  
22 Ferhat Shala to help establish the structure. Thank you.

23 MS. IODICE:

24 Q. Are you able to answer that question? Do you know when is it  
25 that the director of SHIK asked Ferhat Shala to build that structure

1 within SHIK?

2 A. Ferhat told me this in 2001. I do not know any further.

3 Q. Thank you. You mentioned that to your knowledge Ferhat Shala  
4 was a KLA member. In which zone was he operating?

5 A. I know that he was in the Drenica operative zone.

6 Q. And to your knowledge, did he have a nickname?

7 A. To my knowledge, he went by the pseudonym Pellumbi.

8 Q. Thank you.

9 MS. IODICE: No further questions, Your Honour.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 We'll take a ten-minute break.

12 Witness, you can step out of the room with the Court Usher.

13 [The witness stands down]

14 PRESIDING JUDGE SMITH: We're adjourned for ten minutes.

15 --- Break taken at 9.51 a.m.

16 --- On resuming at 10.00 a.m.

17 PRESIDING JUDGE SMITH: Is it possible, Madam Prosecutor, for  
18 the preparation notes that we discussed earlier for the witness  
19 Monday be available by Thursday?

20 MS. IODICE: Your Honour, I'll need to consult and get back to  
21 you.

22 PRESIDING JUDGE SMITH: Go ahead.

23 MS. IODICE: I will need to consult and get back to you.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Now, Ms. Tavakoli, still no questions?

1 MS. TAVAKOLI: No, not at the moment.

2 MR. TULLY: Still nothing for now, Your Honour.

3 PRESIDING JUDGE SMITH: Mr. Ellis.

4 MR. ELLIS: Nothing for now, Your Honour.

5 PRESIDING JUDGE SMITH: No questions for this witness?

6 MR. ELLIS: Not at this time. I would seek to reserve a couple  
7 of minutes in case any questions are needed at the end of the primary  
8 cross-examination, but nothing at this time.

9 PRESIDING JUDGE SMITH: All right. Here's what we'll --

10 MR. DIXON: Your Honours, I can indicate --

11 PRESIDING JUDGE SMITH: Here's what we'll do for you, and I  
12 understand your request, we will break now. We will come back at  
13 1.30 and start your cross-examination at 1.30. That should give you  
14 a little time to go through those prep notes and get the questions  
15 you want. That's all.

16 MR. DIXON: I'm grateful for that. And I --

17 PRESIDING JUDGE SMITH: And then we would expect this witness to  
18 be finished today. So bear that in mind as well.

19 MR. DIXON: Yes.

20 PRESIDING JUDGE SMITH: And also, Mr. Ellis, for you, since you  
21 may have some backup questions, and -- please leave a little room  
22 because the Judges may have some questions too.

23 MR. DIXON: Yes, I'm grateful for that indication, Your Honours.

24 PRESIDING JUDGE SMITH: All right. All right.

25 MR. TULLY: And, Your Honour, to be clear, we are not saying no

1 questions whatsoever. It's just in case, if anything pops up, then  
2 we reserve some time. Thank you.

3 PRESIDING JUDGE SMITH: Understood. But we would like to finish  
4 with this witness today and I want everyone to understand that.

5 So we will break at this time. We will be back here at 1.30.  
6 Thank you for the morning so far.

7 We're adjourned until 1.30.

8 --- Recess taken at 10.03 a.m.

9 --- On resuming at 1.30 p.m.

10 PRESIDING JUDGE SMITH: Before we begin the cross-examination of  
11 W04679, we have two oral orders to issue.

12 The Panel recalls that on 11 November 2024, in filing F02706,  
13 the Defence jointly requested leave to appeal the Panel's third oral  
14 order of 31 October 2024, an oral order admitting into evidence  
15 V00008.

16 Having heard the submissions of the parties and participants,  
17 the Panel finds that no good cause has been demonstrated for the late  
18 filing of F02706. The Panel therefore finds that F02706 was filed  
19 outside the time limit stipulated in Rule 77(1), and therefore denies  
20 F02706 for being out of time.

21 This concludes the Panel's first oral order.

22 The Panel will now issue an oral order regarding the release of  
23 presentation queues to Duty Counsel.

24 In filing F02727, the SPO requested that the Panel imposes three  
25 safeguards on Duty Counsel's access to presentation queues. First,

1 that Duty Counsel be provided access to presentation queues no  
2 earlier than the start of their client's testimony; second, that  
3 other than the witness's prior statements and testimony, Duty Counsel  
4 be instructed not to review any documents in a presentation queue  
5 with the witness; and, third, that parties and participants should be  
6 notified of and provided the opportunity to make submissions on any  
7 request by Duty Counsel to vary these safeguards.

8 The Panel heard submissions in response and reply this morning,  
9 as reflected in today's provisional transcript page 3, line 12, to  
10 page 5, line 19.

11 The Defence opposed the request on two grounds. First, the  
12 Defence submits that there is efficiency in allowing Duty Counsel to  
13 see the material in the presentation queue in advance of the  
14 witness's testimony in order for Duty Counsel to be in a position to  
15 properly advise their client. Secondly, or second, to the SPO's  
16 concern regarding the sensitivity and confidentiality of the material  
17 in the presentation queue, the Defence argues that Duty Counsel are  
18 bound by, *inter alia*, the Code of Professional Conduct of Counsel.

19 The SPO replied that early release of presentation queue  
20 material to Duty Counsel will not advance efficiency as issues of  
21 self-incrimination, if they arise, will not arise from the material  
22 itself but rather from the questioning.

23 Having heard the submissions from the parties and the  
24 participants, the Panel is of the view that the Duty Counsel should,  
25 in principle, have access to all material in the Prosecution's

1 presentation queue at least 24 hours in advance of the anticipated  
2 start of testimony of their client. The Panel considers that this  
3 will enable Duty Counsel to review the material and to be in a  
4 position to provide informed and effective advice to their client  
5 with regard to self-incrimination matters. This should also serve to  
6 prevent undue delays during the proceedings.

7 The Panel emphasises that Duty Counsel shall not in any way  
8 discuss or disclose the content of any material received for the  
9 purpose of representing their client with any third person or member  
10 of the public. The Panel also emphasises that Duty Counsel shall not  
11 in any way prepare or coach the witness on the substance of his or  
12 her forthcoming testimony on the basis of the material received.  
13 Duty Counsel has the limited and specific role of advising the  
14 witness on self-incrimination matters that may arise during  
15 testimony.

16 The Panel orders the Registry to inform Duty Counsel  
17 accordingly.

18 In the event that the SPO has specific reasons for any item  
19 contained on its queue not to be shared with Duty Counsel in advance  
20 of the witness's testimony, the SPO shall seize the Panel with a  
21 reasoned request. In the event that Duty Counsel requests a  
22 variation of the above conditions, the Panel will decide on a  
23 case-by-case basis after having heard the views of the parties and  
24 participants.

25 This concludes the Panel's second oral order.

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Cross-examination by Mr. Dixon

1           We now continue with the cross-examination by the Defence,  
2 beginning with the Veseli Defence, then followed by the Thaci  
3 Defence, Selimi Defence, and the Krasniqi Defence.

4           Please bring the witness in.

5           MS. IODICE: Your Honour, if I may.

6           PRESIDING JUDGE SMITH: Just a second.

7           Yes, go ahead.

8           MS. IODICE: With regards to the Panel's request in relation to  
9 the preparation notes of W03873, at the moment we anticipate we'll be  
10 in a position to provide those notes by Thursday, and we'll update  
11 you should that not be possible.

12          PRESIDING JUDGE SMITH: Thank you very much.

13                               [The witness takes the stand]

14          PRESIDING JUDGE SMITH: Witness, we begin now with  
15 cross-examination questions from the Defence lawyers. We begin first  
16 with Mr. Veseli's Defence team. Please give them your attention.  
17 They're on your immediate right.

18          MR. DIXON: Thank you, Your Honours.

19                               Cross-examination by Mr. Dixon:

20          Q.    Good afternoon, Mr. Cocaj. My name is Rodney Dixon. I act for  
21 Mr. Kadri Veseli. I'm going to ask you some questions first.

22                I want to go back, if I may, Mr. Cocaj, to the beginning of the  
23 conflict in March 1998. At that time, you were based in your  
24 village, which is right on the border with Albania in the south-west  
25 of Kosovo, called Gjilan; is that right?

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1 A. That's right.

2 Q. You were a teacher before that?

3 A. Yes, I was the pedagogist of the school.

4 Q. In March 1998 you were one of the first, is this right, in your  
5 village to start organising village defences in light of a number of  
6 massacres that had taken place in other parts of Kosovo, massacres  
7 committed by Serb forces against Kosovar Albanians; is that right?

8 A. That's right. But I was not the first. I'd rather say I was  
9 amongst the first ones.

10 Q. Yes, thank you. You volunteered to assist with others, as you  
11 say, to protect your village in March 1998; is that right?

12 A. In fact, there was no direct conflict or clashes in my village.  
13 However, judging from the developments in other villages in other  
14 parts of Kosovo, we anticipated that we would face similar situations  
15 as they did.

16 Q. Yes. And your village was one village amongst many on the  
17 border in a region known as the Has region or Has region; is that  
18 right?

19 A. Yes. We are in the Has region, and Has is part of Prizren  
20 municipality, Gjakove municipality, and on the border with the  
21 Republic of Albania.

22 Q. Yes. And can I just clarify in terms of the formation that you  
23 had at that time. I'm looking now at March and onwards into April  
24 and May. There was a loose structure which was headed up by  
25 Hajrush Muhadri; is that right? He was regarded as a coordinator in

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Cross-examination by Mr. Dixon

1 your area?

2 A. Yes. As regional commander, Hajrush Muhadri. Not the name that  
3 was mentioned by the interpreter. His name is Hajrush Muhadri. This  
4 is his name.

5 Q. Yes, it might have been my pronunciation. I apologise for that.  
6 So Hajrush Muhadri was the coordinator in your region. And in your  
7 village itself, who was the person who was in charge there?

8 A. In my village, Zenun Cocaj was the person in charge. Now he is  
9 a martyr.

10 THE INTERPRETER: Interpreter's correction: Line 23 should read  
11 "regional coordinator."

12 MR. DIXON: Thank you.

13 Q. And Mr. Zenun Cocaj, he was Mr. Muhadri's maternal uncle; is  
14 that right?

15 A. He was Hajrush's maternal uncle.

16 Q. And it's right, isn't it, that a lot of the organisation at the  
17 time took place along family lines, family and friends who knew each  
18 other well coming together to look to defend their villages?

19 A. That's correct.

20 Q. There was at that time, and I'm talking about March, April, May,  
21 that period, there was no central organisation amongst your villages.  
22 You worked in a fairly isolated fashion village by village.

23 A. Yes. As far as the village is concerned, yes.

24 Q. And, in fact, it was very difficult to get from one village to  
25 the other at that time for safety reasons.

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Cross-examination by Mr. Dixon

1 A. That's correct.

2 Q. And it's right at this time there was no General Staff of the  
3 KLA giving instructions to villages and ordering people in any way  
4 whatsoever.

5 A. That's true. It was not possible for the General Staff to give  
6 instructions for each and every village.

7 Q. And you never received any instructions during this time from  
8 the General Staff or anyone in the General Staff. That's right,  
9 isn't it?

10 A. That's true. We did not have instructions. I didn't know --  
11 or, rather, we didn't know that the General Staff existed at the  
12 time.

13 Q. Yes. Your tasks were mainly just focused on defence and joining  
14 the front lines if you needed to do that; is that right?

15 A. That's right.

16 Q. And in respect of the training that you had, there was no  
17 specific military training at that time. You did the best you could  
18 with the weapons that you were able to muster; is that right?

19 A. We did not have adequate or sufficient military training.

20 Q. Many people did join into your village defences mainly because  
21 they were outraged at what had happened with the massacres in Kosovo;  
22 is that correct?

23 A. That's correct.

24 Q. But they didn't have any particular military training when they  
25 had to take up their duties. Would that be a fair assessment?

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1 A. Yes, correct.

2 Q. Now, I want to move on from that time to the summer of 1998.

3 There were in this time a number of Serb offences in your area along  
4 the border with Albania and in the surrounding areas. Do you recall  
5 that?

6 A. Yes, there were offensives.

7 Q. The border area where you were was, obviously, an important one,  
8 was it not, because that was a place where you were able to get in  
9 weapons from Albania; is that right?

10 A. That's right.

11 Q. Now, you've said in your testimony to the SPO - and this is in  
12 Part 1, page 16 onwards - that during this time with Mr. Muhadri and  
13 others, there were some ups and downs in the organisation. You  
14 recall giving that evidence?

15 MS. IODICE: Could the witness please be shown the relevant  
16 portion.

17 MR. DIXON: Your Honours, I don't think there's any need to do  
18 that. I've given the reference. It's just one line, ups and downs.  
19 I want to ask him what he meant --

20 PRESIDING JUDGE SMITH: It doesn't need to be shown. Go ahead  
21 with your question.

22 MR. DIXON: Thank you, Your Honours.

23 THE WITNESS: [Interpretation] It is true.

24 MR. DIXON:

25 Q. Thank you. You do recall that. I wanted to ask, when you said

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1     there were ups and downs in the organisation, what were you referring  
2     to there?

3     A.    Well, after each offensive, the level of motivation amongst  
4     persons differed depending on their family circumstances. Some  
5     withdrew from the organisation. This is what I meant.

6     Q.    Thank you. It's true, is it not, that Mr. Muhadri who we  
7     referred to, he was one of the persons who withdrew from the  
8     organisation after Serb offensives in September 1998?

9     A.    That's correct.

10    Q.    So you were without a coordinator and without a structure at  
11    that time. This is after the Serb offensives in September 1998. Is  
12    that right?

13    A.    In a way, there was a sort of weakening of the structure.  
14    However, there were other persons who continued the activity. I do  
15    not know specifically for Mr. Muhadri what he did afterwards, what  
16    his work involved afterwards.

17    Q.    Yes. So who were the persons who stepped in then in your  
18    region, the Has region, when he left?

19    A.    Qazim Muhadri, Gasper Karaqi, and others.

20    Q.    And it's right, isn't it, moving forward now in time, so after  
21    the Serb offensives in September 1998, that you decided to get in  
22    contact with Commander Drini of the Pashtrik subzone in order to look  
23    to reorganise yourselves?

24    A.    This is true.

25    Q.    You travelled to see Commander Drini when he returned from

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1 Albania in mid-December 1998. Do you recall that? You travelled to  
2 see him.

3 A. I do, yes.

4 Q. And what was the purpose of that meeting in mid-December 1998?

5 MS. IODICE: Could we have a foundation for the mid-December?

6 MR. DIXON: I've asked the witness if he recalls and he said he  
7 does.

8 PRESIDING JUDGE SMITH: Go ahead. Overruled.

9 THE WITNESS: [Interpretation] I know that we went to meet  
10 somebody from the zone command because we strived for a better  
11 organisation and functioning of the regional staff, 1.000 Hasi, and  
12 our aim was to go from staff -- from the staff to the brigade.

13 MR. DIXON: Yes.

14 Q. And just to clarify, at that time there was no involvement of  
15 the KLA General Staff in any of these discussions or the processes  
16 that you were going through; is that right?

17 A. There was no involvement of the General Staff -- or I don't know  
18 of any involvement of the General Staff in this process.

19 Q. Now, it's correct it was at this time in December, mid-December  
20 is when we're focused on, that Commander Drini asked you to join the  
21 intelligence service at the zone level. Do you recall that?

22 A. This is true. But initially, he requested that I dealt with  
23 logistics simply because I was from the Has region and had the  
24 opportunity to go and ask for financial support from people from Has  
25 who were working abroad. This was the initial request of

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1 Commander Drini addressed to me.

2 Q. And did that happen? Did you take up that role?

3 A. No, I didn't take up that role.

4 Q. It's correct that he suggested other roles to you as well,  
5 taking on logistics; is that right?

6 A. Yes, that's right. This was his initial request.

7 Q. And then you eventually settled on taking up a position in the  
8 intelligence sector of the zone. Is that how it happened?

9 A. This is how it happened. On the request of Commander Drini, he  
10 proposed or suggested that it would be good if I worked in that  
11 sector, and that's why I accepted.

12 Q. And did he say why he thought it would be good for you to work  
13 in that sector?

14 A. Now, I do not know the direct reasons. However, since we  
15 communicated, knew each other through a family member, I guess it was  
16 because of the trust he had in me. However, I do not know the  
17 specific reasons why he wanted me to work in this sector.

18 Q. So is it right that a friend of yours, who you knew, knew a  
19 family member of his, and that was the basis upon which he decided to  
20 ask you to serve in this role? Is that how you remember it?

21 A. My friend knew Commander Drini directly. He was a family of  
22 his. And this is why I think this was the reason for this proposal.

23 Q. Thank you for clarifying that. When you were appointed into  
24 this position, you didn't get any formal document or notification in  
25 writing, did you? It all happened orally.

1 A. I did not have any appointment in written form. It all happened  
2 only orally.

3 Q. And you weren't appointed by anybody other than Commander Drini.  
4 You weren't appointed by anyone in the General Staff, were you?

5 A. No, I wasn't.

6 Q. Can you assist us with who else in the zone was dealing with  
7 intelligence at that time when you were appointed.

8 A. When I was appointed, I did not see anyone or did not have any  
9 appointment to any specific position, like member of the staff or  
10 driver or so forth. Sometime afterwards, Halil Qadraku came and a  
11 person with the last name Kabashi, and after April --

12 THE INTERPRETER: A person with a name that the interpreter did  
13 not get.

14 MR. DIXON:

15 Q. Could you just give us the third person, I think it is, that you  
16 mentioned.

17 A. Peka Gashi.

18 Q. So that's the second person. So there were two other persons,  
19 Mr. Qadraku that you've mentioned, and is it Mrs. Gashi? Is that  
20 right? They were the other two people in the intelligence sector  
21 after you'd been appointed as you explained.

22 A. Yes, Ms. Gashi. She's a female. Ms. Peka Gashi. I apologise.  
23 I do not know her full name. We always referred to her with Peka.  
24 She is a woman, not a man.

25 Q. Yes. And it's right that Mr. Qadraku was the head of the

1 intelligence sector at the zone level, and she was an assistant or  
2 administrator?

3 A. That's right.

4 Q. And you took up your role with them from January 1999; is that  
5 right?

6 A. Well, in fact, I joined earlier, but I did not have any official  
7 appointment to the person in charge or chief within the zone.

8 Q. So you started, is it not right, working for Mr. Qadraku from  
9 January 1999?

10 A. I believe it was January when Mr. Qadraku arrived, but I do not  
11 know exactly.

12 Q. And it's correct, isn't it, that from your knowledge before that  
13 date, before January 1999, that there was no intelligence structure  
14 in the Pashtrik subzone?

15 A. At the level of operational zone, I am not aware that there was  
16 one.

17 Q. You were really, from January 1999, building from scratch at the  
18 operational zone level the intelligence structure; is that right?

19 A. I think yes.

20 Q. Now, at that time, we're talking about January 1999, you had  
21 very limited resources at your disposal to do intelligence work.  
22 Would that be an accurate assessment?

23 A. It would.

24 Q. You didn't have any regulations on how to conduct intelligence  
25 operations.

1 A. We didn't have regulations.

2 Q. You've said already you were a teacher. You had no specific  
3 training in how to undertake intelligence work; is that right?

4 A. That's correct.

5 Q. Your main responsibility at that time, and then in the months  
6 going forward, was to gather as much information as you could about  
7 Serb positions, their forces, and where they might attack. Is that  
8 how it happened at that time?

9 A. Yes.

10 Q. And when you got that information, would you be passing it on to  
11 your superior, Mr. Qadraku?

12 A. Yes, if Mr. Qadraku was there. Otherwise, it followed the  
13 hierarchy: The chief of staff, chief of zone, and then the deputy  
14 commander, and the zone commander. This was the line we followed to  
15 report information.

16 Q. Yes. So if you couldn't report to Mr. Qadraku, who would you  
17 report information to that you had gathered?

18 A. Mostly we focused at the zone commander if he was available. If  
19 not, we followed the hierarchy: Deputy commander, chief of staff,  
20 chief of the operational matters. This is how they were referred to.  
21 These were the people in charge of making the plans, determining the  
22 specifics of Serbian forces' movements and so on and so forth.

23 Q. And how did you convey that information, in writing, orally,  
24 both?

25 A. Mostly orally but also in writing. We were asked to write down

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1 specific information as to the movements so that the operational  
2 sector of the zone command had the relevant precise information.

3 Q. And were you writing that down by hand?

4 A. Yes.

5 Q. What about communications? How could you communicate with one  
6 another? Was it being done face-to-face, by radio?

7 A. Both ways. Mostly through radio. Those who were not too  
8 distant, were in the same territory, this could be done in person.  
9 Also, information gathered on the ground could also be reported to  
10 commanders in the nearby territory in person.

11 Q. And you were getting this information about Serb positions from  
12 those on the ground, in the battalions, those who were fighting on  
13 the front line; is that right?

14 A. The information could come from many persons, but in particular  
15 from tactical operational units on the ground, so people who were in  
16 charge of surveilling the Serb positions, movements, their forces or  
17 weaponry. This does not mean that it had to be a battalion  
18 commander. It could be a member or a leader of a unit or a platoon.

19 Q. And at this time, Mr. Cocaj, you were also fighting on the front  
20 line yourself. That was taking up, was it not, a substantial part of  
21 your daily life?

22 A. Yes. My primary task was to be a soldier. And as a matter of  
23 fact, everybody was a soldier including the zone commander. So  
24 during the offensives, the fightings, from 5.00 in the morning, which  
25 was the usual time the Serbs would launch an attack, we would be on

1 the front line. So my primary task was that of a soldier.

2 Q. And gathering intelligence was really a supplementary task,  
3 wasn't it?

4 A. That's correct.

5 Q. Now, you've described for us how you gathered information, how  
6 you made reports of it. It's correct that you never ever provided  
7 any of those reports directly to the General Staff of the KLA.  
8 That's right, isn't it?

9 A. I did not have any opportunity to convey this information to the  
10 General Staff, nor was it my task or duty to do that.

11 Q. And your superior, Mr. Qadraku, wasn't passing information  
12 directly, as far as you know, to the General Staff, was he?

13 A. He did not have the opportunity either to convey this directly.  
14 This would have required a person to travel on foot for several  
15 kilometres through mountainous areas and through areas where Serb  
16 forces were there to do that. So this was virtually impossible.

17 Besides, the General Staff was not particularly interested to  
18 know about small Serb forces' presence or movements.

19 Q. So as far as you know, none of these reports were passed on  
20 directly by you or others in the intelligence group to the  
21 General Staff. That's right, isn't it?

22 A. That's right.

23 Q. So it's correct, then, that that information that you gathered  
24 was not passed directly by you to Mr. Kadri Veseli in the  
25 General Staff, was it?

Witness: Nezir Cocaj (Open Session)

Page 22317

Cross-examination by Mr. Dixon

1 A. I met with Mr. Kadri Veseli on three occasions, but we never  
2 discussed these matters or issues. I do not know who met with him  
3 and when would that person have had the need to meet with him. I  
4 personally didn't.

5 Q. Yes. You met with him only for the first time at the end of  
6 March 1999; is that right?

7 A. Correct. I do not recall the exact date, but it was after the  
8 beginning of the shelling from Serbian forces in -- NATO bombing in  
9 March. So this was during this time period.

10 Q. So just to clarify, that's after the start of the NATO bombing  
11 was the first time that you met with him or had any contact with him.

12 A. Yes. After 24 March. The NATO-led force started the bombing  
13 the Serb positions on 24 March.

14 Q. Thank you. I wanted to ask you about the role of the  
15 intelligence sector in identifying collaborators. It's correct, is  
16 it not, that you never had a case concerning a collaborator that you  
17 had to deal with in your role in the subzone?

18 A. That is correct.

19 Q. You assumed, is it not right, that this was something that, in  
20 theory, intelligence would look at; but in practice, you never ever  
21 were involved in gathering any information about persons who might  
22 have been giving information to the enemy?

23 A. That's correct.

24 Q. And you were never told by your boss, Mr. Qadraku, to go out and  
25 collect information on so-called collaborators; is that right?

Witness: Nezir Cocaj (Open Session)

Page 22318

Cross-examination by Mr. Dixon

1 A. That's right. He never told me so.

2 Q. And nor did Commander Drini tell you to do that. That's right?

3 A. Correct. He never asked me to do that.

4 Q. What about working with the military police in your zone to  
5 collect information about crimes that were being committed? Was that  
6 something that you ever took up?

7 A. Never.

8 Q. Did you work with the military police in any way during your  
9 time in the intelligence sector?

10 A. No.

11 Q. Did they assist in transporting you anywhere or helping you  
12 fulfil your functions in any way?

13 A. No.

14 MR. DIXON: I want to call up one exhibit for you to have a look  
15 at, please, Mr. Cocaj, and that's P500 in English and Albanian.

16 Q. Yes. You will see on the left-hand side there the Albanian  
17 version of this document, which is headed "Statement." You were  
18 shown this by the SPO, you may recall.

19 A. Yes.

20 Q. You had never seen this document before it was shown to you, is  
21 that right, shown to you by the SPO?

22 A. That's right.

23 MR. DIXON: And if we could go on to the second page to the end,  
24 I just wanted -- another page over, please, on the English.

25 Q. You'll see there at the end it's a document signed by your boss,

Witness: Nezir Cocaj (Open Session)

Page 22319

Cross-examination by Mr. Dixon

1 Mr. Qadraku. You see that?

2 A. Yes.

3 Q. I don't know if you recognise the signature?

4 A. I don't know. I'm not sure if that is the signature of  
5 Mr. Qadraku.

6 Q. Yes. You say you haven't seen this document before, but was  
7 this issue that Mr. Qadraku is raising here or the issues raised here  
8 ever discussed with you at the time? Do you recall?

9 A. I do not recall it.

10 Q. Well, let's put it this way: Do you remember Commander Remi  
11 ever having any issues with -- sorry, Commander Drini. I apologise  
12 for that. Commander Drini ever having any issues with your sector,  
13 the intelligence sector in your zone? Any disputes?

14 A. I don't believe there was any disagreement or problem in our  
15 sector.

16 Q. And you got on well with Commander Drini, is that right, from  
17 your dealings with him?

18 A. I think so.

19 Q. Sorry, I didn't hear your answer. "I think so." Thank you.

20 A. I think so.

21 Q. And can I just draw your attention to -- on the left-hand side  
22 of the document, there's one, two -- three numbers there of places  
23 where it says "done in triplicate" and then it's got these three  
24 listed below it. Do you see that part of the document?

25 A. Yes.

Witness: Nezir Cocaj (Open Session)

Page 22320

Cross-examination by Mr. Dixon

1 Q. And it says there, number 2:

2 "General Staff."

3 And then number 3 under that:

4 "SHIK at the General Staff."

5 From your recollection at the time, was there any SHIK at the  
6 General Staff?

7 A. I don't believe there was a SHIK at that time. There was the  
8 ZKZ but not SHIK.

9 Q. So when you refer to SHIK, do you mean the organisation that you  
10 joined much later in 2001 which was the civilian national  
11 intelligence?

12 A. Yes, I think so, because there was no SHIK at the time. At  
13 least I was not aware of the existence of any SHIK at that time, and  
14 it is not possible for a SHIK to have existed at that time.

15 Q. Is it right that the first time that SHIK, which is the civilian  
16 national intelligence, came into existence was after the date of this  
17 statement, which was in April 1999?

18 A. Could you please repeat the question?

19 Q. Yes, I'm trying to establish some dates here as far as you can  
20 recollect. Is it right that SHIK, the civilian national  
21 intelligence, came into existence after the date of this document,  
22 this statement, and that was in April 1999?

23 A. I am not aware that there was a SHIK at the time. I don't know  
24 when it was established. There was no functioning SHIK. We were  
25 ZKZ, military intelligence and counter-intelligence.

1 Q. So just to be clear then, in March 1999, which is when this  
2 statement is dated, there was no SHIK in existence then; is that  
3 right?

4 MS. IODICE: Objection, asked and answered.

5 MR. DIXON: I just want to clarify the dates because there was  
6 some confusion in the answer.

7 PRESIDING JUDGE SMITH: Just for the last time, yes.

8 Go ahead, you may answer.

9 THE WITNESS: [Interpretation] I am not sure. I do not know  
10 exactly. I wouldn't know what to say.

11 MR. DIXON: Well, perhaps, if I may, I'll call up another  
12 document, which is 1D70, Witness, for you to have a look at to see if  
13 this is a document you have seen before or know of the circumstances.

14 Q. This is a communiqué, you'll see on the left-hand side there in  
15 Albanian, from the Government of Kosovo. This is the provisional  
16 government. And it's dated 2 April 1999. It's a public communiqué.  
17 Do you recall seeing this document at any time?

18 A. I saw this document in the media after the war, not during the  
19 war.

20 Q. Yes. And were you aware that in April 1999, the provisional  
21 government had been appointed with a minister and ministry of Kosovo  
22 intelligence service? Were you aware that that had happened in that  
23 time, April 1999?

24 A. We had our KLA radio where I heard this, but I did not see the  
25 actual document.

Witness: Nezir Cocaj (Open Session)

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Cross-examination by Mr. Dixon

1 Q. So you remember hearing that in April 1999?

2 A. Correct.

3 Q. Sir, I just want to ask you about some evidence that you gave in  
4 chief, and this is my final topic, about a Mr. Ferhat Shala. You  
5 recall being asked by the SPO about this this morning?

6 A. Yes. The interpreter is not pronouncing the name correctly.  
7 It's Ferhat Shala.

8 Q. Once again, that might have been my pronunciation problem.  
9 Ferhat Shala. You were asked about him in relation to you joining  
10 SHIK, this is the national intelligence body, in 2001. Do you  
11 remember that?

12 A. Yes.

13 Q. And do you recall, sir, that you joining SHIK was a matter that  
14 was raised with you by a good friend of yours, Mr. Skender Sallauka  
15 who you had gone to school with and university with? Do you remember  
16 that?

17 A. Skender Sallauka is a friend of mine. However, we did not  
18 discuss the matter of joining SHIK. I had a direct conversation  
19 about my joining with Mr. Ferhat Shala.

20 Q. And was this a matter that you discussed with your friend, do  
21 you recall, Mr. Skender Sallauka?

22 A. I do not know if we discussed this with him. I do not recall  
23 it.

24 Q. Very well. And when you had the discussion with Mr. Shala, this  
25 was in 2001, did you express an immediate interest in wanting to join

Witness: Nezir Cocaj (Open Session)

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Cross-examination by Mr. Dixon

1 SHIK at that time?

2 A. No, I did not express an immediate interest or readiness. But  
3 following several meetings, I agreed.

4 Q. So you took some time to decide whether you were going to join  
5 up; is that right?

6 A. I had health-related family problems, so my priority was my  
7 family and then other commitments.

8 Q. And it's right that you did not know if Mr. Shala had been  
9 involved in the intelligence sector during the war?

10 A. I did not know. I don't know.

11 Q. You had never had any dealings with him in your role as  
12 intelligence during the war, had you?

13 A. No, I hadn't.

14 Q. You never ever got any orders or instructions from him during  
15 the war?

16 A. That's correct.

17 Q. And it's right, isn't it, that Mr. Veseli, as far as you know,  
18 did not have any deputies working for him during the war?

19 A. I do not know that he had any. I never heard of any.

20 Q. So you never heard of anyone, no one ever talked about him  
21 having a deputy as far as you can recall?

22 A. Correct.

23 Q. Thank you, Mr. Cocaj. Those are my questions.

24 MR. DIXON: Thank you, Your Honours.

25 PRESIDING JUDGE SMITH: Thank you.

1 Ms. Tavakoli, any questions?

2 MS. TAVAKOLI: No, thank you.

3 MR. TULLY: No questions, Your Honour.

4 PRESIDING JUDGE SMITH: Mr. Ellis?

5 MR. ELLIS: No, thank you, Your Honour. That's covered my  
6 questions.

7 [Trial Panel confers]

8 PRESIDING JUDGE SMITH: We'll take a 15-minute break before we  
9 move on.

10 The witness will be excused from the room for 15 minutes.

11 [The witness stands down]

12 PRESIDING JUDGE SMITH: We will endeavour to finish after the  
13 break. So thank you, Mr. Dixon, for getting through this in record  
14 time.

15 We will take a 15-minute break now and then be back in the  
16 courtroom. So we're adjourned for 15 minutes.

17 --- Break taken at 2.27 p.m.

18 --- On resuming at 2.44 p.m.

19 PRESIDING JUDGE SMITH: Before bringing the witness in,  
20 Judge Barthe had a question for the Veseli Defence.

21 JUDGE BARTHE: That's right. Thank you very much, Judge Smith.  
22 I have a question for you, Mr. Dixon.

23 MR. DIXON: Yes.

24 JUDGE BARTHE: In relation to one of the issues you just  
25 addressed in your cross-examination of Mr. Cocaj, and it was also

1 addressed by your colleagues before, the use of the terms "SHIK" in  
2 the letter of 14 March 1999 and the difference between the terms  
3 "SHIK" and "ZKZ" seem to be of importance of you, and I would like to  
4 ask you on behalf of the Panel what your case is in this regard.

5 Are you saying that the letter of 14 March 1999 was not written  
6 or signed by the people who are apparently the authors of the letter,  
7 Mr. Halitjaha and Mr. Qadraku, or that it was fake because there was  
8 no SHIK in March 1999?

9 MR. DIXON: Thank you, Your Honour. That is the subject of the  
10 next witness who is coming, so if I may not pre-empt where we're  
11 going to go there, because that witness will be the person who will  
12 be asked directly about the document. I was simply, with this  
13 witness, looking to explore what his understanding was at the time,  
14 and then looking at the other related documents from April.

15 So I'm not trying to get around answering the question. I just  
16 don't want to go into it until we've heard what the Prosecution say  
17 about this document with the next witness, and then I'll ask my  
18 questions and readily address these issues because it is an important  
19 issue in the case, obviously.

20 JUDGE BARTHE: I understand. So, in other words, you will  
21 enlighten us next week --

22 MR. DIXON: Yes, indeed. As --

23 JUDGE BARTHE: -- with the next witness.

24 MR. DIXON: -- it progresses step by step, certainly do so.

25 JUDGE BARTHE: That should suffice. Thank you.

Witness: Nezir Cocaj (Open Session)

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Questioned by the Trial Panel

1 MR. DIXON: Thank you.

2 PRESIDING JUDGE SMITH: Please bring the witness in.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Any redirect?

6 MS. IODICE: No, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 JUDGE BARTHE: Just a second. It's already my turn.

9 Questioned by the Trial Panel:

10 JUDGE BARTHE: Good afternoon, Mr. Cocaj. The Panel has a few  
11 more questions for you which we believe are necessary to better  
12 understand your evidence. And my first question is a general one.  
13 Could you please describe the situation in Prizren and the  
14 surrounding area in the summer of 1999 after the Serbian forces had  
15 left.

16 A. Well, this is a general question, and the situation was suitable  
17 to the time, a country that had just been liberated. It was  
18 impossible to have a good organisation. Soldiers had problems,  
19 family problems, existential problems. We tried more or less to go  
20 to buildings where we were supposed to carry our duties as soldiers.  
21 I do not know what to add more than that I just said. It was a  
22 situation of a country that just had come out of a war.

23 JUDGE BARTHE: How was the security situation? Were there still  
24 fights, combat ongoing, or -- in June 1999?

25 A. Following 12 June, there was no conflict because the Serb forces

Witness: Nezir Cocaj (Open Session)

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1 left Kosovo up until 18 June. But in Prizren proper, from 13th or  
2 14th June, there was no longer a Serb forces presence. We then have  
3 the arrival of KFOR forces, and the executive powers were taken over  
4 more or less in their entirety by the German KFOR. And I am speaking  
5 about the Prizren area.

6 JUDGE BARTHE: I understand. Mr. Cocaj, we heard from witnesses  
7 who were involved in the takeover of Prizren as KFOR or German KFOR  
8 soldiers that the KLA had set up checkpoints or roadblocks; is that  
9 correct?

10 A. I don't think this is correct.

11 JUDGE BARTHE: So you haven't seen any checkpoints or roadblocks  
12 set up by the KLA?

13 A. No, never.

14 JUDGE BARTHE: And you didn't have to pass a roadblock, a  
15 checkpoint, for example, when you drove to the former MUP building?

16 A. No, never.

17 JUDGE BARTHE: Thank you. And we also heard from one witness,  
18 and this is also the Prosecution's case, that the KLA tried to  
19 establish control at border crossings. Have you heard of that, or  
20 have you seen anything like that?

21 A. This was impossible.

22 JUDGE BARTHE: Maybe to give you more details about that, one  
23 witness told us - for the record, this is at page 15696 of the  
24 transcript - that he saw the first KLA checkpoints at the Morina  
25 border crossing to Albania on 13 and 14 June 1999, where the KLA

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1 basically, as the witness said, took over the border crossing  
2 immediately after the withdrawal of the Serbian forces.

3 So you cannot confirm this?

4 A. The German KFOR settled on 12 June in Morina border crossing and  
5 did not allow the Albanian flag to fly. And based on the agreement,  
6 it was the German KFOR to provide security. So there was no other  
7 force that would be able to erect checkpoints or roadblocks in border  
8 areas, especially in areas under German KFOR. In other words, the  
9 German KFOR was very strict. You've seen probably in the media that  
10 they engaged in confrontation with the Serb forces that opposed to  
11 the arrival of German KFOR.

12 JUDGE BARTHE: So you cannot help us or you cannot explain to us  
13 the reasons, assuming that there were such checkpoints -- and as I  
14 said before, the witness was, in fact, a German KFOR soldier. You  
15 cannot explain to us what the reasons for these checkpoints were,  
16 assuming that there were checkpoints established or set up by the  
17 KLA?

18 A. To be more clear, I did not see or hear that following the  
19 liberation of Kosovo there were KLA roadblocks, particularly when it  
20 was under the competence of the German KFOR. As I mentioned, there  
21 were two Serbian soldiers who had been killed for refusing to carry  
22 out an order issued by German KFOR, and this was in the media.

23 JUDGE BARTHE: Thank you. Now I would like to talk about the  
24 events at the former MUP building in mid-June 1999.

25 And, Madam Court Officer, can we please go into private session

Witness: Nezir Cocaj (Private Session)

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Questioned by the Trial Panel

1 for the protection of witnesses.

2 [Private session]

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Witness: Nezir Cocaj (Private Session)

Page 22330

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22331

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22332

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22333

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22334

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22335

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22336

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)

Page 22337

Questioned by the Trial Panel

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Witness: Nezir Cocaj (Private Session)  
Questioned by the Trial Panel

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we are now in public session.

11 JUDGE METTRAUX: Thank you. And thank you to the Prosecutor for  
12 reminding me.

13 Now, Witness, Ferhat Shala has suggested that Kadri Veseli asked  
14 him to help set up this intelligence and counter-intelligence  
15 structure in the autumn of 1998. Now, do you have any reason to  
16 dispute such a suggestion?

17 A. No. You mentioned autumn 1998. However, what I stated is 2001.  
18 Meaning, the meeting with Ferhat Shala occurred after the war in  
19 2001.

20 JUDGE METTRAUX: I'll come to the meeting in a moment. But  
21 Mr. Ferhat Shala also said that he started performing this task of  
22 assisting Mr. Veseli setting up an intelligence and  
23 counter-intelligence structure in January 1999. Again, do you have  
24 any reason to dispute that claim?

25 A. I do not know what Mr. Ferhat Shala has stated. Referring to

Witness: Nezir Cocaj (Open Session)

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Questioned by the Trial Panel

1 January 1999, I wouldn't know. He may know. I am talking about the  
2 meeting I had with Mr. Shala after the war in 2001. I do not know  
3 what his powers were with respect to the ZKZ, which was called as  
4 such in January 1999. So this had nothing to do with SHIK. I do not  
5 know how he presented or how he stated this.

6 JUDGE METTRAUX: Now, about your meeting in 2001 with Ferat  
7 Shala, can you tell us what position or role he was holding at the  
8 time?

9 A. He did not share this information, and I had no means to know  
10 his role.

11 JUDGE METTRAUX: Can you confirm he was working for Mr. Veseli  
12 at the time within the organisation that Mr. Veseli was heading,  
13 SHIK?

14 A. I believe he did, yes.

15 JUDGE METTRAUX: And I think you referred to a nickname that he  
16 used at the time, Pellumbi. Now, after the Pellumbi unit was folded  
17 down, do you know what function Mr. Ferhat Shala went on to perform  
18 once he had ceased to be a member or the head of that unit?

19 A. I don't know.

20 JUDGE METTRAUX: Do you know of him exercising any function  
21 other than an intelligence function?

22 A. I don't know.

23 JUDGE METTRAUX: If we can go into private session for the  
24 protection of a witness, please.

25 ~~[Private session]~~[Open Session]Reclassified pursuant  
to Oral Order of 25 November 2024

Witness: Nezir Cocaj (~~Private Session~~) (Open Session) Reclassified pursuant to Oral Order of 25 November 2024 Page 22340

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1 THE COURT OFFICER: Your Honours, we are now in private session.

2 JUDGE METTRAUX: Thank you.

3 I want to ask you about something you said about Halil Qadraku.  
4 And for the record, this is Exhibit P1835, that is your preparation  
5 note of last week, and the reference is at page 7, paragraph 28 of  
6 the record of your meeting with the Prosecutor last week.

7 You are recorded as saying the following, and I will then ask  
8 you a few questions. You are recorded as saying:

9 "Halil Cadraku and [yourself] had similar tasks. [You] never  
10 attended meetings at zone level with Halil Cadraku and Cadraku never  
11 informed [you] about anything specific from the meetings unless it  
12 was a task at [your] level. Cadraku never told [you] about what he  
13 reported and to whom because that was above [your] level."

14 Now, do you recall saying this and is it an accurate record of  
15 what you said?

16 A. That's very correct.

17 JUDGE METTRAUX: Now, did Halil Qadraku ever share information  
18 which was collected in the exercise of his responsibilities?

19 A. No.

20 JUDGE METTRAUX: Now, to your knowledge, do you know whether he  
21 shared any of that information with Drini, Commander Drini?

22 A. I do not know the content of the discussions in the meetings of  
23 the zone command level. I am not able to say anything in that  
24 regard.

25 JUDGE METTRAUX: And when you say that he never told you what he

Questioned by the Trial Panel

1 reported and to whom because this was above your level, what do you  
2 mean by that?

3 A. He most probably didn't see it reasonable to tell me or inform  
4 me or share information with me. I don't think there was anything  
5 else in particular that he would have shared with me apart from  
6 war-related matters that were then conveyed through the hierarchical  
7 lane.

8 JUDGE METTRAUX: But that's my question. If you are doing, in  
9 effect, or you are supposed to do the same thing, wouldn't it be  
10 logical to share the information to be sure that you have all  
11 relevant information, that it's corroborated, and that everything is  
12 available in one place? Wouldn't you expect that?

13 A. This was general information which I discussed not only with  
14 Halil Qadraku but also with other officers - the positions, the  
15 intelligence from the ground regarding Serb forces movements, and  
16 possibilities or odds for them to attack. So we would discuss this  
17 with the chief of the operations or the chief of staff. And, if  
18 required, the deputy commander or the commander of the zone in  
19 particular called because they could at any time ask for updated  
20 information, intelligence as to the new movements of these forces.

21 JUDGE METTRAUX: And what about information on  
22 counter-intelligence, the so-called collaborators? Was that also the  
23 sort of information that you and Mr. Qadraku were exchanging and  
24 discussing?

25 A. There was no such case nor did we know of any case of a person

Witness: Nezir Cocaj (~~Private Session~~) (Open Session) *Reclassified pursuant to* Page 22342  
*Oral Order of 25 November 2024*

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1 infiltrating from other services, so I did not discuss this matter.  
2 I did not have the case. Had there been any such case, then it would  
3 have probably been discussed with me. But we did not have such a  
4 case.

5 JUDGE METTRAUX: So just so that I'm clear, as an intelligence  
6 officer in the zone, you never came in possession of information  
7 pertaining to collaborators within that zone. Do I understand that  
8 correctly?

9 A. Correct.

10 JUDGE METTRAUX: Thank you.

11 We can go back into public session.

12 MR. DIXON: Your Honour, could I ask, while we're switching over  
13 topics, what the basis was for that being in --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. DIXON: Well, maybe it's safer, because I just wanted to  
16 understand --

17 PRESIDING JUDGE SMITH: Just wait. The witness will be excused.

18 [The witness stands down]

19 PRESIDING JUDGE SMITH: Go ahead.

20 MR. DIXON: Thank you, Your Honours. I didn't want to interrupt  
21 as the questions were ongoing, because we were remaining in private  
22 session throughout, but I wanted to establish what was the reason for  
23 going into private session when -- as the questions were coming,  
24 maybe there was a witness or a matter that was private, but that  
25 didn't arise. So I wanted to know what the basis for this being in

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1 private was and whether that should be reviewed and made public.

2 JUDGE METTRAUX: Maybe I can address that, Mr. Dixon.

3 MR. DIXON: Yes.

4 JUDGE METTRAUX: The answer to your suggestion is yes, it was  
5 only done to preserve the possibility for the witness in question to  
6 seek protective measures, if and when. If that's not the case, I  
7 would agree with you that this could be revisited and made public, if  
8 that's your suggestion.

9 MR. DIXON: Yes, that's what I wanted to ask, if there was a  
10 particular reason for protective measures. But if not, then that  
11 could be reviewed at that time and made public. Thank you.

12 JUDGE METTRAUX: Thank you, Mr. Dixon.

13 PRESIDING JUDGE SMITH: Please bring the witness back in.  
14 Go into public session if we're not.

15 [The witness takes the stand]

16 [~~Open session~~]

17 JUDGE METTRAUX: And thank you, Witness. Those were my  
18 questions. Thank you.

19 PRESIDING JUDGE SMITH: Judge Gaynor.

20 JUDGE GAYNOR: Thank you, Judge Smith.

21 THE COURT OFFICER: Your Honours, we are now in public session.

22 JUDGE GAYNOR: Good afternoon, Mr. Witness. In your interview  
23 with the SPO in January 2021, this is page 5 of Part 4, you were  
24 asked:

25 "Amongst your tasks as a member of the ZKZ ... did you also

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1 conduct interviews with either civilians or soldiers to find out  
2 information that would be relevant to your job?"

3 Your answer was:

4 "Surely, yes. Of course, yes."

5 Do you remember providing that answer?

6 A. I don't believe I did. We never -- we were not involved in any  
7 interviews with civilians or other officials.

8 JUDGE GAYNOR: At page 13 of Part 4 of your interview, you said:

9 "If someone would hang out with a Serb, the intention was to get  
10 a passport quickly, to get the document quickly. In terms of find  
11 out a collaborator, in intelligence it has to be evidenced."

12 Do you remember providing that answer?

13 A. I might have said so. I do not recall the details. However, I  
14 can give explanations or clarify this. That person -- a person who  
15 spent time or frequented a simple policeman in order to obtain a  
16 document in a faster way, that was not a collaborator. He would be  
17 in touch with that policeman only for a personal reason, to get an  
18 ID. At that time, an ordinary person in Kosovo had to struggle to  
19 survive and provide for their families. And in order to travel to  
20 the western countries, one needed a passport. That doesn't make that  
21 person a collaborator of the Serbian regime.

22 JUDGE GAYNOR: What kind of evidence would you need to have seen  
23 in order to make you conclude that a person was a collaborator?

24 A. If they were in possession of documents proving a recruitment,  
25 collaboration, direct involvement with the Serbian police.

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1 JUDGE GAYNOR: I want to ask you a question which you were asked  
2 in that interview, but your answer was not very clear to me, and that  
3 is the difference between intelligence and counter-intelligence.  
4 Could you explain to the Court the difference between those two.

5 A. I did not deal with this matter. However, the notion of  
6 intelligence and counter-intelligence would be the Serb informants  
7 having infiltrated the KLA ranks or a specific environment. This  
8 would have been the main focus of the counter-intelligence. So to  
9 uncover potential infiltrators within the KLA ranks. This is how I  
10 understood it at least.

11 JUDGE GAYNOR: And what about suspected collaborators within the  
12 Albanian civilian population? Would you consider information about  
13 that to be intelligence or counter-intelligence?

14 A. I view it as counter-intelligence. But as I said, I did not  
15 have a professional background or education to deal with these  
16 matters. I dealt with them by default because it had to be done, not  
17 because I was a professional of that field. This is the reason why,  
18 from a professional viewpoint, there were many matters which we did  
19 not understand and nor were we able to deal with.

20 JUDGE GAYNOR: Did you ever receive information suggesting that  
21 foresters were passing information to the Serb forces about the  
22 location of KLA positions?

23 A. No, I did not have or hear of any such information.

24 JUDGE GAYNOR: Did you consider that there was a significant  
25 risk that within the KLA there were persons passing information to

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1 the Serb forces?

2 A. It would certainly be a risk if somebody was providing Serbs  
3 with information about our organisation. This would have been  
4 inappropriate and dangerous information.

5 JUDGE GAYNOR: And what did you do as an officer who had  
6 specific responsibilities in intelligence and counter-intelligence to  
7 deal with that risk?

8 A. As I said, I did not undertake anything because I was not  
9 prepared, trained, and I did not deal with this. I dealt exclusively  
10 with the Serb forces' positioning. I did not deal with individuals  
11 that would fall within this category.

12 JUDGE GAYNOR: And were there other ZKZ officers within the  
13 Pashtrik zone who were addressing the risk of there being  
14 collaborators within the ranks of the KLA?

15 A. I -- for what I know, it was Xhavit Bajraktari. However, he was  
16 not professionally trained either to deal with these matters.

17 JUDGE GAYNOR: And what do you mean by that?

18 A. I must say that it is difficult to professionally deal with a  
19 person who's highly trained and formed by the Serbian services. You  
20 wouldn't be of any use if you're not trained to deal with that.

21 JUDGE GAYNOR: Those are my questions. Thank you.

22 PRESIDING JUDGE SMITH: Madam Prosecutor, any follow-up  
23 questions to the Judges' questions?

24 MS. IODICE: Your Honour, just one very short question.

25 Re-examination by Ms. Iodice:

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Re-examination by Ms. Iodice

1 Q. Mr. Cocaj, when Judge Barthe asked you questions about  
2 checkpoints at the Morina border, you said that it was impossible. I  
3 would like to know whether you were at the Morina border crossing  
4 between Kosovo and Albania on the 12th or 13th or 14th June 1999?

5 A. I don't recall being there. However, I would have heard from  
6 somebody if there had been any roadblocks or something similar.

7 Q. Did you hear or did you talk to anyone about this issue? Do you  
8 remember?

9 A. I did not hear.

10 Q. Thank you.

11 MS. IODICE: No further questions.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. DIXON: Yes. Your Honours, I would ask to have just one  
14 matter clarified before I ask questions, if I do have any, and that's  
15 in relation to Judge Mettraux's questions about Ferhat Shala. There  
16 were certain suggestions put that he had said certain things, and I  
17 wanted to ask what was the basis for that. Is there a particular  
18 statement or evidence being referred to? That might well then affect  
19 the questions that I have to ask.

20 And I would also then, once I have that information, ask for a  
21 short five-minute break. I'm not going to be very long if I do ask  
22 any questions, but there is one answer that I do have to check that  
23 may arise from this.

24 JUDGE METTRAUX: I can assist again. You're in luck today,  
25 Mr. Dixon. The ERN you will want to look at is 077937-TR-ET, and

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1 there's various parts, but I'll give you those I have at hand,  
2 including Part 1, page 21 and following; Part 2, page 1 and  
3 following, page 9 and following, and page 20.

4 I hope it assists.

5 MR. DIXON: Yes, thank you, Your Honour. It indeed does assist  
6 because I was wanting to understand if that was a statement from him,  
7 which I understand this refers to. But that statement, as I  
8 understand it, is not in evidence presently. It was disclosed under  
9 Rule 103 as an exculpatory material. So I just wanted to know what  
10 the basis of using that was when it's not material that's in  
11 evidence.

12 Of course, I can, nevertheless, refer to it, but we need to know  
13 what the status of that material is in order to be able to then use  
14 it in any questioning.

15 JUDGE METTRAUX: Well, I think you just said it, Mr. Dixon.

16 MR. DIXON: So as I understand it, that's the only basis for the  
17 statement that's not in evidence which is the basis for asking the  
18 question.

19 JUDGE METTRAUX: Yes.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. DIXON: Yes. In light of that, Your Honours, and I will  
22 certainly be finished in time to ensure the witness can be released  
23 today.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. DIXON: I'll leave that to them. Thank you.

1           PRESIDING JUDGE SMITH: We will take a five-minute break as  
2 requested.

3           Witness, you can step out of the courtroom for five minutes.

4                           [The witness stands down]

5           PRESIDING JUDGE SMITH: We're adjourned for five minutes.

6                           --- Break taken at 3.40 p.m.

7                           --- On resuming at 3.50 p.m.

8           PRESIDING JUDGE SMITH: Please bring the witness in.

9           MR. DIXON: Your Honour, before that's done, thank you for the  
10 time. I was wanting additional time just to obtain a copy of an oral  
11 order that was made by Your Honours on 5 June 2024 regarding notice  
12 from the Judges if material is going to be used that was disclosed to  
13 the Defence pursuant to Rule 103.

14           There was an order made by Your Honours saying that we have to  
15 get notice as the Defence if such material is going to be used. That  
16 was done by Judge Mettraux today with the statement that was  
17 disclosed to us from Mr. Shala. We didn't receive any notice. And  
18 that's why I was asking the question about what the basis of it was,  
19 because there has been a breach of the Court's own order here, and  
20 that's why I wanted to raise this to say that those questions that  
21 were put and the answers shouldn't be considered by Your Honours.

22           I know you can't strike from the record. But in light of the  
23 breach of the order, that should be noted, and that should be on the  
24 record as material that cannot be used because of the breach of this  
25 order. It's the order 5 June 2024. I have a copy. I needed the

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1 time to obtain it.

2 [Trial Panel confers]

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: A few more questions, Witness.

6 Mr. Dixon.

7 MR. DIXON: Thank you, Your Honours.

8 Further Cross-examination by Mr. Dixon:

9 Q. Sir, I only have a few questions arising. Thank you for  
10 answering those.

11 The first is in relation to a question that was asked by  
12 Judge Gaynor where you mentioned the name of Mr. Bajraktari being in  
13 the intelligence sector of the zone. Do you recall that?

14 A. Yes.

15 Q. I wanted to clarify. It's right, isn't it, that Mr. Bajraktari  
16 was only in the intelligence sector for a very short time. He joined  
17 you at the end of April 1999 and then was subsequently killed in the  
18 conflict on 2 May 1999; is that right?

19 A. That's right.

20 Q. So in that short time that he was there, it's right that you  
21 didn't have any interaction with him or knew what tasks he was  
22 performing?

23 A. That's correct. I did not know his specific tasks. We are  
24 talking about a person who did not have any professional training.

25 Q. Yes, thank you. I also wanted to ask you some questions about

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1 Mr. Qadraku in light of the questions that were posed to you by  
2 Judge Mettraux.

3 It's correct, isn't it, that you spent a substantial amount of  
4 time with Mr. Qadraku after you were appointed and worked with him  
5 from January 1999?

6 A. That's correct.

7 Q. You didn't share the same office, but it's right, isn't it, that  
8 you attended at his office where he was on a number of occasions.

9 A. We were a sole organ or organisation, but there weren't that  
10 many issues involving the ZKZ that would have led us to spend long  
11 hours together in the same office.

12 Q. But you did discuss with him, when you were at his office, the  
13 work that you were doing on gathering information about Serb  
14 positions; isn't that right?

15 A. Yes.

16 Q. And he shared information with you about what he had obtained in  
17 his position?

18 A. With respect to positions, we would usually exchange information  
19 we had noted down, both. So if I was in the office, I received  
20 information, noted it down, and -- in order for Mr. Qadraku to do  
21 then the same thing when I was not in the office.

22 Q. And just to be clear, when that information was shared, do you  
23 know where it was passed up in the zone structure?

24 A. The specific person in question was the zone commander. In his  
25 absence, there was a deputy commander and the chief of staff of the

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1 zone. These were the three key persons. The first one being the  
2 zone commander.

3 Q. And it's correct that that information or the discussions that  
4 you were having, that wasn't passed on separately and directly to  
5 anyone in the General Staff? That's correct, isn't it?

6 A. I don't think this could have happened. I don't think anything  
7 could have been passed on easily apart from the zone command. We  
8 were accountable and reported to the zone commander. Now, I am not  
9 in a position to say anything as to how this would have been done  
10 from the zone level further.

11 Q. Yes. In relation to what Commander Drini was doing or reporting  
12 on, you're not able to say how that occurred, are you?

13 A. That's correct.

14 Q. But you have no reason to believe, is this right, that  
15 Mr. Qadraku was going around the zone commander and separately  
16 reporting to the General Staff himself?

17 A. This was not possible to circumvent the zone commander. He  
18 would have needed a permission from the zone commander with the  
19 reasoning as to why he would go somewhere else. So the zone  
20 commander, the deputy commander, and the chief of staff. This was  
21 the hierarchy.

22 Q. And you have no reason to believe that, in practice, Mr. Qadraku  
23 was going past the command in the zone directly to the General Staff;  
24 is that right?

25 MS. IODICE: Objection, asked and answered.

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1 MR. DIXON: Well, I'm asking what --

2 PRESIDING JUDGE SMITH: Overruled.

3 MR. DIXON: -- happened in practice.

4 PRESIDING JUDGE SMITH: Go ahead.

5 THE WITNESS: [Interpretation] There was no reason. I wouldn't  
6 know. I'm not able to give you a specific answer. But he had no  
7 reason. He wouldn't have done so.

8 MR. DIXON:

9 Q. Thank you for answering my additional questions.

10 MR. DIXON: Those are my further questions. Thank you,  
11 Your Honours.

12 PRESIDING JUDGE SMITH: Anybody else have questions for this  
13 witness?

14 MS. TAVAKOLI: No, thank you.

15 MR. TULLY: No, Your Honour.

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

17 PRESIDING JUDGE SMITH: Witness, your testimony is now complete.  
18 You will be excused now. Your obligation to the Court is satisfied.  
19 Thank you for being with us, and we wish you well.

20 THE WITNESS: [Interpretation] Thank you.

21 [The witness withdrew]

22 PRESIDING JUDGE SMITH: I might ask the Prosecution what the  
23 plans for tomorrow are?

24 MS. IODICE: Yes, Your Honour. Based on the information that we  
25 currently have, we anticipate that Witness W04264 will be available

1 for testimony tomorrow morning.

2 I also have one more matter.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. IODICE: The two associated exhibits, P01836 and P01837, can  
5 be marked as public.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Those two exhibits will be reclassified as public.

8 Anything else from anyone?

9 MR. DIXON: Yes, Your Honours. I would return, if I may, to the  
10 request we made regarding the breach of the oral order. We would ask  
11 that that be acknowledged and that those parts of the transcript  
12 [Overlapping speakers] ...

13 PRESIDING JUDGE SMITH: I know you did that. You already did.

14 JUDGE METTRAUX: And, Mr. Dixon, you may want to re-read the  
15 whole order. We said we will endeavour. We -- you've read the  
16 order --

17 MR. DIXON: Yes, I --

18 JUDGE METTRAUX: Yes.

19 MR. DIXON: -- now have a copy [Overlapping speakers] ...

20 JUDGE METTRAUX: Had I had a prior knowledge of this matter  
21 arising from the questioning, including from you, I would have given  
22 you that notice. I was not in a position to do that, Mr. Dixon.

23 PRESIDING JUDGE SMITH: Your request does not have to be  
24 repeated.

25 MR. DIXON: No.

1           PRESIDING JUDGE SMITH: You've already made that request. Thank  
2 you.

3           MR. DIXON: And also the second request would be -- the last  
4 thing, Your Honours, is in relation to the part that was in private  
5 session today, that that be dealt with immediately if it concerns  
6 Mr. Qadraku, the following witness, who hasn't asked for protective  
7 measures, that that be dealt with at the beginning of his testimony  
8 when he does testify.

9           PRESIDING JUDGE SMITH: [Microphone not activated].

10          MR. DIXON: Yes.

11          PRESIDING JUDGE SMITH: [Microphone not activated].

12          MR. DIXON: Yes.

13          PRESIDING JUDGE SMITH: Yes.

14          MR. DIXON: I'm just signaling that that's a matter that we will  
15 all want to return to at the beginning of his testimony. Thank you,  
16 Your Honours.

17          PRESIDING JUDGE SMITH: [Microphone not activated].

18          MR. MISETIC: I'm sorry, Mr. President.

19          PRESIDING JUDGE SMITH: [Microphone not activated].

20          MR. MISETIC: Yeah, I know. Thank you, Mr. President.

21                 It's just -- I wanted to put on the record with respect to  
22 tomorrow's witness, W04264, we obviously don't know the reasons that  
23 there was a rescheduling. But to the extent that there's anything  
24 that would be subject or could be subject to cross-examination with  
25 regard to the reasons for that, if that could be disclosed to us

1 tonight so that we have a fair opportunity to look at it. If there's  
2 nothing that the Prosecution thinks could be the subject of  
3 cross-examination, then, obviously, nothing needs to be done. Thank  
4 you.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Compliance with that request should be done by 5.00 today.

7 MS. IODICE: Yes, Your Honour. An Official Note was disclosed  
8 this morning.

9 MR. MISETIC: I saw the note but that note had nothing to do  
10 with why there was a rescheduling.

11 PRESIDING JUDGE SMITH: Could you double-check that, please?

12 MS. IODICE: We can -- yes, I'll double-check, but that was the  
13 information in our possession that we could disclose.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 --- Whereupon the hearing adjourned at 4.04 p.m.

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