

1 Tuesday, 20 February 2024

2 [Open session]

3 [The Accused Krasniqi appeared via videolink]

4 [The accused entered the courtroom]

5 --- Upon commencing at 9.03 a.m.

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 Good morning, everyone. I note that Mr. Krasniqi is appearing
12 today via videolink and the other accused are all present in court.
13 I also note that Judge Barthe is participating via videolink this
14 week.

15 First, there are two preliminary matters to address.

16 In light of the recent changes in counsel and the length of
17 these proceedings, I want to remind all parties of some obligations
18 arising out of the Directive on Counsel and the Code Of Professional
19 Conduct for Counsel before this Court.

20 Under Articles 22(4) and 24(1) (a) and (b) of the Code of
21 Conduct, counsel shall perform at all times his or her representation
22 in an efficient manner and in the best interests of the client. In
23 the performance of their responsibilities, counsel shall represent
24 the client in an efficient and effective manner with the purpose of
25 avoiding unnecessary expense or delay of proceedings; and act in and

1 safeguard the Client's best interests.

2 These responsibilities necessarily encompass counsel's
3 responsibilities to ensure that they have competent and available
4 co-counsel in place to appear without delay in these proceedings on
5 their behalf in situations where counsel are temporarily unable to do
6 so.

7 I also recall that, according to sections 6(2)(a) and (d) of the
8 Directive on Counsel, applicants for admission to the list of counsel
9 shall provide a statement regarding their availability and a
10 statement to abide by the Code of Professional Conduct for Counsel
11 upon appointment or assignment. Therefore, not only co-counsel need
12 to inform the Registrar of their availability to appear in the case
13 but must also keep the Registrar apprised of any changes to this
14 availability. Absent such notification, it must be assumed that
15 co-counsel's availability to appear in these proceedings remains
16 unchanged.

17 Lastly, I recall that, pursuant to section 18(4) of the
18 directive:

19 "Chosen Co-counsel shall have the authority to sign documents
20 and to appear in court on Counsel's behalf, dealing with all arising
21 matters."

22 In line with the above, the Panel will issue an oral order.

23 The Panel directs the Registrar to file on the record a
24 memorandum regarding the obligations of counsel by 26 February 2024;
25 and, two, to seek an indication from Mr. Misetić whether he will

1 elect or keep as co-counsel any and all of co-counsel currently
2 listed as representing Mr. Thaci and/or seek the designation as
3 co-counsel of any other persons.

4 The Panel also directs Mr. Misetic to inform, without delay,
5 each of the individuals whom he will seek to maintain or seek to be
6 designated as co-counsel to be prepared to step in and represent
7 Mr. Thaci before the Specialist Chambers if and when called upon by
8 Mr. Misetic or by the Panel to do so.

9 And, two, inform the Registrar by 4 March 2024 of any person
10 currently listed as co-counsel on the list of Mr. Thaci's Defence
11 team members who are not prepared to do so so that the Registrar can
12 strike any such person from the list of co-counsel. Mr. Misetic may
13 ask the Registrar to maintain some or all such individuals on the
14 list of Mr. Thaci's Defence team in other capacities that he thinks
15 appropriate.

16 And, three, provide the Registrar with an updated list of
17 Mr. Thaci's Defence team members by 11 March 2024.

18 The Panel emphasises that the above applies to all counsel in
19 their respective teams.

20 And this concludes the Panel's order.

21 As to the second preliminary matter.

22 The Panel advises the parties that they will receive a hearing
23 calendar for the balance of this year, September through December
24 2024, before the conclusion of today's hearing this afternoon. The
25 parties will also receive an agenda during the lunch break for the

1 discussions on scheduling and planning that will take place at the
2 conclusion of tomorrow's in-court hearing.

3 We will now start the testimony of Prosecution Witness W00498.

4 Yes.

5 MR. ELLIS: Your Honour, good morning. Just following the
6 e-mail sent in December for the order of cross-examination, I will be
7 cross-examining first, followed by Mr. Misetic, and then the usual
8 order.

9 PRESIDING JUDGE SMITH: Understood. We have that down. Thank
10 you for reminding us, though.

11 We are in public session.

12 And, Madam Court Officer, please bring the witness in.

13 MR. BAARLINK: And, Your Honour, while the witness is being
14 brought in, we circulated back in December a protective information
15 sheet for the witness to assist him with the protective measures, and
16 I intend to give him a copy of that before he's commencing his
17 testimony.

18 I understand there's no objections to the use of that protective
19 information sheet.

20 PRESIDING JUDGE SMITH: Thank you.

21 [The witness entered court]

22 PRESIDING JUDGE SMITH: Good morning, Witness.

23 THE WITNESS: [Interpretation] Good morning.

24 PRESIDING JUDGE SMITH: The Court Usher will now provide you
25 with the text of the solemn declaration which you are asked to take

1 pursuant to Rule 141(2) of the rules. You may take a look at it and
2 then read it aloud.

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

7 WITNESS: W00498

8 [The witness answered through interpreter]

9 PRESIDING JUDGE SMITH: Thank you, Witness. You may be seated.

10 THE WITNESS: [Interpretation] Thank you.

11 PRESIDING JUDGE SMITH: Witness, today we will start your
12 testimony, which is expected to last four and a half hours. As you
13 may know, the Prosecution will ask you questions first. Once they
14 are finished, the Defence has the right to ask questions of you, and
15 members of the Panel may have questions of you.

16 The Prosecution estimate for your examination is 30 minutes.
17 The Defence estimates that it will need four hours.

18 As regards each estimate, we hope and urge counsel to be
19 judicious in their use of their time. The Panel may allow redirect
20 examination if conditions for it are met.

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

1 about.

2 In the event you are asked by the SPO to attest to some
3 corrections made regarding your statements, you are reminded to
4 confirm on the record that the written statement, as corrected by the
5 list of corrections, accurately reflects your declaration.

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

9 Witness, while you are giving evidence in this Court, you are
10 not allowed to discuss the content of your testimony outside of the
11 courtroom with anyone until you have finished giving evidence. If
12 any person asks you questions outside this Court about your
13 testimony, please let us know.

14 Please stop talking if I ask you to do so and also stop talking
15 if you see me raise my hand. These indications mean that I need to
16 give you an instruction.

17 If you feel the need to take a break, please make an indication
18 and an accommodation will be made.

19 And I remind everybody that at 10.00 we will take a ten-minute
20 break.

21 Witness, we begin with the direct examination by the Specialist
22 Prosecutor's Office, who are seated to your left.

23 Mr. Prosecutor, you may proceed.

24 MR. BAARLINK: Thank you, Your Honour.

25 Examination by Mr. Baarlink:

Witness: W00498 (Private Session)

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Examination by Mr. Baarlink

1 Q. Good morning, Witness. We have met before, but for the record,
2 I will introduce myself again. My name is Nico Baarlink, and I will
3 be asking you questions today on behalf of the SPO.

4 MR. BAARLINK: Your Honour, if we could please move into private
5 session to obtain some identifying details of the witness.

6 PRESIDING JUDGE SMITH: Madam Court Officer, please take us into
7 private session.

8 [Private session]

9 [Private session text removed]

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Witness: W00498 (Private Session)

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Examination by Mr. Baarlink

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Witness: W00498 (Private Session)

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Examination by Mr. Baarlink

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10 [Open session]

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

12 PRESIDING JUDGE SMITH: Thank you.

13 You may proceed.

14 MR. BAARLINK:

15 Q. Now, Witness, just a reminder that we're now in open session so
16 now the public can hear what you say and what we say.

17 Witness, you have previously been interviewed by the SITF; is
18 that right?

19 A. Excuse me, who?

20 Q. The Special Investigative Task Force. That was the organisation
21 before it became the SPO.

22 A. Yes.

23 MR. BAARLINK: Could the Court Officer please pull up 00152-TR
24 RED, and that's not for public broadcast.

25 Q. All right, Witness. Can you see that document in front of you?

1 A. I can see it.

2 Q. And do you recognise that as the interview that you gave?

3 A. Yes. Yes.

4 Q. Did you recently, that is, when you came here last time, did you
5 have an opportunity to familiarise yourself with the contents of this
6 interview?

7 A. Yes.

8 Q. And during your preparation session when you were here in
9 December, you indicated that you had no corrections to the interview.
10 You did, however, give some clarifications in response to questions;
11 is that right?

12 A. That's right.

13 Q. And were these clarifications reflected in a note that was then
14 read back to you?

15 A. Yes, they're included the note.

16 Q. And do you confirm that what was read back to you in that note
17 reflects your clarifications fully and accurately?

18 A. Yes, I confirm that. It's correct.

19 Q. Thank you. And subject to the clarifications in that note, does
20 the interview that's on your screen -- does the transcript of that
21 interview accurately reflect what you said at the time and what you
22 would say if asked again in court today?

23 A. Yes, it's all accurate.

24 Q. Thank you, Witness.

25 MR. BAARLINK: Your Honours, having fulfilled the Rule 154

1 criteria, and in accordance with the decision F01976, the SPO hereby
2 tenders all parts of -- and I should clarify before I do that, that
3 the Serbian version of the transcript was omitted from our Rule 154
4 motion, but we intend to tender the Serbian version as well, and
5 that's 000152-TR RED. The English version is 000152-TR-ET RED, and
6 the Albanian version is 000152-TR-AT RED, along with the preparation
7 note, and that's ERN 117819 to 117821.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 Any objection?

10 MR. MISETIC: No objection.

11 MS. ROWAN: No, thank you.

12 PRESIDING JUDGE SMITH: Any objection?

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

14 PRESIDING JUDGE SMITH: 00152-TR RED, both in English and
15 Albanian, and the note, and ERN 117819 to ERN 117821 are all admitted
16 and should be assigned a number.

17 THE COURT OFFICER: Your Honours, statement with ERN 00015-TR,
18 its English and Albanian translations, will be assigned
19 Exhibit P01011. Preparation note with ERN 117819 to 117821 will be
20 assigned Exhibit P01012.

21 PRESIDING JUDGE SMITH: Thank you. You may proceed.

22 MR. BAARLINK: Thank you.

23 On 8 December, the SPO submitted a proposed summary of the
24 witness's now admitted Rule 154 statement to the Panel, to the
25 Defence, the Victims. And the Krasniqi Defence proposed an amendment

1 which the SPO has accepted, and otherwise we have received no
2 objection to that summary. So with Your Honours' leave, I will now
3 read out the summary.

4 PRESIDING JUDGE SMITH: You may proceed.

5 MR. BAARLINK: According to what Witness 498's mother told him,
6 on 17 July 1998, the witness's father, brother, mother,
7 sister-in-law, and newborn nephew were stopped by KLA members on the
8 outskirts of Rahovec/Orahovac. The witness's father and brother were
9 driven towards Malisheve. Whereas his mother, sister-in-law, and
10 newborn nephew were detained at the former police station in
11 Malisheve for about eight days.

12 The witness's mother could hear moaning coming from the men in
13 the basement of the building.

14 On the eighth day, the witness's mother, sister-in-law, and
15 nephew were taken out of the building and put on a bus which also had
16 other women and children along with Serb men with their hands tied
17 and heads down.

18 Witness 498's father and brother were not on the bus, and the
19 witness never saw them again.

20 At one point, the witness's mother, sister-in-law, and nephew
21 were separated from the men and were released a few days later.

22 Q. Witness, I will ask you now a few questions about the years
23 following the kidnapping of your family members.

24 Did your family report the disappearance of your father and
25 brother to any organisations?

1 A. Yes. I reported it to the ICRC, Médecins Sans Frontières, our
2 police, and some other relevant institutions.

3 Q. And did you personally participate in any public events related
4 to the disappearance?

5 A. Yes. I participated in searches and also in a march of peace,
6 so-called, to Dragobilje, from Orahovac to Dragobilje, when two
7 journalists were released and when we were looking for our near and
8 dear ones.

9 Q. Do you recall approximately when that march took place?

10 A. In 1998. Now, whether it was in October or November, I don't
11 know, but it was in 1998 when the OSCE was still there, William
12 Walker and the rest. That's when it took place.

13 Q. Thank you. And do you recall roughly how many people attended
14 that march?

15 A. Well, there were around 3 to 4.000 people.

16 Q. You mentioned that you went from Orahovac to Dragobilje. Do you
17 know why the march went to Dragobilje?

18 A. The march went to Dragobilje because two journalists were
19 released from Dragobilje and William Walker succeeded in having them
20 released. So we went to Dragobilje because we believed that our
21 family members may be kept there.

22 Q. Thank you. Now, during your preparation session in December,
23 and this is captured in Preparation Note 1 at paragraph 4, you said
24 that you spoke to your mother the day that she was released. And you
25 said that, at that time, she told you what had happened during the 14

1 days they were in custody. And you also told the -- in your SITF
2 interview, you said that your mother had passed away in March 2007.

3 And my question is between mid-1998 and your mother's death in
4 2007, how often did she talk to you about the events?

5 A. Well, she talked to me about the events almost every day. Not
6 really every day, but almost every day, because that was one of the
7 main topics of our conversation because we were trying to locate my
8 father and my brother.

9 Q. You said that you talked almost every day. How did you come to
10 talk to her every day?

11 A. Well, because my mother was sorrowful and she was looking for
12 her husband and son, and every day we discussed with Serbian
13 politicians and the police and the ICRC. And that's how we came to
14 discuss this almost every day, because we had some obligations
15 connected with this almost every day.

16 Q. And where did you live at the time?

17 A. We lived in Orahovac, in Kosovo and Metohija.

18 Q. You lived together or separate?

19 A. We lived together, all of us together in the same house.

20 Q. And during that time, that is between mid-1998 and 2007, did
21 your mother's story ever change?

22 A. No, it didn't because she only told the truth about what she had
23 experienced.

24 Q. And did you at some point receive confirmation that your father
25 and brother were no longer alive?

1 A. Yes. I got the confirmation in 2007, one month before my
2 mother's death, when we were told that our DNA were found amid mortal
3 remains and that those were the mortal remains of my father and
4 brother.

5 Q. And how did that feel for you?

6 A. Well, it was very difficult. We had all hoped that they were
7 still alive. However, that was not the case. And it was an
8 indescribable feeling. How would I put it to you? Very difficult.

9 Q. And you were still living with your mother at the time?

10 A. Yes, yes, we still lived with our mother. When they sent us
11 this piece of information, my mother got ill soon afterwards and she
12 died one month later.

13 Q. All right. And how did she react to this information?

14 A. Well, she reacted by taking it very hard. She got ill and then
15 in March she died. She had a serious illness and she died in one
16 month, and I took over the remains in June. We had all been hoping
17 that my father and brother had been alive. Because everybody was
18 talking about this, that they were still alive, that they were doing
19 forced labour somewhere in a camp, in a mine, or something. However,
20 that was not really true.

21 Q. Thank you, Witness.

22 MR. BAARLINK: Those are all the questions I have for the
23 witness. Perhaps at this stage, should I tender the protective
24 information sheet?

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. BAARLINK: Yes. I tender that, Your Honour.

2 PRESIDING JUDGE SMITH: Any objection to the sheet being
3 admitted?

4 MR. MISETIC: No objection.

5 MS. ROWAN: No.

6 MR. ELLIS: No.

7 MR. ROBERTS: No, Your Honour.

8 PRESIDING JUDGE SMITH: All right. The information sheet used
9 during the witness's live testimony will be admitted and granted a
10 number.

11 THE COURT OFFICER: Your Honours, the information sheet will be
12 assigned Exhibit P01013.

13 PRESIDING JUDGE SMITH: It's admitted. Thank you.

14 Mr. Ellis.

15 MR. ELLIS: Thank you, Your Honour. I'll just take a moment.

16 PRESIDING JUDGE SMITH: Madam Court Officer, is the Serbian and
17 Albanian and English versions of the statements all admitted?

18 [Trial Panel and Court Officer confers]

19 PRESIDING JUDGE SMITH: They're all under the same numbers?
20 Okay. All right. Thank you.

21 [Microphone not activated].

22 MR. ELLIS: Thank you, Your Honour.

23 Cross-examination by Mr. Ellis:

24 Q. Good morning, Witness. My name is Aidan Ellis, and I'll be
25 asking you some questions on behalf of Mr. Jakup Krasniqi.

1 MR. ELLIS: Could we go into private session for a moment first,
2 Your Honour.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. ELLIS: For the protection of the witness's name.

5 PRESIDING JUDGE SMITH: All right.

6 Madam Court Officer, into private session.

7 [Private session]

8 [Private session text removed]

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1 [Private session text removed]

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4 [Open session]

5 THE COURT OFFICER: Your Honours, we are now in open session.

6 MR. ELLIS: Thank you.

7 Q. Witness, I'm going to ask you some questions about the previous
8 statement that you gave in 2013, the one that the Prosecution's
9 already referred you to this morning.

10 At the time you gave that statement in 2013, you said that you
11 were working for the [REDACTED] Pursuant to Post-Session Redaction Order
12 F02144.; is that right?

12 A. That's correct.

13 Q. And are they still your employer?

14 A. Yes.

15 Q. And what are your duties for that employer? What's your job
16 title?

17 A. The job I [REDACTED] Pursuant to Post-Session Redaction Order
18 F02144.

18 Q. I see. Were you advised by your employer to give yourself
19 another name this morning when you started your testimony?

20 A. No. [REDACTED] Pursuant to Post-Session Redaction Order F02144.

21 Q. Now, I'm going to ask you some questions about the situation in
22 Rahovec area in July 1998. And in your statement in 2013, you said
23 that it was a mixed population, but you didn't know exactly then the
24 numbers from each ethnic group. Do you recall saying that in 2013?

25 A. Yes, I remember.

1 Q. And you estimated --

2 A. There were more Albanians than Serbs.

3 Q. And in 2013, you estimated the numbers at 15.000 Albanians and
4 4 or 5.000 Serbs. Is that about right?

5 A. I don't know for sure whether that's correct, but there were
6 many more Albanians than Serbs. Now, whether the figures were 15.000
7 versus 4.000, I can't say.

8 Q. I see. Your mother wasn't fluent in Albanian in July 1998, was
9 she?

10 A. That's true. She never spoke Albanian.

11 Q. Now, as tensions rose in the area, the Serbian police were
12 giving weapons to Serbian civilians in the Rahovec area, weren't
13 they?

14 A. No. The Serbian police wasn't giving away weapons.

15 Q. Did your family receive weapons, Witness?

16 A. All the residents who were of age received weapons from the
17 Territorial Defence of the city.

18 Q. And that included your family members, didn't it?

19 A. My brother and I, yes, but not my father.

20 MR. ELLIS: Could we have on the screen, please, but not to be
21 displayed to the public, SPOE00201838.

22 Q. Witness, are you able to see on the screen there are, I think,
23 seven names with your surname? The document isn't being displayed to
24 the public, and I don't want to use your surname on the public
25 record, but you see seven names there with your surname; correct?

1 A. Yes, I see.

2 Q. And do you recognise amongst those names names of your family
3 members?

4 A. I see my name. My name is written here. And no one else from
5 my family.

6 Q. I see. And this list is headed "Weapon List Orahovac." So had
7 you received a weapon from, you say, the Territorial Defence at that
8 time, Witness?

9 A. As I have said, I received a weapon back in 1992 after I
10 completed my compulsory military service.

11 Q. Very well.

12 MR. ELLIS: Now, could we have on screen P01011. And, again,
13 this is not for broadcast to the public. And in the English, it's
14 page 25, and in the Serbian, page 24. Thank you. If we could go
15 down in the English to line 22. And the Serbian, I think, begins at
16 line 4. Thank you.

17 Q. Witness, you were asked in 2013 about who the KLA members from
18 that area were, and your response was:

19 "All of them were."

20 Do you see that in the statement?

21 A. Yes, and that is still my position, that 90 per cent of them
22 were members.

23 Q. And you went on that:

24 "If they were not physically involved, then they were helping
25 them financially and by all other means, so all of them were

1 involved."

2 Do you recall saying that?

3 A. Yes, I said that. And I maintain that.

4 Q. But you didn't know all of the Albanians in the Rahovec area
5 personally, did you, Witness?

6 A. No, I didn't.

7 Q. And we've clarified this morning already that there were around
8 15.000 Albanians in that area; correct?

9 A. Maybe even more than that. As I have said, I don't know for
10 sure.

11 Q. And you haven't said how many of those were physically involved
12 in the KLA, have you?

13 A. Well, I don't know the exact number. I didn't keep records for
14 them.

15 Q. And you don't know how many of the 15.000 were helping the KLA
16 financially, do you?

17 A. How would I know that? I didn't manage their finances or
18 anything else.

19 Q. Fair enough, Witness. And then you add another category saying
20 that Albanians helped the KLA by all other means, all of them were
21 involved. Do you recall saying that?

22 A. Yes.

23 Q. It's just a generalisation that you've made, isn't it, because
24 as you've said to the investigator, all Shiptars are the same to you?

25 A. Almost, yes, when it comes to that matter.

1 MR. ELLIS: Now, if we can go back to, please, in the English,
2 page 24, and in the Serbian, page 22. And it's beginning at line 16
3 in the Serbian and line 8 in the English.

4 Q. And when you spoke about the attack on Rahovec, you said that
5 you guarantee that Ismet Tara and Sabahudin Cena were one of the
6 leaders of the attack. Do you recall saying that there?

7 A. Yes, I said that.

8 Q. And the basis for your guarantee was that you saw Ismet Tara
9 negotiating with the Serb and Roma community after the war in July or
10 August 1999; correct?

11 A. It is true that he negotiated, but the basis was not that. The
12 basis was that all Albanians used to say that Ismet Tara was the main
13 commander.

14 Q. Well, let's look at what you said in 2013. And I think it's
15 over the page at lines 1 to 3 in the Serbian on the next page. And
16 in the English, you were asked:

17 "What makes you so sure?"

18 And your response was:

19 "Because I know that after the war they were conducting the
20 negotiations with the Serb side, and also with the Roma."

21 So what you said in 2013 is that the reason was that you saw
22 them negotiating. That's right, isn't it, Witness?

23 A. I said that he negotiated with the Roma community, not with the
24 Serbian community. He never negotiated with Serbs.

25 Q. I see. But you appreciate, don't you, that seeing somebody in

1 the summer of 1999 doesn't necessarily mean that they were the leader
2 a year earlier in the summer of 1998? That must be right, mustn't
3 it?

4 A. I said that based on what I heard from Albanian acquaintances
5 who said that Ismet Tara was one of the leaders and commander. I
6 didn't say this only because he had negotiated with the Roma
7 community.

8 Q. You weren't actually at the meeting in the summer of 1999 with
9 the Roma community, were you?

10 A. No.

11 Q. And when you were asked:

12 "You say they conducted negotiations, on whose behalf?"

13 You responded:

14 "On behalf of Shiptars or KLA, I don't know."

15 That's right, isn't it?

16 A. I don't understand your question. What did I say? Where does
17 it say what I said?

18 Q. Well, in the English, it's lines 16 to 18. Let me see if I can
19 get a Serbian reference for that specific bit.

20 MR. ELLIS: Is it perhaps on the page before? Oh, sorry. It's
21 the very top of the page that you're on, line 1.

22 Q. So the question you were asked was:

23 "You say they conducted negotiations, on whose behalf?"

24 And your response was, on line 1:

25 "On behalf of Shiptars or KLA, I don't know."

1 A. That's correct. They conducted negotiations with the Roma, not
2 with me or with Serbs.

3 Q. And you didn't know Ismet Tara or Sabahudin Cena personally, did
4 you?

5 A. I knew them, not personally, but I knew them by sight because
6 Ismet Tara had a kebab shop, and Sabahudin Cena worked in the
7 18 November factory.

8 Q. So what you told the interviewer about the leadership of the KLA
9 in Rahovec was just based on rumours and on things you heard other
10 people saying to you. That's right, isn't it?

11 A. That's correct. I wasn't their member in order to be fully in
12 the know.

13 Q. So you didn't have any personal knowledge of any KLA structures
14 in the Rahovec area in July 1998, did you?

15 A. I had information from Albanian friends who had told me that.
16 And I personally did not attend any meeting.

17 Q. So you had no personal knowledge. You just heard people saying
18 it. That's right, isn't it?

19 A. I heard it from other people, as I've told you, from Albanians
20 who probably attended, but nobody's going to admit to that now.
21 Sabahudin Cena was a political leader, because he held meetings and
22 he appeared in newspapers. His political speeches appeared in
23 newspapers.

24 Q. [Microphone not activated].

25 I'm going to move on to the events of 17 July 1998. It's right,

1 isn't it, that on that day you were working at the Termovent factory
2 until 3.00 p.m. and then you went to have lunch; correct?

3 A. I went home after work, and then we had lunch.

4 Q. And then you played some football until you heard shooting
5 around 5.00 or 6.00 p.m., and then you were told by some policeman to
6 go home; is that right?

7 A. That's correct.

8 Q. And you did go home, didn't you?

9 A. Yes, I went home. And while I was at work, I talked to my
10 parents who called me to say that they were about to leave from
11 Vrnjacka Banja.

12 Q. But you didn't actually witness what happened to your family
13 members or what happened in Rahovec, did you?

14 A. I didn't see my family being kidnapped. My mother was there.
15 She saw everything because she herself was kidnapped as was my
16 sister-in-law.

17 Q. But as you confirmed in 2013, everything you say was said by
18 your mother. That's right, isn't it? You didn't see it yourself.
19 It's what you heard from her.

20 A. What my mother said about kidnapping was 100 per cent true. I
21 didn't witness it. I didn't witness the kidnapping, didn't see it
22 personally. I conveyed my mother's story.

23 MR. ELLIS: Your Honour, I see the time. That might be an
24 appropriate point.

25 PRESIDING JUDGE SMITH: All right. We'll take the ten-minute

1 break I discussed earlier.

2 Witness, you will be taken from the courtroom.

3 THE WITNESS: [Interpretation] All right. Thank you.

4 [The witness stands down]

5 PRESIDING JUDGE SMITH: Still in public session. We will break
6 for ten minutes. Please be back in your seats by 10 after 10.00.
7 We're adjourned.

8 --- Break taken at 10.01 a.m.

9 --- On resuming at 10.13 a.m.

10 PRESIDING JUDGE SMITH: Please bring the witness in.

11 [The witness takes the stand]

12 PRESIDING JUDGE SMITH: All right. Witness, we're ready to
13 continue.

14 Mr. Ellis, you may proceed.

15 MR. ELLIS: Thank you, Your Honour.

16 Q. Witness, where we had left off, you had just confirmed that you
17 didn't witness what happened to your family members. You didn't see
18 it personally. You were conveying your mother's story. That's
19 right, isn't it?

20 A. I'm not receiving interpretation.

21 Q. Are you able to hear the interpretation now, Witness?

22 A. Yes, I'm hearing it now. Can you please repeat the question.

23 Q. Yes, of course. Where we had left off before the break,
24 Witness, you had just confirmed that you didn't witness what happened
25 to your family members. You didn't see it personally. You were

1 conveying your mother's story. That's right, isn't it?

2 A. That's right.

3 Q. And I'm sorry to bring up a painful memory, Witness. But your
4 mother passed away in March 2007, didn't she?

5 A. That's right.

6 Q. I've read your interview from 2013 with the Investigative Task
7 Force, and you don't refer in that interview to any written notes
8 from the time, do you?

9 A. That's right. Except for the fact that my mother also gave a
10 statement to the international tribunal and everywhere, but I have
11 not read those.

12 Q. We'll come to those statements in a moment, Witness. But you
13 didn't keep any notes from what your mother was telling you at the
14 time, did you?

15 A. No.

16 Q. So at the time of your interview in 2013, you would have been
17 trying your best to recall what your mother had told you at least six
18 years earlier; correct?

19 A. My mother told me about it till the end of her life. As long as
20 she was alive, she was telling me the same story all over again every
21 day, and I stand by the truthfulness of her story.

22 Q. The events of July 1998 must have been very traumatising for
23 your mother, and she was suffering from emotional outbreaks when she
24 gave statements to the authorities, wasn't she?

25 A. No, it's not true. My mother was an exceptionally strong and

1 courageous woman, and she was giving statements with a clear mind,
2 and her statements were 100 per cent true.

3 Q. Now, your mother was accompanied by her son to an UNMIK
4 interview in Belgrade in June 2006. Was it you that accompanied her
5 to that meeting?

6 A. Yes. She went everywhere with me.

7 Q. There's a record of that interview, which I -- which for those
8 following is SPOE00190931 at the second page. There's no need to
9 pull it up on the screen. But the person recording that interview
10 has said:

11 "The interview was comprehensive. Although, [your mother]
12 complained about the high number of interviews she gave before.
13 Although, she suffered from time to time emotional outbreaks and
14 refused for more than 45 minutes to have a look at the pictures of
15 the photo lineup."

16 That's correct, isn't it, as a reflection of the interview in
17 2006 which you attended?

18 A. I don't know exactly. I cannot assert this. But it's possible
19 that that happened. I don't know what interview you are talking
20 about.

21 Q. Well, the one in 2006 with UNMIK in Belgrade which you
22 accompanied her to, Witness.

23 A. Was it not earlier than that? Because I'm doubtful about 2006.

24 Q. Very well. But you were the person that accompanied her when
25 she went to give statements; is that right?

1 A. Yes, probably I was the one. I was the only one who went with
2 her. But whether it was that year or not, I cannot say for sure when
3 I don't know.

4 Q. I see. Let's leave the year behind, Witness, and let me just
5 ask this: It's right, isn't it, that when you went with her to
6 interviews, from time to time she suffered emotional outbreaks
7 because of the nature of what she was discussing? That's right,
8 isn't it?

9 A. No, it's not true.

10 Q. Well, that's what the record that the interviewer has made
11 records, Witness. Are you disagreeing with the interviewer on that?

12 MR. BAARLINK: I'll object to that, Your Honour. There's no
13 foundation established.

14 THE WITNESS: [Interpretation] I disagree.

15 MR. BAARLINK: The witness has not given evidence that he was at
16 that interview.

17 MR. ELLIS: I rather thought he had, but ...

18 PRESIDING JUDGE SMITH: Overruled. Go ahead.

19 MR. ELLIS:

20 Q. The question, Witness, was that the record the interviewer has
21 made records your mother suffering from emotional outbreaks. Are you
22 saying that you disagree with the interviewer about that?

23 A. It was certainly difficult because she did not know what was the
24 fate of her husband and her son. And that she looked at all the
25 photographs, she certainly did if they showed her any photographs.

1 Q. Now, Witness, I understand that you weren't there and that all
2 you can tell the Court is what you recall being told by your mother,
3 but I still need to ask you some questions about the detail of those
4 events in July 1998. You understand me?

5 A. I understand. And there's no problem.

6 MR. ELLIS: Can we go then to P01011. And, again, this
7 shouldn't be displayed to the public. It's just for those in the
8 Court. And it's page 6 in both the English and the Serbian. Now, I
9 think it's lines 12 to 13 in the Serbian and line 20 in the English.

10 Q. You were told that when your brother stopped the car, 50 or 60
11 fighters or, you say, "however many there were," came out of the
12 bushes. Do you recall saying that?

13 A. Yes, I remember.

14 MR. ELLIS: Can we can then have on the screen, please, at
15 SPOE00195761, and I think the Serbian is U000-0211. Again, not to be
16 disclosed to the public. In fact, due to the protective measures,
17 all of the documents that I'll be referring to I think can't be
18 displayed to the public.

19 It's the fourth paragraph in the English, and I think it's
20 probably over onto the next page in the Serbian. Yes, the fourth
21 paragraph on that page.

22 Q. Witness, this is from your mother's statement to the
23 investigating judge in Belgrade in June 2000. Do you see there that
24 she said:

25 "Just a kilometre before we reached Orahovac, about ten Albanian

1 terrorists dressed in KLA uniforms and armed mainly with rifles, came
2 out in front of our car."

3 Do you see that in her statement, Witness?

4 A. Yes, I can see it.

5 MR. ELLIS: And could we then go please to K0195141 on the
6 second page. Sorry, it's to a different document, the ICTY
7 statement, which is K0195141. We only have an English version for
8 this document, and it's the third paragraph on the second page,
9 please.

10 Q. Witness, you know, don't you, that your mother gave a statement
11 to the International Criminal Tribunal for the former Yugoslavia;
12 correct?

13 A. She probably did. She has given many statements. I don't know
14 all the organisations to which she did, but she certainly did.

15 Q. Very well. And in this statement, she said:

16 "I can't tell exactly how many men were there altogether,
17 however five or six of them surrounded our car."

18 So, Witness, your mother wasn't certain herself how many men
19 there were at the time of her detention, was she?

20 A. She just said those who were uniformed, but there were civilians
21 carrying weapons too. She said around ten of those who were in
22 uniforms. And the civilians carrying weapons, she didn't really
23 state any number because you cannot count them at the moment. So
24 those who surrounded the car were five or six or ten in number. You
25 cannot have 50 men surrounding a car.

1 Q. Well, the numbers that she has given in these statements are
2 quite different from the 50 or 60 or however many it was that you
3 give in your statement, isn't it? Just "yes" or "no," Witness. It's
4 different, isn't it?

5 A. On paper, yes. But in reality, no.

6 Q. I see.

7 MR. ELLIS: That document can be taken down. Thank you.

8 Q. Now, Witness, again, I think this question can be answered "yes"
9 or "no."

10 You've said that your mother told you about a man called Jakup
11 Hoti from Crni Lug who was at the detention place in Malisheve.
12 That's right, isn't it?

13 A. That's right.

14 Q. And your mother told you that he treated them in a rather fair
15 way. That's right, isn't it?

16 A. That's right.

17 MR. ELLIS: And could we go back to your statement, which is
18 P01011, at page 11 in the English, page 10 in the Serbian. Lines 14
19 to 17 in the Serbian and 5 to 8 in the English.

20 Q. And what you have said is -- this is your statement now,
21 Witness. What you've said there is that your mother asked --

22 MR. ELLIS: And, sorry, I should have said not for broadcast to
23 the public again.

24 Q. You said your mother "asked Hoti about my father and my brother
25 on the third or fourth day ..."

1 And you carry on:

2 "According to what he said, based on his description of their
3 clothes and so on ..."

4 Do you recall saying that in your statement?

5 A. Yes, I recall.

6 MR. ELLIS: Can we go back then to K0195141, which is the ICTY
7 statement of your mother. The third page, please. Third paragraph,
8 please.

9 Q. Now, what your mother said about this to the ICTY is -- and in
10 this statement, she's already mentioned Jakup Hoti by name. She
11 says:

12 "In this building I asked one of the guards about my husband and
13 son, and he told me that they were kept in the building, too. He
14 described the clothing of my husband and my son in a very detailed
15 way ..."

16 So what your mother was saying to the ICTY is that it was one of
17 the guards who told her about the clothing, not Jakup Hoti. That's
18 different from what you've said to the investigator, isn't it?

19 A. A guard or whatever you want to call him. The one who was
20 opening the door of the room where they were in, his name was Jakup
21 Hoti and he was from Crni Lug. It says here even Jakup Hoti. I
22 can't really read English, but here in this paragraph you can see it.

23 Q. That's the point, Witness. And don't worry, I'll read to you
24 what you need to read so that you will hear it in the Serbian. But
25 that's the point, isn't it? When your mother refers to Jakup Hoti,

1 she uses his name because she knew his name. When she says she asked
2 one of the guards, that's not a reference to Jakup Hoti, is it?

3 A. My mother told me that Jakup Hoti was the one who opened and
4 closed the door of the cell or the room, whatever you want to call
5 it. He was the only one who was there, and he wore some sort of
6 uniform. And he introduced himself by saying that his name was
7 Jakup Hoti and that he was from Crni Lug.

8 MR. ELLIS: Can we then go to SPOE00194062, which is the
9 English. And the Serbian is SITF00062645. And in the English, it's
10 page 194071, question 59. And the Serbian is SITF00062654.

11 Q. Now, Witness, this is from your mother's interview with UNMIK in
12 2006, the one that we mentioned earlier. And what she said there is
13 that:

14 "... the men that told us, that were standing in front of our
15 doors as a guard, described me what my husband was wearing ... and
16 also what my son was wearing."

17 So she's not referring there to one person, one Jakup Hoti.
18 She's referring to the men guarding. That's right, isn't it?

19 A. That's what it says here. But I'm telling you, perhaps she
20 didn't know at the time what his name was, but he said later that his
21 name was Jakup Hoti, that he was from Crni Lug, and she said that
22 this was the man who helped her. Not only to her, but he also
23 brought in nappies for the baby and so on.

24 Jakup Hoti was the one who brought the nappies for the child and
25 food, milk, and everything else, and that was when he introduced

1 himself.

2 Q. I understand that, Witness. I'm just comparing the two
3 versions, what you've said your mother said and what she's said in
4 these statements. And there's a difference, isn't there, because you
5 said she told you that Jakup Hoti described the clothing, whereas the
6 two statements we've looked at say one of the guards described the
7 clothing. That's correct, isn't it?

8 A. Well, he was the guard, Jakup Hoti.

9 Q. Witness, you've already confirmed that you were not there.
10 You're just reporting what your mother has said to you; correct?

11 A. That's right.

12 Q. And I'm showing you what your mother has said, and there's a
13 difference, isn't there?

14 A. There is no difference. You're showing me five documents. One
15 mentions Jakup Hoti, the second one doesn't, the third one does
16 again. I'm telling you the only person who helped them was him. He
17 helped them by bringing food and nappies for the baby. Maybe my
18 mother was reluctant to mention his name. How do I know why she put
19 it that way.

20 Q. Well, let's move back to your statement, P01011, at lines 19 to
21 21 in the English -- page 9, lines 19 to 21 in English. Page 9,
22 lines 5 to 7 in the Serbian.

23 Now, you say there, Witness, that you were told that
24 Jakup Krasniqi was sitting behind a desk, like a gentleman, and asked
25 your mother and sister-in-law "about their names, last names, 'who

1 are you, what are you, who do you have,' and everything else ..."

2 Do you recall saying that in 2013, Witness?

3 A. Yes, I remember that.

4 MR. ELLIS: Can we then go back to your mother's statement to
5 the ICTY, K0195141, on the third page, please.

6 Q. Now, again, this is the English so I'm going to read it to you.
7 But what your mother said to the international criminal tribunal was
8 that:

9 "In the morning the three of us were taken to a man who had his
10 office on the first floor. He was wearing civilian clothes and all
11 he wanted to ask us were our personal details. A few days later,
12 then dressed in black uniform, he told us his name, which is
13 Jakup Hoti ..."

14 It's clear there, isn't it, Witness, that your mother identifies
15 the man in the office who took her personal details as Jakup Hoti?
16 That's right, isn't it, Witness?

17 A. Jakup Hoti wore a black uniform, and he was the one who opened
18 and closed the door of the room where they were kept. As for their
19 details, their details were taken down by Jakup Krasniqi, who wore a
20 camouflage uniform.

21 Q. Well, that isn't what your mother says, is it, Witness, because
22 she says that she was taken to a man who had his office on the
23 first floor, and that man, he told us his name is Jakup Hoti. That's
24 what your mother said to the ICTY, isn't it, Witness?

25 A. I told you, Jakup Hoti was the name of the man who closed and

1 opened the door of the room where they were kept. He brought nappies
2 and milk for the baby. And when they were freed, he also gave 10
3 Deutschmarks to the baby, to [REDACTED] Pursuant to In-Court Redaction
Order F02139RED.

4 Q. I understand, Witness. That's what you were told. But what I'm
5 saying to you is that this statement that your mother has given is
6 different from that, isn't it; yes or no?

7 A. I don't know what it says here. I don't understand this. I'm
8 telling you what I was told. And I gave that statement in 2013, not
9 three months ago.

10 Q. Well, let me read this to you again one more time so that you
11 have it. This is from the statement that your mother gave to the
12 investigators from the International Criminal Tribunal for the former
13 Yugoslavia, and it says:

14 "We spent the night in a room guarded by one guard in a
15 camouflage uniform. In the morning the three of us were taken to a
16 man who had his office on the first floor. He was wearing civilian
17 clothes and all he wanted to ask us were our personal details. A few
18 days later, then dressed in a black uniform, he told us his name
19 which is Jakup Hoti ..."

20 Now, I hope that's been translated for you now, Witness. And
21 what I'm putting to you is that what your mother says there is
22 different from what you say in your statement in 2013, isn't it?

23 A. There can't be any difference. I said to you, and I maintain,
24 that Jakup Hoti was the one who opened and closed the door of the
25 cell. Whereas Jakup Krasniqi was the one who took down their

1 personal details. I wasn't there. I'm just telling you what I had
2 heard from my mother. Had I been there, I would not be here today,
3 just like all other men who are gone.

4 Q. Exactly, Witness. Your mother would be the one who knows who
5 was in the office and who took personal details. That's right, isn't
6 it?

7 A. That's correct. Her personal details were taken down by
8 Jakup Krasniqi.

9 Q. Right. But you've just been taken to the statement to the ICTY
10 in which your mother says, clearly, that the man who had his office
11 on the first floor who took the personal details was Jakup Hoti.
12 That's different from what you say your mother told you, isn't it?

13 A. How come in the last statement it said that it was
14 Jakup Krasniqi who took down their personal details?

15 Q. Well, because the last statement was from you, Witness. The
16 last one was what you said in 2013. This one is what your mother
17 said to the ICTY. And that's exactly what I'm saying. There's a
18 difference between what you say and what your mother has said in
19 statements.

20 A. There is no discrepancy. I'm telling you the truth, what I had
21 heard.

22 MR. ELLIS: Could we then have on screen U000-5328 in the
23 English, U000-5040 in the Serbian. Again, not for broadcast. And
24 it's the final paragraph on the first page in the English. And I
25 believe also at the end of the first page in the Serbian.

1 Q. Now, Witness, your mother spoke to the Serbian police, the MUP,
2 in September 1998, didn't she?

3 A. That's correct.

4 Q. And what she says there in the final paragraph of her statement
5 is that it was Jakup Hoti who came to them and started interrogating
6 them, and that on the next day it was Jakup again who came to
7 interrogate them. So she has Jakup Hoti asking them questions.
8 That's right, isn't it?

9 A. I'm telling you, it says there Jakup Hoti who wore a black
10 uniform and introduced himself as the police commander. Most likely
11 he did interrogate them, question them, but how would I know? And
12 then it goes on to say that he helped them, gave them food and other
13 items for the baby. Whereas their personal details were taken down
14 by Jakup Krasniqi. He didn't question them. He just asked them for
15 their name and last name.

16 Q. Well, Witness, I'm going to put it to you that Jakup Krasniqi
17 was never there during your mother's detention, and your mother has
18 not said that it was Jakup Krasniqi who took her personal details in
19 the statements that she's given.

20 A. She did say. Perhaps she didn't remember it back then, but the
21 only person she mentioned was Jakup Hoti because he was the one
22 helping her.

23 Q. Well, let's go to the ICTY statement, which was K0195141, on the
24 third page. In this statement to the ICTY, your mother has said that
25 she thinks she saw a man called Jakup Krasniqi who once came to the

1 room, but she doesn't say that he took their personal details,
2 Witness.

3 And I'm going to show you one more statement, and this one is --
4 we do have a Serbian translation on this one.

5 MR. ELLIS: It's SPOE00194062, and the Serbian is SITF00062645.
6 Can we move to that, please. Again, not for broadcast. And it's
7 page 194077. And I think page 16 in the Serbian. Looking for
8 question 107. I think the answer is at the top of the next page.

9 Q. Now, this is from the passage where your mother was asked about
10 the person that she said was Jakup Krasniqi, and she says:

11 "He said something in Albanian. I didn't understand what. Then
12 he went out. Nothing more."

13 So no mention there, is there, of this man asking her questions,
14 taking her personal details, Witness?

15 A. I can't see the question or anything else. It just says:

16 "Witness: He said something in Albanian."

17 Q. Yeah, the question is missing on the Serbian version. There's
18 nothing in the answer to say that personal details were asked for, is
19 there?

20 A. How can I reply when I don't see the question? I just see that
21 it says "something in Albanian."

22 Q. Well, Witness, what I'm putting to you is that in the written
23 statements that she has given, your mother never said that the man
24 she thought was Jakup Krasniqi asked for her personal details or
25 interrogated her. That's different from what you're saying, isn't

1 it?

2 A. As I've explained, my mother told me that Jakup Hoti was the man
3 who opened and closed the door of the cell, brought food for the baby
4 and so on. Whereas Jakup Krasniqi took down their details and didn't
5 interrogate them any further. He just introduced himself as
6 Jakup Krasniqi and said, "Give me your details, name and last name."
7 That's what my mother told me. I did not invent this because I
8 didn't even know of Jakup Krasniqi.

9 Q. I'm not saying this is something you invented, but I am saying
10 it's different from what your mother has said in her statements over
11 the years. That's right, isn't it, from the statements you've seen
12 today?

13 A. Almost no difference whatsoever. 90 per cent is identical.

14 Q. All right. Now, you met the Prosecution in December of this
15 year and had a preparation session with them. You remember that,
16 don't you? Sorry, in December of -- just passed.

17 A. Here you mean. Yes, yes.

18 Q. Now, what you said in this session was that your mother's
19 comments to you about Jakup Krasniqi came later in 1998, around
20 August, September, when she saw him on television. Do you recall
21 saying that last month to the Prosecution?

22 A. Yes, I said so. When she saw Jakup Krasniqi on television, she
23 said, "Well, this is the man who took down our personal details."
24 That's what I said.

25 Q. So your mother first told you about what happened to her in July

1 1998 as soon as she was -- as soon as you saw her again. That's
2 right, isn't it?

3 A. That's right.

4 Q. But what you're saying is that she only mentioned the name
5 Jakup Krasniqi later than that, in August or September 1998; is that
6 right?

7 A. She mentioned the man but she couldn't remember the name. When
8 she saw him on television on the news, then she said, "This is the
9 man who took down our personal details."

10 Q. All right. Now, let's go through that then.

11 MR. ELLIS: Can we go back to P01011, still not for broadcast,
12 page 10 in the English, page 9 in the Serbian. And it's lines 15 to
13 18 in the English. And page 9, line 25 in the Serbian -- in fact, I
14 think we might need to go over the page to the top of the next page
15 in the Serbian.

16 Q. Now, you were asked in the interview in 2013:

17 "How did she find out that the person taking their personal
18 details was Jakub Krasnici?"

19 And your response was:

20 "He told them this during the interrogation, he introduced
21 himself."

22 That's what you said in 2013, isn't it, Witness?

23 A. That's right. That's what I said. He said, "I'm
24 Jakup Krasniqi."

25 MR. ELLIS: And can we go back to page 8 in both versions?

1 Well, in fact, I think we don't need to.

2 Q. You didn't say in 2013 at any point in that statement that you
3 or your mother saw Jakup Krasniqi on television, did you?

4 A. They didn't ask me. I saw him on television on a daily basis.
5 He was on the news everyday. I didn't say that I spoke to him.

6 Q. Well, they asked you:

7 "How did she find out that the person taking their personal
8 details was Jakub Krasnici?"

9 And you didn't say because she saw him on the television at some
10 point in August or September 1998, did you?

11 A. He introduced himself, as I've told you. He said, "I'm
12 Jakup Krasniqi. Give me your names and last names." That's what he
13 asked them. I didn't say that he questioned him or interrogated them
14 or anything. He just wrote those details down in his notebook.

15 Q. Witness, that wasn't the question that I asked you. The
16 question that I asked you was: In 2013, when you gave this
17 interview, you were asked:

18 "How did she find out that the person taking their personal
19 details was Jakub Krasnici?"

20 And you didn't mention the television, did you?

21 A. Maybe I didn't mention it then. But as I've told you, back then
22 he had introduced himself and told them that he was Jakup Krasniqi.

23 Q. Indeed, the first time that you have said that your mother
24 mentioned Jakup Krasniqi after seeing him on television was 25 years
25 later when you spoke to the Prosecution a month ago. That's right,

1 isn't it?

2 A. Well, my mother died in 2007. How could I have mentioned it
3 earlier? So two days after they arrived in Malisevo, the men came,
4 took down their details, and she told me that that was the man.

5 Q. Witness, that wasn't what I asked you. What I asked was you
6 hadn't mentioned seeing Jakup Krasniqi on television until you spoke
7 to the Prosecution last month. That's right, isn't it? Yes or no?

8 A. I mentioned this now that she saw him on television, and then
9 she said to me, "This is the man who took down our details."

10 MR. ELLIS: Your Honour, I see the time. That's a convenient
11 point.

12 PRESIDING JUDGE SMITH: All right. We'll take our morning break
13 at this time.

14 The Court Officer will escort you out of the room, Witness.
15 This will be a half-hour break.

16 [The witness stands down]

17 PRESIDING JUDGE SMITH: We're adjourned until 11.30.

18 --- Recess taken at 11.01 a.m.

19 --- On resuming at 11.31 a.m.

20 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
21 in.

22 MR. MISETIC: Mr. President, just to advise the Panel. In light
23 of counsel's cross-examination thus far, I expect my
24 cross-examination to be significantly reduced. Thank you.

25 PRESIDING JUDGE SMITH: Thank you very much.

1 [Trial Panel and Court Officer confers]

2 PRESIDING JUDGE SMITH: Mr. Krasniqi is missing on the screen.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: Mr. Krasniqi is either going to have to
5 be here or file a different waiver.

6 MR. ELLIS: Quite, Your Honour. We haven't heard anything
7 different, so I don't know what's happened. But I'm reluctant to
8 start without him --

9 PRESIDING JUDGE SMITH: Yes.

10 MR. ELLIS: -- as it concerns him --

11 PRESIDING JUDGE SMITH: We aren't going to start without him.
12 All right. Mr. Krasniqi is now back.

13 Mr. Ellis, you may continue.

14 MR. ELLIS: [Microphone not activated].

15 THE INTERPRETER: Microphone, please.

16 MR. ELLIS: I'm sorry.

17 Q. Witness, you know, don't you, that your mother gave statements
18 to different various different official bodies and agencies, didn't
19 she?

20 A. That's right.

21 MR. ELLIS: Can we have on screen please U000-5328. And all of
22 the documents in this section are not for broadcast to the public.
23 And the Serbian is U000-5040.

24 Q. Now, Witness, your mother spoke to the Serbian police on 31
25 September 1998, didn't she?

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1 A. Probably, yes.

2 Q. And so that would --

3 A. Now, I ...

4 Q. Sorry, I didn't mean to cut you off, Witness. Were you saying
5 something?

6 A. No, no, it's fine. It's all right.

7 Q. Thank you. Now, that would be just after you say your mother
8 saw Jakup Krasniqi on television in August or September 1998;
9 correct?

10 A. That's right.

11 Q. Witness, you have the statement in front of you in Serbian. I
12 can tell you there's no mention of Jakup Krasniqi in that statement
13 to the Serbian police on 31 September 1998.

14 A. I can see that.

15 Q. The next statement that she gave was to the OSCE in January
16 1999.

17 MR. ELLIS: And that's P00235. If we could have that on the
18 screen. That does not look like the right ... it's page 40010577.

19 Q. So this is the statement to OSCE in January 1999. It's in
20 English only, Witness, but I can tell you there's no mention of
21 Jakup Krasniqi in that statement either.

22 MR. ELLIS: And if we could move on to SPOE00195761, which is
23 the English, and U000-0211, which is the Serbian.

24 Q. So your mother gave a statement to the investigative judge in
25 Belgrade in June 2000, didn't she?

1 A. That's what it says here.

2 Q. And, again, Witness, I've been through that statement, and
3 there's no reference to Jakup Krasniqi in that statement. We've
4 already been to the ICTY statement from December 2000, which was
5 K0195141.

6 MR. ELLIS: And if we'd have that on the screen at the third
7 page.

8 Q. Now, I read you the relevant paragraph from this one before the
9 break, and you'll recall there is a mention of Jakup Krasniqi. Your
10 mother says she saw a man called Jakup Krasniqi, but there's no
11 mention there of seeing him on television in August or September
12 1998, is there, Witness?

13 A. Probably that's what is written there, but I cannot read
14 English. I can just see that what's written is the name,
15 Jakup Krasniqi.

16 MR. ELLIS: And let's go on to SITF00062540, and the Serbian
17 SITF00062540. Sorry, the English is ET.

18 Q. You should have the Serbian on the right of the screen, Witness.
19 Your mother --

20 A. Yes, I can see it.

21 Q. Thank you. Your mother reported to the Serbian security and
22 information agency in Belgrade in February 2003; is that right?

23 A. Probably so. That's what's recorded here.

24 Q. And, again, Witness, you can take it from me, there's no mention
25 to Jakup Krasniqi at all in that statement.

1 MR. ELLIS: And let's go to SPOE00 -- can we go to SPOE00194062.
2 And in the Serbian, SITF00062645. And it's page 094077 in English
3 and beginning at page 15 in the Serbian.

4 Q. And if I can just give you a moment to read the Serbian answers
5 to questions 104, which are at the bottom of the page, and 107 and
6 108 on the next page. So the top of that page.

7 Now, there is no mention in that statement, is there, Witness,
8 of seeing Mr. Krasniqi on television?

9 A. Yes, on television, yes, that's not mentioned.

10 Q. And, in fact, the answer given at 108 is -- that your mother
11 gave at 108 is:

12 "I don't have a clue what he is. I've just heard his name in
13 the hall when they've mentioned it, and nothing else."

14 That's what your mother said, isn't it?

15 A. Yes, that's what is written here: "How would I know? How
16 should I know? I don't have a clue what he is."

17 Q. And I've walked you through six of your mother's statements now
18 in the period between 1998 and 2006, Witness, and we haven't seen a
19 single one of those statements in which your mother said she saw
20 Jakup Krasniqi on television. That's right, isn't it?

21 A. That's right.

22 Q. Well, if she had seen him on television in 1998 and recognised
23 him, as you now claim, she would have mentioned it in one of those
24 statements, wouldn't she?

25 A. Probably.

1 Q. Now, you've confirmed --

2 A. But it is noted that he was present in Malisevo.

3 Q. We'll come to that, Witness. You've confirmed a couple of times
4 this morning already that your mother told you that Jakup Krasniqi
5 introduced himself, is that right, or the man she thought was
6 Jakup Krasniqi introduced himself? Do you recall saying that?

7 A. Yes, I said so. He introduced himself personally. He said, "My
8 name is Jakup Krasniqi." And he only asked them what their names
9 were.

10 Q. Well, if we can go back to the answer to question 104 on that
11 page, there is no mention there, is there, of somebody introducing
12 themselves as Jakup Krasniqi. What your mother actually said is:
13 "I've just heard when they spoke in the hall: 'Here comes the most
14 rigorous man: Jakup Krasniqi, ' ..."

15 Do you see that, Witness?

16 A. Yes, I can see it.

17 MR. ELLIS: And could we have on the screen again the ICTY
18 statement, K0195141, on the third page.

19 Q. I am going to read this to you again, Witness. I've read it
20 once before, but I'll read it again in fairness because we don't have
21 a Serbian version available.

22 This is what your mother said to the ICTY investigator:

23 "In the same building I saw a man called Jakup Krasniqi, who
24 once came to the room where we were kept. He didn't tell us his
25 name, but later I heard other Albanians in the building calling him

1 with this name."

2 So, Witness, you said earlier you don't think you've seen these
3 statements before. But what your mother told both the ICTY and the
4 UNMIK was that she heard the name Jakup Krasniqi used by other
5 Albanians in the building, not that he introduced himself. That's
6 right, isn't it? That's what we're seeing here, isn't it?

7 A. I'm telling you what my mother told me. I was not present
8 there. So I've told you my mother told me that he personally asked
9 them about their names and that he introduced himself. Now, I don't
10 know what's recorded here.

11 Q. But what you say she told you is different from what is recorded
12 here as what she said to those investigators, isn't it?

13 A. Jakup Krasniqi is mentioned everywhere. Now, I wouldn't know
14 what or how ...

15 Q. Well, Witness, you say your mother told you he introduced
16 himself. This statement that I've just read to you says:

17 "He didn't tell us his name ..."

18 You would accept that's different, wouldn't you?

19 A. I am telling you what my mother told me. I did not invent it or
20 anything. She said that he personally introduced himself, said that
21 his name was Jakup Krasniqi, and he asked them for their names.

22 Q. But that is not what your mother has said to these
23 investigators, is it?

24 MR. BAARLINK: Your Honour, this is now asked and answered.

25 PRESIDING JUDGE SMITH: We have gone over this several times.

1 MR. ELLIS: Very well. I'll move on, Your Honour.

2 Q. Witness, we spoke at the start of your evidence about the
3 structure of the KLA in Rahovec, but you certainly didn't know about
4 the structure of the KLA in Malisheve in July 1998, did you?

5 A. No, I didn't know in Malisevo or in Orahovac, because everything
6 that happened happened quite suddenly.

7 Q. No doubt you'd be aware that there are a lot of people with the
8 surname Krasniqi in the Malisheve area; yes?

9 A. Yes, there probably are.

10 Q. Krasniqi is one of the most common surnames in Kosovo, isn't it?

11 A. Well, I don't know. But there are many for sure.

12 Q. Had you heard that Gani Krasniqi was sometimes referred to as
13 the mayor of the free zone in Malisheve in July 1998?

14 A. This is the first time I hear about that, Gani Krasniqi. But
15 I'm not saying that there aren't any other Krasniqis. There probably
16 are. But I have not heard of Gani Krasniqi.

17 Q. I see.

18 MR. ELLIS: Your Honour, this next reference is not to be shown
19 on the screen to the witness but it is for those following in the
20 courtroom. *[REDACTED] Pursuant to In-Court Redaction Order F02139RED..*

21 Q. And, Witness, Jakup Hoti, the man who your mother identified as
22 being at the police station in Malisheve, *[REDACTED] Pursuant to In-*
Court Redaction Order F02139RED.

23 *[REDACTED] Pursuant to In-Court Redaction Order F02139RED..* And in that
statement, he was asked who he reported to at

24 that time, and his response was:

25 "At that time, it was -- the staff was made of Gani, Hysni, and

1 Skender Krasniqi."

2 Did you know that Gani Krasniqi and Skender Krasniqi were part
3 of the staff in Malisheve in July 1998?

4 A. No, I didn't know that.

5 Q. You've confirmed that you worked for the [REDACTED] Pursuant to
6 *In-Court Redaction Order F02139RED*.

7 [REDACTED] Pursuant to *In-Court Redaction Order F02139RED*.. You do know
8 that the Serbian state investigated the events
9 of July 1998, don't you?

10 A. They did investigate it, but I don't have any information about
11 that. I am just telling you the story told to me by my mother rather
12 than what could be found based on investigations conducted by the
13 [REDACTED] Pursuant to *In-Court Redaction Order F02139RED*..

14 MR. ELLIS: Well, can I show you SITF00304479, please.

15 Q. This is a letter sent from the Ministry of Internal Affairs in
16 June 2005 to UNMIK. And if you could scroll down -- I appreciate you
17 may not read the English, but if we could scroll down, there's a list
18 there of people that the Serbian authorities believed were involved
19 in the kidnapping of Serbian civilians from Rahovec.

20 And you can see the numbers 1, 2, 3, 4, 5. It's right, isn't
21 it, that --

22 A. Yes, I see that.

23 Q. It's right, isn't it, that on the list at number 3 is Skender
24 Krasniqi and number 5, Jakup Hoti. But this document doesn't
25 mentioned Jakup Krasniqi at all, does it?

26 A. That's what it says here. Agron Berisha, Skender Krasniqi,
27 Hysni Kilaj, Jakup Hoti, and Ragip Thaci.

1 MR. ELLIS: And if we could then go to SITF00300270, and this
2 shouldn't be broadcast.

3 Q. This is another document from the Ministry of Internal Affairs
4 of Serbia in February 2004. And if we can scroll down to the bottom
5 of the name, just to confirm the name -- the second -- the name two
6 lines up from the bottom, that is your mother's name; correct?

7 A. Yes, but this is not a document of the Ministry of the Interior.

8 Q. And, again, the person this document is referring to as a
9 suspect is Skender Krasniqi. You see that name in the first line on
10 that screen; yes?

11 A. I see that. But this is not a statement by my mother. This is
12 a statement concerning the village of Retimlje and so on.

13 Q. Well, let me move on, Witness, to a different issue.

14 MR. ELLIS: That document can come down. Thank you.

15 Q. You've said already that you attended the interview with UNMIK
16 with your mother and you weren't sure about the date, but do you
17 recall your mother being asked to try to identify people from a photo
18 lineup?

19 A. Well, I'm not sure. Maybe yes. But I doubt that she would have
20 recognised anyone.

21 Q. Well, let's see.

22 MR. ELLIS: It's SPOE00194018. And the first page I need to
23 show you is 194022.

24 Q. Witness, this is the list of photographs that were shown to your
25 mother. You see there the name Jakup Krasniqi and numbers 5, 7, and

1 14; correct?

2 A. Yes, it says 5, 7, 14, Jakup Krasniqi. Yes.

3 Q. And can we then go, please, to your mother's response when shown
4 those pictures.

5 MR. ELLIS: And it's in SPOE00194062 in the English,
6 SITF00062645 in the Serbian. And it begins at pages 194081 in the
7 English, and 62664 in the Serbian.

8 Q. Now, what we see there is at number 136 your mother was shown
9 photograph number 5, and her response was:

10 "I don't know."

11 MR. ELLIS: And if we could scroll down to 138 on the same
12 screen.

13 Q. She was shown photograph number 7, and responded:

14 "I don't know the name. I don't know anything."

15 And then question 147, which will be on the next page, she was
16 shown photograph 14 and responded:

17 "Nothing ..."

18 So it's clear, isn't it, Witness, that your mother was shown
19 three photographs of Jakup Krasniqi and couldn't identify him in any
20 of them. That's right, isn't it?

21 A. That's what it says here. I wasn't present to know more.

22 Q. But you can see that's what it says here, Witness; yes?

23 And if your mother had seen --

24 A. That's what it says, yes.

25 Q. If your mother had seen Jakup Krasniqi in July 1998 and then

1 recognised him on television in August or September 1998, she would
2 have been able to pick out one of his three photographs in a photo
3 lineup, wouldn't she?

4 A. Most likely, yes. I just told you what my mother had said to
5 me, that he was the one and that's all. I did not invent the name,
6 the last name, nor do I know who he is.

7 Q. Well, it was public knowledge, wasn't it, in July 1998 that
8 Jakup Krasniqi was the spokesperson of the KLA? Did you know that?

9 A. I didn't know.

10 Q. I thought you mentioned earlier that he was always on
11 television. You didn't know that he was the spokesperson, Witness?

12 A. I didn't know that he was the spokesperson. All I know is that
13 he was in the KLA. And after August 1998, he was constantly on
14 television.

15 Q. You've now seen from the documents, but didn't know before,
16 there are at least two members of the KLA staff in Malisheve with the
17 name Krasniqi - Gani Krasniqi and Skender Krasniqi. You've seen that
18 today from the documents; correct?

19 A. I read in the statement here Skender Krasniqi is mentioned in
20 relation to Opterushe, Retimlje, and another village. All of these
21 are villages near Orahovac, and some 20 to 30 people had been
22 kidnapped from those villages.

23 Q. I'm going to put my case to you clearly, Witness.

24 Jakup Krasniqi did not meet your mother in the police station in
25 Malisheve in July 1998. And you weren't there at the time, Witness,

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Cross-examination by Mr. Misetic

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1 so you're not in a position to confirm who your mother saw during her
2 detention, are you?

3 A. I am maintaining that my mother told me that that was
4 Jakup Krasniqi. She told me that his name was Jakup Krasniqi and
5 that he took down their personal details, their names and so on.
6 That's what my mother told me, and I am 100 per cent sure of that. I
7 did not invent anything nor did anyone else.

8 Now, whether that is the Jakup Krasniqi or some other man with
9 that name, I wouldn't know.

10 Q. Exactly. That's what you recall being told by your mother but
11 you don't know yourself, do you?

12 A. I have no personal knowledge because I wasn't there and I didn't
13 see anything. As I've told you, not a single man came out alive from
14 there. All of them were killed.

15 MR. ELLIS: I don't have anything further. Thank you,
16 Your Honours.

17 PRESIDING JUDGE SMITH: Thank you.

18 Mr. Misetic.

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

20 Cross-examination by Mr. Misetic:

21 Q. Good afternoon, Witness. My name is Luka Misetic. I am counsel
22 for Mr. Thaci, and I will have just a few questions for you this
23 afternoon.

24 A. No problems.

25 MR. MISETIC: Mr. President, if we could move into private

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Cross-examination by Mr. Misetić

1 session briefly to protect the identity of the witness, please.

2 PRESIDING JUDGE SMITH: Please take us to private session,

3 Madam Court Officer.

4 [Private session]

5 [Private session text removed]

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1 [Private session text removed]

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10 [Open session]

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

12 MR. MISETIĆ: Thank you.

13 Q. Witness, on 17 July 1998, you were in Rahovec that day; correct?

14 A. That's right.

15 Q. And you went --

16 A. I was at work until 3.00 p.m.

17 Q. And once you finished work, what did you do?

18 A. I went home, had lunch, and after that went to play football.

19 Q. And according to your statement, you went to play football
20 around 5.00 p.m.; is that correct?

21 A. Yes.

22 Q. And where exactly in town did you play football?

23 A. In the sports centre in Orahovac, if you know where it is
24 located.

25 Q. Well, if you could help me with that. Is that in the centre of

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1 town?

2 A. Well, it's close to the market. Close to the Orvi company.

3 Q. Would that be considered the centre of town?

4 A. Not really the centre, but it's close to the centre. It is
5 mostly populated by Albanian residents.

6 Q. Okay. And you say in your statement that you left for home
7 around 6.00 p.m.; is that correct?

8 A. Well, whether it was 6.00 or not, we went home when police told
9 us to leave from that sports field.

10 Q. And other than the police telling you to leave, you didn't
11 mention in your statement seeing anything unusual in town around that
12 time; correct?

13 A. There was nothing unusual. It was just like a regular day.

14 Q. So you saw nothing unusual all the way until you got home;
15 correct?

16 A. While we were playing football, we could hear shooting. There
17 was shooting all over, but we didn't know what it was about.

18 Q. Well, when you left, did you see any -- you said you didn't see
19 anything unusual. And I'm asking you when you left, all the way till
20 you got home, you didn't see anything unusual; correct? You didn't
21 mention anything unusual in your statement.

22 A. Nothing unusual. We just saw that there was some commotion,
23 commotion among the Albanian residents in a street. We went by car.

24 Q. Witness, your mother never saw your brother after the night
25 17 July 1998; correct?

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1 A. Neither my brother nor my father. It wasn't at night. It was
2 during the day at about 4.00 or 5.00 p.m. at the entry point into
3 Orahovac.

4 Q. Has anyone else in your family seen your brother after 17 July
5 1998?

6 A. No.

7 Q. Are you aware that your brother's wife and your aunt claim that
8 they had seen your brother in two different occasions after 17 July
9 1998?

10 A. There's no way they could have seen him because they were in
11 Belgrade. All they heard was a message on the voice machine where
12 somebody left a message saying that he was [REDACTED] Pursuant to In-
Court Redaction Order F02139RED.

13 Q. And you're unaware that someone claimed to have seen your
14 brother driving a car in Prizren in December 1998?

15 A. That's not true. Somebody said that, but it's not true.

16 Q. Well, are you aware that it was your sister-in-law that said
17 that she saw him, meaning your brother's wife, who said that she saw
18 him in December 1998 in Rahovec?

19 A. No, she didn't see him, nor is that true.

20 Q. Well, are you aware that she said that, though?

21 A. She didn't say that. I'm 100 per cent sure because they were
22 killed five days after leaving Malisevo. That's what the report
23 said.

24 MR. MISETIĆ: If we can put on the screen, not for public
25 broadcast, SPOE40010571 to SPOE40010579 at SPOE00116985, please.

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1 THE COURT OFFICER: Can counsel please repeat the ERN.

2 MR. MISETIC: SPOE40010571 to SPOE40010579 at SPOE00116985. So
3 it should be page 576 in this document.

4 THE COURT OFFICER: Just for the record, this is P00235.

5 MR. MISETIC: Thank you. If we could go to paragraph 15,
6 please.

7 Q. Witness, this is a statement of your sister-in-law, your
8 brother's wife, and I'll read it to you so it can be translated. But
9 she told investigators:

10 "Furthermore I am convinced I saw my husband in Orahovac one
11 week ago today (21 Dec 98). There was a Fica full of Albanians
12 behind that was a Lada with about 7 people in it. The car had no
13 registration, my husband was in the Lada. It drove by slowly. I am
14 sure of it."

15 Your sister-in-law never mentioned seeing your brother either to
16 you or your mother never mentioned her having told her this?

17 A. No, she never mentioned it. I see this for the first time and I
18 hear this for the first time.

19 Q. Okay.

20 A. How she could have seen him when they were killed immediately in
21 August in Malisevo? What's the date of this statement? Which year?

22 Q. So it's -- as you can tell from the statement, it's January
23 1999. She talks about having seen him "one week ago today," so end
24 of 1998, beginning of 1999. And we also have another statement where
25 your mother says she was told this by her daughter-in-law, your

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1 sister-in-law. Again, your mother never mentioned this to you. Is
2 that your testimony?

3 A. I never heard of this before. This is the first time.

4 Q. And you say that your uncle told you that your brother left a
5 message on the answering machine sometime after he was stopped by the
6 KLA; correct?

7 A. Correct, that's right. Whether it was really my brother, I
8 don't know. My uncle took that tape with the recording to be
9 analysed, but they were not able to the establish anything.

10 Q. Who did he take the tape to?

11 A. To the police in Belgrade.

12 Q. So as far as you're aware, the Serbian police has a copy of the
13 tape?

14 A. Well, it's a question whether that still exists. I know that my
15 uncle took it there, but where he took it? I know that it was to the
16 police in Belgrade.

17 Q. Are you aware that your mother stated that your brother left a
18 phone message at your sister-in-law's place as late as September
19 1999?

20 A. My sister-in-law lived with me for some three or four months
21 after the event and with my mother. After that, she left and we
22 never saw her again. She did not live independently. She could
23 not -- she could not have said that somebody left a message in her
24 place. The message was left on the answering machine of the uncle
25 and aunt in Belgrade, and the message said, "This is [REDACTED]
Pursuant to In-Court Redaction Order F02139RED." and

1 nothing more.

2 Q. Okay. Let me show you a statement of your mother.

3 MR. MISETIĆ: It's SPOE00195761 to 00195763 RED2 at page 3, not
4 to be broadcast please.

5 THE COURT OFFICER: Not to be broadcast to the public?

6 MR. MISETIĆ: Correct, yes.

7 THE COURT OFFICER: Yes.

8 MR. MISETIĆ: Mr. President, because I have to read out names, I
9 would ask to briefly go into private session.

10 PRESIDING JUDGE SMITH: Into private session, please,
11 Madam Court Officer.

12 [Private session]

13 [Private session text removed]

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5 [Open session]

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

7 MR. MISETIĆ: Thank you.

8 Q. I'd like to show you, Witness, a statement that your mother gave
9 in June 2006 to UNMIK.

10 MR. MISETIĆ: And this is SPOE00194062 to 0194084 RED3. And not
11 to be broadcast to the public. And if we could go to page 00194079,
12 please. If we could scroll down please to a portion that says:

13 "From April last year ...". There we go. Right there.

14 Q. This is something your mother said in June 2006, and I'd just
15 like to ask you a few questions about it. She says:

16 "From April last year I am a sick woman and I've stopped going
17 anywhere because my children won't allow it. They say: 'You will
18 remain there. You are ill, and you won't survive!' But, I didn't
19 want to miss this, so I came. And, it affects me; I am disturbed."

20 Now in June 2006, your mother said that she had become a sick
21 woman in April of "last year" which appears to mean April of 2005.
22 Could you tell us what illness she's referring to? And she's saying
23 that her children, which I assume includes you, wouldn't allow her to
24 go anywhere as a result of her illness. What illness did she have in
25 April 2005 or was she diagnosed with?

1 A. She had various illnesses. She got ill when she was quite
2 young. She was born in 1945. She was 60 when she died. She had
3 high blood pressure and blood sugar was high, so all sorts of things.
4 And I didn't allow her to go anywhere, to visit those organisations
5 and so on, because she did not achieve anything. They would all say
6 all sorts of things. They would ask her what happened and how. It
7 was the same old story every day. And once she returned, it would be
8 even worse, how she felt. And myself and my brother did not allow
9 her to keep doing that.

10 Q. Okay. But she's referring to some specific diagnosis, it
11 appears, in April 2005. Do you recall what diagnosis she received in
12 April 2005?

13 A. I remember everything. How could I not remember? She had a
14 tumour on her breast.

15 Q. Okay. And is that ultimately what she died of?

16 A. Well, I don't know what she died of. She died of a little bit
17 from everything. Everything just came together. And I was not in
18 charge of investigating the cause of her death.

19 MR. MISETIĆ: If we go to page 4083 in this document. To the
20 part where she says: "I can add a request to bring me ..."

21 Can we scroll down a little bit more, please? That's it right
22 there.

23 Q. She says:

24 "I can add a request to bring me my husband and son alive and
25 healthy. That is my addition. I am not asking for anything else.

1 That is important to me. I am not interested in anything else."

2 So I just wanted to establish that her breast cancer diagnosis
3 she received before she had heard of the DNA confirmation and the
4 discovery of the remains; correct?

5 A. Yes.

6 Q. Thank you. Thank you, Witness, for answering my questions.

7 MR. MISETIC: Mr. President, I don't have any more questions.

8 PRESIDING JUDGE SMITH: Thank you, Mr. Miseti.

9 Yes, go ahead.

10 MS. ROWAN: No questions, Your Honour. Thank you.

11 PRESIDING JUDGE SMITH: All right.

12 Mr. Roberts.

13 MR. ROBERTS: Nothing from me. Sorry, nothing from me,

14 Your Honour. Thank you.

15 PRESIDING JUDGE SMITH: All right. Judge Barthe has some -- or,

16 I'm sorry.

17 Redirect?

18 MR. BAARLINK: No, Your Honour.

19 PRESIDING JUDGE SMITH: Okay. Judge Barthe has some questions.

20 Go ahead, Judge Barthe.

21 JUDGE BARTHE: [via videolink] Thank you, Judge Smith.

22 Questioned by the Trial Panel:

23 JUDGE BARTHE: [via videolink] And good afternoon, Witness. I

24 hope you can hear me all right.

25 A. Yes, I can hear you well.

1 JUDGE BARTHE: [via videolink] Thank you. I have just a few
2 questions in relation to what you told us today and what you told the
3 Prosecution in your preparation session in December last year.
4 According to paragraph 4 of Preparation Note 2 - this is ERN 117822
5 to 117823 - you said that your family did inquire with Albanians
6 about the kidnapping of your father and brother, but did not formally
7 speak with the KLA. Your family was sure it was the KLA that had
8 done the kidnapping, and that your mother recognised Ismet Tara and
9 Sabahudin Cena, also known as Sosi.

10 First of all, do you remember saying this to the SPO in December
11 last year, 2023?

12 A. Yes, I remember.

13 JUDGE BARTHE: [via videolink] Thank you, Witness. I would like
14 to know why were you and your mother sure that the kidnapping was
15 done by the KLA?

16 A. Who else could have done it? I received the bodies from
17 Malisevo. My father and brother's bodies were found in 2007 thanks
18 to the DNA analysis I received of the bodies, and it was proved that
19 they were executed. And 100 per cent for sure it was the KLA.
20 Nobody else. Who else would have done it?

21 JUDGE BARTHE: [via videolink] Thank you. And you said, Witness,
22 that your mother recognised Ismet Tara and Sabahudin Cena, or Sosi.
23 My question is how did your mother recognise them, Mr. Tara and
24 Mr. Cena? Did she know them from before?

25 A. By sight, yes. As I said, Ismet Tara had a kebab shop, and

1 Sabahudin Cena worked at the 18th November factory where he was not a
2 labourer but some sort of engineer or something. He had a university
3 degree.

4 JUDGE BARTHE: [via videolink] Thank you. Are you saying,
5 Witness, that your mother was also aware that Mr. Tara had that kebab
6 shop and that Mr. Cena was working in that factory, as far as you
7 know?

8 A. Yes. And that's true. Sabahudin Cena worked at the factory, as
9 I said, and the other person was the owner of the kebab shop.

10 JUDGE BARTHE: [via videolink] And your mother was aware of that?

11 A. She knew that Cena worked at the factory because my father used
12 to work in the same factory.

13 JUDGE BARTHE: [via videolink] Thank you.

14 My next question is why did you or someone from your family not
15 speak, as you said, formally with members of the KLA? Did you or a
16 member of your family, as far as you know, speak informally with
17 anyone from the KLA?

18 A. Well, we could not get in touch with them because they were
19 hiding in the woods.

20 JUDGE BARTHE: [via videolink] So that was in 1998? You're
21 saying they were hiding in the woods in 1998 or also in 1999, or why
22 didn't you speak to them later on?

23 A. We tried to talk to them, but nobody was willing to tell us.
24 They did not say anything about anyone. And up to this day, we do
25 not know how they perished. And they hid in the woods as of 1997 up

1 until the year 2000 when KFOR came.

2 JUDGE BARTHE: [via videolink] Thank you.

3 And my next question refers to the next paragraph of the SPO's
4 preparation note, that is paragraph 5. According, Witness, to that
5 paragraph, you said or you told the Prosecution in December of last
6 year, 2023, that your family found out about the DNA match of your
7 relatives in February 2007 and that your mother got sick because of
8 the discovery and died because of it one month later.

9 And you also said to the Prosecution, or explained to the
10 Prosecution, that the family - your family - were hopeful until then,
11 until February 2007, that your father and brother were still alive.

12 Witness, earlier today you told us that everybody was talking
13 about this, that your father and brother were still alive, that they
14 were doing forced labour somewhere in a camp or in a mine. So my
15 question is who were the people who said that your father and brother
16 were still alive, that they were doing forced labour somewhere in a
17 camp or in a mine or somewhere else? Who told you that?

18 A. Those were people, ethnic Albanians, that I worked with. We
19 lived together down there. We spent time together, ate and drank,
20 and they were the ones who were saying that they were probably alive
21 and probably doing work in a mine or some place like that. They were
22 the ones who were telling us that.

23 JUDGE BARTHE: [via videolink] Thank you very much.

24 And my last question is you told us today that your mother died
25 in March 2007, one month after you received confirmation that your

1 father and brother were dead; is that correct?

2 A. Correct. In 2007.

3 JUDGE BARTHE: [via videolink] Yes. So when you took over the
4 bodies in or around June 2007, your mother had already passed away;
5 correct?

6 A. That's right. I took over the bodies personally and I buried
7 them. And I also have the postmortem examination report stating what
8 was the manner in which they were killed.

9 JUDGE BARTHE: [via videolink] And your mother, Witness, couldn't
10 attend the burial of your father and your brother because she was
11 already dead. She passed away in March, right, 2007?

12 A. That's right. That's right. She died in March and I took over
13 the bodies in June.

14 JUDGE BARTHE: [via videolink] Thank you very much, Witness. I
15 have no further questions. Thank you.

16 PRESIDING JUDGE SMITH: Any questions from the Prosecution based
17 upon the Judges' questions?

18 MR. BAARLINK: No, Your Honour.

19 PRESIDING JUDGE SMITH: Anything further, Mr. Ellis, in
20 connection with the Judges' questions?

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

22 PRESIDING JUDGE SMITH: Mr. Misetic.

23 MR. MISETIC: No, thank you.

24 MS. ROWAN: No, thank you.

25 PRESIDING JUDGE SMITH: Thank you.

1 MR. ROBERTS: No, thank you.

2 PRESIDING JUDGE SMITH: All right.

3 Witness, your testimony is now complete. You will be escorted
4 from the courtroom, and you are excused from any further activity
5 with us. Thank you for being with us and for sharing your
6 information with us. We wish you well.

7 THE WITNESS: [Interpretation] Thank you, too.

8 [The witness withdrew]

9 PRESIDING JUDGE SMITH: Yes, Mr. Ellis.

10 MR. ELLIS: Your Honour, I see that I forgot my tenders again.
11 There were three documents I wanted to tender.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: The first was SPOE00201838, which was the document
14 headed "Weapon List Orahovac."

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Any objection by the Prosecution?

17 MR. BAARLINK: No, Your Honour.

18 PRESIDING JUDGE SMITH: 201838 will be admitted and be assigned
19 a number.

20 MR. ELLIS: The next two were the --

21 PRESIDING JUDGE SMITH: Just a second. Just a second,
22 Mr. Ellis.

23 THE COURT OFFICER: Your Honours, SPOE00201838 to 00201859 will
24 be assigned Exhibit 4D26.

25 PRESIDING JUDGE SMITH: All right.

1 MR. ELLIS: And the other two were the Serbian documents. The
2 first is SITF00304479 and the second was SITF00300270, if I'm reading
3 my handwriting correctly. I'll just check that again. Yeah, I think
4 that's right.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Any objection?

7 MR. BAARLINK: No, Your Honour.

8 PRESIDING JUDGE SMITH: All right. [Microphone not activated].

9 SITF00304479 and 00300270 are admitted.

10 MR. ELLIS: Thank you, Your Honour.

11 THE COURT OFFICER: Your Honours, document with ERN SITF00304479
12 to 00304482 will be assigned Exhibit 4D27. And the second document,
13 SITF00300270 to 00300271 will be assigned Exhibit 4D28.

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. BAARLINK: Your Honour, we will need about five minutes to
16 rotate the team for the next witness. It is close to lunchtime.
17 We're in your hands --

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 We'll break for lunch now so you don't start and have to stop
20 immediately.

21 We'll be back here at 2.30. We're adjourned until then. Thank
22 you.

23 --- Luncheon recess taken at 12.42 p.m.

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

25 PRESIDING JUDGE SMITH: We will now continue to hear the

1 evidence of Prosecution Witness W04576.

2 Before the witness is brought in, the Panel notes that the Thaci
3 Defence had given notice to the Panel of an objection it may raise in
4 relation to the SPO's use with W04576 of a book he published.

5 Is that still the case, Mr. Misetic?

6 MR. MISETIC: Yes, depending on how the Prosecution goes about
7 it. But, yes. I don't know if you want me to articulate it.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. MISETIC: Well, so our position is that the witness should
10 be asked on direct what he knows, he's here to give oral evidence,
11 and not put the book in front of him and then start reading from it
12 and asking him to confirm or deny things that were said.

13 If the witness needs his recollection refreshed, there is a
14 procedure under Rule 143(1) for that to be done with the leave of the
15 Panel, under the rule.

16 And then our position is, in light of the ruling last week by
17 the Panel on Rule 143, the book is not a statement for purposes of
18 143(2)(c) and cannot be admitted for the truth of its contents.

19 In other words, if the witness gives a statement that says, "I
20 say A," and the book says, "I say B," the Panel cannot take the B
21 part. It has to either accept what he says or the Prosecution can
22 disregard that evidence and not rely on it. But the Prosecution
23 cannot rely on what's in the book if it's contrary to what the
24 witness said on direct examination.

25 And Rule 143 is *lex specialis* for what a party can do to

1 challenge the credibility of its own witness.

2 JUDGE METTRAUX: Mr. Misetic, do you have authorities for the
3 suggestion that we could not rely on an exhibit admitted under 138(1)
4 for the truth of its content?

5 MR. MISETIC: Yes. Well, I'll -- if you want the authority,
6 I'll have to look it up because it's a very unique situation. I will
7 say that this argument flows from our difference of opinion with the
8 Panel as to how to read Rule 143(2)(c). Under our interpretation,
9 the book does come in, potentially, as a prior inconsistent
10 statement, and I believe the SPO is in agreement.

11 But first and foremost, I think the rule is *lex specialis* on how
12 a party can impeach or challenge the credibility of its own witness.
13 And outside of that, I don't see any authority to the contrary point,
14 which is that the Panel has the ability to -- or I should say a party
15 has the ability to not accept a witness's -- or to rely on something
16 contrary to what its own witness said on direct examination except in
17 accord with Rule 143(2)(c).

18 JUDGE METTRAUX: But wouldn't it be the same if, let's say, an
19 order was signed by --

20 MR. MISETIC: No.

21 JUDGE METTRAUX: -- a witness? I mean, let me put it that way
22 to you. Isn't it the case that if the book is offered, it will be
23 admitted under 138(1), not 143(2)(c), as you indicated, because it
24 doesn't qualify as a statement considering it wasn't taken in the
25 context of proceedings?

1 MR. MISETIC: So an order is a contemporaneous document prepared
2 in the ordinary course or a business record. A book written by
3 someone 15 years after the fact is not a contemporaneous document.
4 It's not a business record. It's in effect a witness's own account
5 of something. It's essentially, as I said, under our interpretation,
6 it is a statement that but for the Panel's ruling on Friday, and I
7 believe the SPO and the Thaci Defence are in agreement on this, is a
8 statement that would have been otherwise been able to be put to him
9 under Rule 143(2)(c).

10 But because the Panel has now ruled that a statement for that
11 rule must be interpreted consistently with the definition in 153 to
12 155, then we want just everything to be applied equally now. It
13 can't be heads I win, tails you lose. When we want to say that only
14 portions of a statement are admissible under 143, the Panel says it's
15 only statements that are consistent with 153 to 155, that definition,
16 but in applying a book, then that would be something that could be
17 put to the witness outside the bounds of Rule 143.

18 JUDGE METTRAUX: So if I understand your argument correctly, we
19 would have to regard the book as in effect a statement of the
20 witness? Is that the suggestion?

21 MR. MISETIC: Under our -- traditional understanding in our -- I
22 would say, all common law jurisdictions of a prior inconsistent
23 statement means a book, a television interview, a newspaper
24 interview, that could be put to a witness as a prior inconsistent
25 statement.

1 Now, that isn't the case as of last Friday, and so that puts us
2 in a different procedural posture now. And, again, I would say we
3 want -- our position is that the application of that definition
4 should now be consistent. It cannot be put to the witness who's
5 being called to give *viva voce* evidence precisely because the Panel
6 found inconsistencies in his evidence that made his -- admission of
7 his SPO interview not proper under 154 to then put the book in front
8 of him and to start leading evidence from him from the book. That's
9 the first point.

10 And the second point is it's not an interview taken in the
11 context of legal proceedings. Therefore, it doesn't fit the
12 definition of a statement for purposes of Rule 143(2)(c). And you
13 can't, in that circumstance, take a statement that the witness made
14 that's being called by the party, by the Prosecution here, and allow
15 them to rely on a statement he's made in a book that's contrary to
16 the *viva voce* statement on the same point that he's giving now.

17 I'm not saying that the Prosecution is bound by what he says
18 *viva voce*, but they can't rely on something that's contrary to what
19 he said in court, particularly since it's not a contemporaneous
20 document or a business record.

21 Thank you.

22 MR. EMMERSON: May I, first of all, endorse the submissions that
23 Mr. Misetic has made, but at the same time remind the Panel, because
24 I know you're familiar with the contents of the SPO interview of the
25 witness, that the posture of the witness throughout the interview was

1 that the book contains very significant distortions and
2 embellishments in order that it be used to promote the author's
3 political career by placing him in positions and connections that he
4 didn't genuinely have.

5 Now, it has echoes -- and I don't wish to go into the history of
6 the testimony of Witness 4325, but it has echoes in a slightly
7 different procedural context because we know, before we start, that
8 the book is absolutely full of things that the witness claims to have
9 disavowed. And the very great danger then is that we find ourselves
10 in a position where portions are being admitted.

11 But what didn't happen, in the case of 4325, is that in order to
12 know what is truth and what is accurate you would have to go
13 paragraph by paragraph by the book, or in his case the witness
14 statement, to understand which parts he was standing by and which
15 parts he was disavowing.

16 So it's an extremely dangerous scenario, as we say, to be
17 admitting the evidence of -- other statements of witnesses when they
18 themselves admit that part of what they've said is untrue unless you
19 have a procedure, which is obviously hideously time-consuming, going
20 through paragraph by paragraph to find out which part of the
21 statement is true, according to the witness, and which part is false.

22 So it happened in the way that it happened with the other
23 witness. This is slightly different because the book is not being
24 tendered as to the truth of its contents, so it's a rather different
25 application. It will be elicited -- passages elicited in evidence.

1 But the consequence is the same.

2 This is a -- as I say, a very different situation. These are
3 witnesses who've told the SPO, and through the SPO the Panel, that
4 their documents we're concerned with are peppered with untruths. So
5 it's not appropriate, therefore, to be using the document as evidence
6 of the truth of its contents in any way if we don't have a
7 line-by-line account of what is said by the witness to be true and
8 what is said to be false.

9 That, with the greatest of respect, and I don't want to retrace
10 it, that is my concern about the procedure in connection with the
11 last witness. The difference is at least with this witness you have
12 an opportunity of hearing his answers, such as they are, in the
13 witness box. It won't be the whole book going in as proof of the
14 truth of its contents as happened in the other instance.

15 But once you have a witness who has said a document the
16 Prosecution wishes to use is peppered with untruths, the only way
17 that that witness's document can be of any use to the Panel is if you
18 have, in fact, gone through paragraph by paragraph.

19 PRESIDING JUDGE SMITH: You're saying, as a truism, that many of
20 the things he said in the book are false. That hasn't been proven
21 yet. It's just contrary. It's not necessarily --

22 MR. EMMERSON: No, no --

23 PRESIDING JUDGE SMITH: -- false.

24 MR. EMMERSON: -- he says in his -- his --

25 PRESIDING JUDGE SMITH: He says now it's false, yes.

1 MR. EMMERSON: Yes, exactly. It's a different scenario because
2 with that witness he came into court and said some of it's false --

3 PRESIDING JUDGE SMITH: Somebody could just come into court and
4 say, "Well, everything I've ever said is false," and you want -- you
5 think that's the end of it then.

6 MR. EMMERSON: No, I don't. I think the witness can testify --

7 PRESIDING JUDGE SMITH: Yes.

8 MR. EMMERSON: -- of what's true and what's false.

9 PRESIDING JUDGE SMITH: And you can show him any document to
10 show that he, in a contrary way, said something else.

11 MR. EMMERSON: Absolutely. Certainly that is -- but what you
12 can't do -- the process for doing that is cross-examination not
13 impeachment of your own witness, unless the conditions for that are
14 satisfied. You can't call a witness --

15 PRESIDING JUDGE SMITH: No, if the condition [Overlapping
16 speakers] ...

17 MR. EMMERSON: -- in order to prove what they're saying is a
18 lie.

19 PRESIDING JUDGE SMITH: You can certainly impeach your own
20 witness if he testifies contrary to what he has testified to you
21 before.

22 MR. EMMERSON: But this isn't testimony. It's a book.

23 PRESIDING JUDGE SMITH: Well, the book is the document you're
24 showing to show that he previously made a statement. What better
25 statement of the truth would there be than a book written by somebody

1 as in the nature of a history that he signs as the author?

2 MR. EMMERSON: Well, I'm not going to ask that question. The
3 witness has already answered it in the statement. He's saying: I
4 was trying to promote a political [Overlapping speakers] ...

5 PRESIDING JUDGE SMITH: If we choose to believe that. Yes.

6 MR. EMMERSON: If you choose to believe that.

7 But there is a difference. The rules on impeaching your own
8 witness in the context of declaring hostile is where the witness has
9 told you a version of events that he then changes. In other words, a
10 party calling has interviewed a witness, they've made a statement
11 asserting that this is what they will say and stand by, and then they
12 retreat from it or contradict it.

13 PRESIDING JUDGE SMITH: I don't think --

14 MR. EMMERSON: In those circumstances, the rules of hostility
15 arise, but this isn't that situation. He told the Prosecution
16 straightaway that the book contained untruths.

17 PRESIDING JUDGE SMITH: I don't think our rules are quite that
18 narrow of a definition. I understand your argument. I'm just saying
19 I don't think our rules were structured in such a way to be that
20 narrowly defined. Ours are pretty wide open when you read them.

21 MR. EMMERSON: And I understand they come from different
22 traditions as well, one of which is the admission and -- and internal
23 conviction, and so forth, on the continental side, so do I understand
24 that.

25 PRESIDING JUDGE SMITH: Yeah, go ahead.

1 MR. MISETIC: Mr. President, I rise for two points. One is I
2 should have alerted, in response to Judge Mettraux, one authority for
3 what I'm saying in terms of using statements to lead a witness, and
4 this actually is an oral discussion and an oral order in Prosecutor
5 versus Karemera from the ICTR, a transcript of 31 March 2004,
6 beginning at page 18 -- sorry, page 14 going to page 18 in the
7 transcript. There, there was a discussion, and it discusses how both
8 in the common law and in the civil law systems a witness doesn't get
9 a witness statement put in front of them and then you can start
10 asking the questions before you've laid the foundation that the
11 witness needs to have a recollection refreshed.

12 And just on the second point on your point about the book being
13 best, I just want to make --

14 PRESIDING JUDGE SMITH: Not necessarily the best.

15 MR. MISETIC: Okay. I just want to make clear my position,
16 again. I just want to reiterate. I would agree with you that that's
17 how the rule should be interpreted, 143(2)(c), but that's our
18 position which I understand was rejected on Friday in favour of a
19 different interpretation of the rule. And so my position today is
20 based on seeking a consistent application because otherwise we're
21 losing -- the Defence loses depending on how the Panel is changing
22 the definitions to allow this to come in.

23 JUDGE METTRAUX: But just on that, Mr. Miseti. Isn't it you
24 who are asking that we jump from one definition to the other? The
25 definition of a statement is an account given by a witness of facts

1 of which he or she has knowledge given in the context or in relation
2 to proceedings.

3 MR. MISETIC: Yes.

4 JUDGE METTRAUX: Now, clearly that wouldn't be the case of a
5 book. And that's the definition that was given not just on Friday
6 but in the other decisions since a decade ago that are cited in that
7 decision. So isn't that you are asking us to treat something that
8 comes within the field of an exhibit under 138(1) as a statement for
9 the purpose of 143(1) you say?

10 MR. MISETIC: So this is something I anticipated I was going to
11 be asked, and this is why I emphasised that this is why Rule 143 must
12 be treated as *lex specialis*. Right?

13 The specific conditions upon which a party can move to challenge
14 the credibility of its own witness are laid out in 143. So if it's
15 not a statement, you don't have the right at all as a party, under
16 143, to put different things and try to challenge the credibility of
17 your own witness.

18 JUDGE METTRAUX: But my point was more to the question of what
19 you say the use that could be made of it is. Because once we reach
20 the point of an admission offer, the rule that will determine whether
21 --

22 MR. MISETIC: So --

23 JUDGE METTRAUX: -- the book is admitted is 138, and 138 doesn't
24 provide for, in my understanding --

25 MR. MISETIC: This is the problem.

1 JUDGE METTRAUX: -- the restriction you mention.

2 MR. MISETIC: This is the problem. The accused have fundamental
3 rights to notice. Right? So it can't be the case that the
4 Prosecution puts on one case, calls a witness *viva voce*, he gives
5 *viva voce* testimony, and then the Panel puts -- makes conclusions
6 that are contrary to the Prosecution's case which are not put to the
7 accused and the accused had no notice of them.

8 So if you apply the rules as I'm suggesting, which is that 143
9 is *lex specialis*, it precludes the Prosecution from relying on a book
10 to contradict its own witness and to rely on that book not just to
11 impeach its own witness but for the truth of the matters in the book
12 that are contrary to what the witness said *viva voce*, and then the
13 Panel, contrary to the Prosecution case, puts on a conviction on a
14 different basis that is contrary to the case the Prosecution had to
15 put on consistent with the rules. We consider that to be a violation
16 of the fundamental rights of the accused to notice of the
17 Prosecution's case.

18 So that's our position on it. It has to be that the Defence
19 knows what the Prosecution case is, and, with respect, we don't think
20 that the Panel then puts on a different case in deliberations that is
21 contrary or inconsistent with the case that the Prosecution put on.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Mr. Pace.

24 MR. PACE: Yes, thank you, Your Honour. I'll be very brief
25 because we're getting into a lot of hypotheticals and theoretical

1 arguments, and I think we can cross those bridges when we come to
2 them.

3 I'll just say the SPO disagrees with essentially everything put
4 forward by both counsel. We've heard a lot of conflation about
5 matters to go to weight rather than admissibility. And, again, like
6 I said, we can cross those bridges when we come to them. But we're
7 not reinventing the wheel here in our procedure with this witness.
8 If we use documents, we're going to lay the foundation as we always
9 do. And in terms of using, for example, the book, we're going to
10 follow Rules 137(1), 143, and then we'll go from there. Thank you.

11 PRESIDING JUDGE SMITH: All right. I think we're ready to
12 proceed.

13 Madam Court Officer, you can bring the witness in.

14 Thank you for your submissions, by the way.

15 [The witness entered court]

16 PRESIDING JUDGE SMITH: You may be seated. We've already done
17 that.

18 Good morning, Witness. Are you hearing okay?

19 THE WITNESS: [Interpretation] Yes, I am. Good afternoon.

20 PRESIDING JUDGE SMITH: Today we will continue with your
21 testimony. I remind you to please try to answer the questions
22 clearly with short sentences. If you don't understand a question,
23 feel free to ask counsel to repeat the questions or tell them that
24 you don't understand and they will clarify.

25 Also, please remember to try to indicate the basis of your

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1 knowledge of the facts and circumstances upon which you will be
2 questioned.

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

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

8 If you feel the need to take a break, please let us know and we
9 will accommodate you.

10 We continue now with the Prosecution's questioning of you.

11 Mr. Pace, you may commence.

12 MR. PACE: Thank you, Your Honour.

13 WITNESS: HAJRUSH KURTAJ [Resumed]

14 [The witness answered through interpreter]

15 Examination by Mr. Pace: [Continued]

16 Q. And good afternoon, Witness.

17 A. Good afternoon.

18 Q. When we started your testimony a few weeks ago, you stated, and
19 I'm referring to 1 February transcript, page 12501, lines 14 to 16:

20 "Initially I was a soldier and then deputy commander of the
21 brigade, and as of 14 May 1999 I was commander of brigade until 11
22 June 1999."

23 And when we last met, we covered your positions, in fact, up
24 until 14 May 1999, which is what I'm going to turn to now. Could you
25 tell us who appointed you as brigade commander from 14 May 1999?

1 A. Since I was a deputy commander of the brigade and the brigade
2 commander fell on duty, it was self-evident that I would take over
3 the functions of the commander.

4 Q. And did anyone ever appoint you to that position or did you take
5 over the position just yourself without any indication?

6 A. No, I didn't receive a specific appointment. I just continued
7 my duties, performing my duties.

8 Q. And how long did you perform duties as brigade commander from
9 14 May?

10 A. From 15 May until 11 June 1999.

11 Q. And is your evidence now that between 14 May and 11 June 1999,
12 no one ever communicated any appointment or indication that, yes, you
13 were the brigade commander for that brigade?

14 A. No, I just continued, took over these duties on my own.

15 Q. Who is Agim Ceku?

16 A. Agim Ceku was a member of the Kosovo Liberation Army.

17 Q. And do you know whether he ever occupied any role within the
18 General Staff of the Kosovo Liberation Army?

19 A. I did not know at the time.

20 Q. So when did you find out that he occupied a position in the
21 General Staff?

22 A. Towards the end of the war.

23 Q. And did you ever have any conversations with Agim Ceku about
24 your position in the brigade in May or June 1999?

25 A. No. Only during the burial ceremony of Commander Qamil Ilazi.

1 I informed him that we had just buried Commander Qamil Ilazi.

2 Q. Okay. And did he tell you anything about that or about the
3 future of the brigade?

4 A. No, he only said, "We need to continue the war as we have
5 started it."

6 Q. Do you remember providing information to the Prosecution during
7 your interview about Agim Ceku ordering you to become the brigade
8 commander in May or June 1999?

9 A. I don't remember.

10 Q. And do you remember when you were here last a few weeks ago that
11 you reviewed your prior statements and you were given an opportunity
12 to make any corrections or clarifications thereto?

13 A. Yes, I do.

14 MR. PACE: Your Honour, with your leave, I would like to show
15 the witness excerpts from his prior statements. I can make further
16 submissions in the witness's absence if that's required.

17 PRESIDING JUDGE SMITH: All right.

18 MR. PACE: Thank you.

19 And, Court Officer, could we please call up 074301-TR-ET Part 1
20 RED as well as the corresponding in Albanian, which is -AT. And in
21 the English, we're first going to go to page 24, and in the Albanian
22 to page 28. Thank you.

23 Q. So, Witness, on your screen, I hope you see two versions of your
24 prior statement. On the left, it's in English. And on the right,
25 it's in Albanian. I'm going to be reading from it, so you can follow

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1 the interpretation, but you could also follow from your screen. And
2 in the Albanian, I'm going to start towards the bottom of page 28,
3 and in the English I'm going to read from line 16:

4 "Q. For how long did you serve as the deputy commander of that
5 brigade?

6 "A. I was deputy commander of this brigade until 14 May 1999.
7 On May 14, 1999, Qamil Ilazi, the commander of the brigade, he was
8 killed in action. And at the order of the General Staff, the chief
9 of staff at the time, Agim Ceku, and I continued to be the commander
10 of the brigade until June 1999."

11 Witness, do you see and do you follow what I just read?

12 A. I said it earlier that there was no specific order to assign me
13 or appointment me at any duty.

14 Q. Then can you explain to the Judges why in your prior statement
15 you said what I just read to you, that "at the order of the
16 General Staff, the chief of staff at the time, Agim Ceku, and I
17 continued to be the commander of the brigade until June 1999"? Could
18 you explain that?

19 A. Most likely this must be an omission on my side because I had
20 never received any order.

21 Q. And could you explain why, when you reviewed your prior
22 statements, you did not correct or clarify that excerpt a few weeks
23 ago?

24 A. I don't remember why I was not able to notice this specific
25 part.

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1 MR. PACE: And, Court Officer, if we could kindly turn to the
2 next page on both, please, and I'm going to be reading from page 25,
3 line 22.

4 Q. Witness, once again, this is from the same prior statement, in
5 fact, just a few lines after the one I just read, and we have the
6 following:

7 "Q. How about when Agim Ceku issued the order so that you would
8 be the commander? Was that in writing or verbally?

9 "A. Agim Ceku just gave me a call, and he said because the
10 commander was killed, so he asked me to continue as the commander
11 until Kosovo is liberated.

12 "Q. In that call, did he tell you that it was because he was
13 issuing the order or was it on behalf of the General Staff?

14 "A. For sure, he was -- he was the Chief of General Staff. I
15 didn't ask him in detail how, but he was the chief of the
16 General Staff.

17 "Q. So by virtue of his position, you understood that it was an
18 order from the General Staff?

19 "A. Yes."

20 Now, Witness, once again, considering you reviewed this a few
21 weeks ago and made no corrections, could you explain to the Judges
22 why that might be?

23 A. I repeat, I did not notice this because this was a simple phone
24 conversation during which I informed him that the brigade commander
25 Qamil Hoxha [as interpreted] was killed in action and that it was

1 self-evident that I would continue with my duty. I did not see that
2 order at the time and nor did I see it now.

3 Q. Witness, just so that we're not losing each other in
4 translation, I'm not referring to a written order. I'm referring to
5 an order or an instruction in any form, be it verbal, oral, or some
6 other way, if I can think of another way. Do you remember, now
7 having looked at your prior statements, that Agim Ceku did actually
8 appoint you or tell you that you would continue on as the brigade
9 commander?

10 A. No. From the conversation with Agim Ceku, it was obvious. He
11 said, "It is understood that we need to continue the war in spite of
12 the fact that the commander was killed in action, so you continue
13 with your duties you had until now." And at that moment, it was
14 self-evident that given -- considering that I was the deputy
15 commander, I would continue with my duties.

16 Q. So am I understanding correctly that during this conversation
17 Agim Ceku was the one who told you to continue with the duties and,
18 in that case, since there was no commander, to take over those
19 duties, or did I miss something?

20 A. After I informed him about the commander Qamil Ilazi, he told me
21 that despite the fact that our co-fighter was killed in action, we
22 should continue our duties. And it was evident to me that I should
23 continue with the duties of the commander of the brigade as -- in my
24 capacity as a deputy commander.

25 Q. Witness, am I understanding correctly that you're telling the

1 Judges you continued in your capacity as deputy commander in May and
2 June 1999? Weren't you commander of that brigade at that time?

3 A. No, because I did not have any specific order appointing me to
4 any position.

5 Q. And then, Witness, going back to just under three weeks ago, as
6 I referred to you earlier in the transcript, you said:

7 "... I was commander of the brigade until 11 June 1999."

8 So are you saying that what you said three weeks ago is now also
9 incorrect?

10 A. I carried out the duties of the commander for this -- during
11 this period of time. I was not commander.

12 MR. PACE: And, Court Officer, I'd like to go to Part 4 of the
13 same interview in both English and Albanian, please, and that would
14 be the first page of each of those.

15 Q. And I'm going to read from the last line on the English and
16 moving on to the next page. And, Witness, once again this is another
17 part of the interview that you gave to the SPO in February 2020, and
18 I'm going to read an excerpt of it and then I'm going to ask you a
19 question.

20 "Q. When it came to appointing you acting commander of a
21 brigade" - and going to the next page - "you said that was [again]
22 Agim Ceku on behalf of the General Staff who did that; right?"

23 "A. Yes, on 15 May 1999."

24 Do you see that and do you follow, Witness?

25 A. Yes.

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Examination by Mr. Pace (Continued)

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1 Q. Now, is what you stated there in your interview in February 2020
2 correct or incorrect?

3 A. I don't remember this part because I did not know that Agim Ceku
4 was chief of staff.

5 MR. PACE: And I'd like to show the witness 043900 to 044239 and
6 its English translation, which is 043900-043903-ET, and the first
7 page of each of those, please. Thank you, Court Officer.

8 Q. Witness, do you see two documents on your screen, the one on the
9 right in colour in Albanian, and the one on the left in black and
10 white in English?

11 A. Yes.

12 Q. And do you recognise this item?

13 A. Yes, certainly. But before that, I wish to give a
14 clarification.

15 Q. You're here to answer my questions, Witness, unless the Judge
16 wants to hear a clarification.

17 MR. PACE: Your Honour, I propose to move on.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. PACE:

20 Q. Witness, do you recognise this document?

21 A. Yes.

22 Q. What is it?

23 A. This is my book.

24 Q. So you're the author of this book; right?

25 A. Yes.

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1 MR. PACE: And, Court Officer, in the Albanian, if we could
2 please turn to page 044182, and that will be in a different English
3 transcript, so 044182. And from the English, I would like to go to
4 044174 to 044186-ET, and that will be on also the same page, 044182,
5 please.

6 MR. MISETIC: Mr. President, I rise just to make an objection to
7 the use of the book for the reasons I outlined before. And if it's
8 being used for purposes of 143(1) or 143(2)(c), both require leave of
9 the Panel. And I would ask just, with respect to this witness, that
10 an application be made just so the parties are on notice which rule
11 is being requested so that we can make appropriate objections if we
12 need to. Thank you.

13 MR. PACE: Your Honour, for now I don't think any application is
14 necessary unless you guide me to. I've laid the foundation. The
15 witness said he authored this book. I'm going to take him to a part
16 of the book and ask questions. If there is any need to treat the
17 witness as hostile or otherwise, I don't think we've gotten there
18 yet.

19 MR. MISETIC: Then my objection is to the leading and for the
20 reasons -- and I cited the ICTR case which discusses this point
21 exactly. This is leading the witness and we object to the leading.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. MISETIC: Well, before the horse gets out of the barn, I'm
24 putting the objection on the record.

25 PRESIDING JUDGE SMITH: Thank you. The objection is overruled.

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1 Go ahead.

2 MR. PACE: Thank you, Your Honour. And thank you,
3 Court Officer.

4 Q. Witness, once again in front of you there should be two
5 documents, and these are pages from the book that you just told us
6 that you authored. And I would like you to focus on the second
7 paragraph on this page, and I'm going to read from the English. You
8 can, of course, follow from the Albanian, and it states as follows:

9 "By order of the General Staff of the KLA, as ordered by
10 Agim Ceku, as a result of the heroic death in action of the
11 Commander of 162 'Agim Bajrami' Brigade, Qamil Ilazi (Bardhi/Blond/),
12 as of 15 May 1999 the Deputy Commander of the Brigade Hajrush Kurtaj
13 is appointed Brigade Commander. The chief of staff Gjemajl
14 Krivenjeva /will/ carry out the duties of Deputy Brigade Commander."

15 And then we see the date, 15 May 1999, Brigade Commander, and a
16 signature.

17 And do you recognise this, Mr. Witness?

18 A. Again, I would like to repeat that any liberation army in the
19 war writes the history. When they write the history, we write about
20 the resistance of their unit, liberation units, the sacrifice of the
21 peoples, the heroic acts of the martyrs of the nation. Writing about
22 the heroic acts of the martyrs, we write about the glory of the army.
23 And I've said this before, I'm repeating it again, I have written my
24 book as I wanted to, as I wished to, not as it was. Because in any
25 book, things are amplified, embellished, and this is the comment that

1 I wanted to make.

2 Therefore, it is correct that I wrote this. It is my book.

3 However, this is amplified, exaggerated, embellished, as anyone would
4 do.

5 Q. Witness, I remind you that you're here to answer my questions at
6 the moment. That was not at all responsive to my question. I would
7 appreciate if you would respond to the specific question, and that
8 is, looking specifically at the documents in front of you, in
9 particular in relation to the second paragraph that I read out, do
10 you recognise that particular entry?

11 A. Certainly I recognise the handwriting because I wrote this. But
12 I repeat again what I said earlier: I exaggerated, I embellished it
13 in the book, and did not report it as it actually was because I
14 wanted to write the book for the future generations, to portray this
15 in a better, more complete manner. Because in those times, in our
16 war, we were not in a position to produce such writings as I have
17 represented them here.

18 Q. And, Witness, under the entry that I read out to you, there is a
19 signature. Whose is that signature?

20 A. It's my signature. And I have prepared this much later after
21 the war. I have embellished this to make it more beautiful and
22 appealing for new and future generations.

23 Q. Now, Witness, on this point of embellishment, could you kindly
24 explain to the Judges, from those couple of lines I read out to you,
25 what exactly you embellished, what you changed, what is untruthful,

1 if at all, in there, please.

2 A. It's an embellishment because I say here "upon an order from the
3 General Staff." Whereas, in fact, I did not have any orders from the
4 General Staff. I say I was appointed when there was no appointment.
5 I just continued my duties since I was the second in command in the
6 brigade and I continued the war.

7 But in order to portray this in the book for the future
8 generations, I portrayed and depicted it as I wanted it to be.

9 Q. And what exactly was your goal in portraying it, as you say,
10 differently to reality? What were you trying to achieve? Could you
11 explain that to the Judges?

12 A. My goal was to present the organisation and the conduct of the
13 war in the most professional manner, because we all know the
14 circumstances in which the war took place in Kosovo. This is an
15 indication that we were not in a position to conduct things as they
16 are represented in the book.

17 Therefore, my request -- my kind request would be that
18 considering these embellishments, these exaggerations, please do not
19 consider the writings in the book as real facts because they are not
20 real facts.

21 Q. Now, Witness, I'd like to you to focus on the last entry on the
22 same page that's in front of you. I'm going to read from the English
23 and you can follow the interpretation or read the -- if you're able
24 to read the handwriting there. It reads as follows:

25 "By a decision of the Nerodime Operational Zone, KLA, on 10 and

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Examination by Mr. Pace (Continued)

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1 11 June 1999 the command of 162 'Agim Bajrami' Brigade by Commandant
2 Hajrush Kurtaj will take place, and the newly appointed
3 Commander Xhabir Zharku will take over these duties."

4 And then we see the date of 11 June 1999, commander of the
5 brigade, and your name, Hajrush Kurtaj, as well as a signature. Do
6 you see that?

7 A. Yes.

8 Q. Is the signature yours?

9 A. Yes.

10 Q. Now, if I understood correctly, you told the Judges that you
11 wrote this document after the war; is that correct?

12 A. After the war, correct.

13 Q. In that case, could you explain, if you look on the right-hand
14 side of the document, we see what to me appears to be 11.6.1999 on
15 the side. Could you please what that refers to?

16 A. The last day of war in the municipality of Kacanik. This event
17 occurred. However, these were then corrected and made suitable for
18 the book after the war.

19 Q. Could you explain what you mean there, that they were "corrected
20 and made suitable for the book"? What was corrected?

21 A. For example, it reads here:

22 "By a decision of the operational zone ..."

23 I never had a decision then nor do I have one now, referring to
24 this change. I don't have any written order regarding any
25 appointment.

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 Q. So, once again, Witness, could you explain to the Judges why you
2 thought that writing this information, including your own signature,
3 as you've confirmed it to be, in a book would somehow help the KLA's
4 cause in the long run? Could you explain that to the Judges?

5 A. I wanted to present for the future generations that I led the
6 war until 11 June, and then the next one led the war. For the future
7 generations to have this picture of the war.

8 Q. And, Witness, do you know why Xhabir Zharku took over the duties
9 as brigade commander from you in June 1999?

10 A. I don't know.

11 Q. Do you recall discussing that decision for Xhabir Zharku to take
12 over from you with anyone at the time?

13 A. I don't remember.

14 Q. Do you remember having a conversation with Agim Ceku about
15 Xhabir Zharku taking over instead of you?

16 A. I don't remember exactly.

17 MR. PACE: Your Honour, since the witness has said he doesn't
18 remember exactly, with your leave, I'd like to show him a paragraph
19 from the preparation note, and that is 118996 to 119003, and I'll be
20 referring to paragraph 19 of that note if that's allowed.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. PACE: Thank you, Your Honour. And, Court Officer, we'll
23 turn to page 118999, and I'm going to read from paragraph 19.

24 Q. Now, Witness, the document on your screen now is a note that we
25 have taken and we have provided to the Defence and to the Judges

Witness: Hajrush Kurtaj (Resumed) (Open Session)
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1 after we met with you a few weeks ago, after you went through your
2 prior statements and provided the clarifications that you had, and we
3 asked you some questions.

4 Now, in this note it's recorded that you said as follows:

5 "W04576 does not remember the reason Xhabir Zharku took over,
6 but W04576 was not happy about it. W04576 was leading the war
7 effort, and then, after liberation, Zharku took over. Agim Ceku
8 explained to W04576 that this was the decision he had taken, and, as
9 a military man, W04576 accepted that this was the case."

10 Now, Witness, having considered this, and since you told me a
11 moment ago that you couldn't remember, does this serve to refresh
12 your memory as it's reported here of you telling the Prosecution a
13 few weeks ago that Agim Ceku explained to you that it was a decision
14 he, Agim Ceku, had taken, and that you, as a military man, accepted
15 that this was the case, here referring to Xhabir Zharku taking over
16 instead of you?

17 A. I don't remember exactly because this was a long time ago. This
18 was perhaps a phone conversation, so I cannot be precise on this
19 point.

20 Q. A phone conversation between who and who, please?

21 A. I am not very certain whether this was a phone conversation
22 between Agim Ceku and myself or not. I am not certain. I cannot
23 say.

24 Q. Do you recall telling the Prosecution a few weeks ago - in fact,
25 to be specific, on 29 January of this year - what I have just read to

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 you, in particular, and I'll read it again:

2 "Agim Ceku explained to W04576 that this was the decision he had
3 taken, and, as a military man, W04576 accepted that this was the
4 case."

5 Do you remember telling the Prosecution that just over three --
6 or under three weeks ago?

7 A. It is possible that I did say it. However, I'm not able to
8 establish and corroborate this with precision and certainty because a
9 long time has passed and I cannot be certain.

10 Q. Witness, am I understanding correctly that you're telling the
11 Judges you're unable to remember whether you did say this or not
12 three weeks ago? Is that your evidence at the moment?

13 A. Could you please repeat the question?

14 Q. You told me that it was possible that you said this but you
15 weren't quite sure. Could you explain if that means that you are not
16 able to confirm to the Judges that you did or did not say this
17 information just three weeks ago?

18 A. It is possible that I did say it. However, I do not remember
19 exactly. I don't remember it being exactly as it is presented here.
20 Because of the process, I am not able to confirm with certainty this.

21 MR. PACE: The documents can be taken down. Thank you,
22 Court Officer.

23 Q. And, Witness, are you aware of any issues, problems or conflicts
24 between Qamil Ilazi, known as Commander Bardhi, and Shukri Buja in
25 1998 or 1999?

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 A. I have never been aware of such problems, and I personally do
2 not believe that there were such problems.

3 Q. And are you aware of any issues, problems or conflicts between
4 Qamil Ilazi and the KLA General Staff in 1998 or 1999?

5 A. No, I'm not aware of that, and Commander Qamil Ilazi never
6 discussed such problems with me. And, again, I do not believe that
7 he had such problems.

8 MR. PACE: And, Court Officer, I'd like to once again call up
9 the same book we had earlier, 043900 to 044239, and we're going to go
10 to page 044181. And the English translation is at 044174-044186-ET.
11 I can repeat that. So the page number, we can start there, is
12 044181. Thank you, Court Officer.

13 Q. And, Witness, as you may have seen, the documents on your screen
14 now are from the same book that we looked at earlier and that you
15 confirmed is your book.

16 The document on the right is Albanian and on the left in
17 English. Do you recognise the document on the right of your screen?

18 A. Yes, I do.

19 Q. And how do you recognise it?

20 A. I saw this document after the war, and it was released just
21 before the war ended. However, I personally saw it after the war.

22 Q. And if you remember when or how long after the war did you see
23 the document?

24 A. I don't remember exactly how long after the war, because I
25 published this book much later.

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1 Q. And the version of the document that's in your book, could you
2 tell us if that is the version that you received or did you obtain it
3 some other way for publication?

4 A. I saw this document after the war, and I obtained it when I
5 needed it for my book which was to be published.

6 Q. And where did you obtain it from, from your personal collection
7 or somewhere else?

8 A. I obtained it from the headquarters of zone number 6 of the
9 Kosovo Protection Corps in Gjilan.

10 Q. And do you have any reason to question or dispute the
11 authenticity of this document?

12 A. No, I don't.

13 Q. Now, we see that this document, at the top left, is -- it refers
14 to the KLA, Nerodime operational zone, and it's dated 27 May 1999.
15 Witness, is it correct that 27 May 1999 is when you would have been
16 acting either as deputy commander or as acting brigade commander of
17 Brigade 162?

18 A. Yes, at that time I was deputy commander but carried out the
19 duties of a brigade commander within the brigade.

20 Q. And I'm just going to read through this order since it's quite
21 brief. You can, of course, follow the interpretation into Albanian
22 or from the page in front of you. And we have:

23 "Subject: Order for increasing formation manpower.

24 "Based on the necessity of bringing No. 6 Guards Battalion up to
25 strength:

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 "I order.

2 "- That 30 (thirty) soldiers be selected to bring No. 6 Guards
3 Battalion up to strength.

4 "- the soldiers must have the following qualities:

5 "- bravery

6 "- patriotic spirit

7 "- Strength and body-height

8 "- Should not be older than thirty-five

9 "- the soldiers will be taken on to the strength of No. 6 Guards
10 Battalion of the Nerodime Operational Zone

11 "This order will be carried out in full by 10 June 1999.

12 "The person responsible for the execution of this order is
13 Acting Commander of the 162 'Agim Bajrami' Brigade Mr. Hajrush
14 Kurtaj."

15 And then we see that is -- the signature block refers to
16 Commander of Nerodime Operational Zone, Shukri Buja, and we have a
17 signature.

18 Now, Witness, is it correct, as stated in this document, that
19 Shukri Buja at this time in May 1999 was the commander of the
20 Nerodime operational zone?

21 A. Yes.

22 Q. And as you will have heard and can see, the last line that I
23 read says that:

24 "The person responsible for the execution of this order is the
25 Acting Commander of 162 'Agim Bajrami' Brigade Mr. Hajrush Kurtaj."

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1 Does that mean that Mr. Buja knew that you were the acting
2 commander of Brigade 162 at that time?

3 A. He probably did. And it was self-evident that following the
4 fall in action of the previous brigade commander, his duties would be
5 taken over by the deputy commander.

6 Q. And could you tell us -- I think you might have said earlier,
7 but could you tell us whether this order was implemented or not?

8 A. Since the war was in its final stage, it could not be
9 implemented. It was supposed to be implemented until 10 June.
10 Kacanik was liberated on 11 June, and then there were other
11 developments that followed.

12 Q. And other than this order by Shukri Buja, during your time as
13 acting commander of Brigade 162, did you receive any other orders
14 from him?

15 A. No, I didn't because it was a short time period. From 15 May to
16 11 June, it was less than a month. The possibility to communicate
17 was very poor.

18 Q. Do you recall - again, in this period of time, May and June 1999
19 - ever receiving an order to form a new brigade within the area?

20 A. No, I didn't receive any order because the war ended. And once
21 the war ended, I didn't have any dealings with the brigade's
22 activities anymore.

23 MR. PACE: And, Your Honour, I would like to admit the pages
24 shown to the witness which is page 044181, the English and the
25 Albanian, as well as the cover page of the book, which is page 043900

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1 in English and Albanian.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. MISETIC: I'm sorry, I'm not keeping track of the numbers.
4 Is that the document that's on the screen now? If I could be heard
5 in private session at the end of the day when the witness is not
6 here. I will have an objection, but I don't think it's appropriate
7 in public.

8 PRESIDING JUDGE SMITH: Thank you.

9 Go ahead, Mr. Pace.

10 We'll mark it for identification, if you will.

11 THE COURT OFFICER: Your Honours, page with ERN 043900 and its
12 corresponding English translation and page with ERN 044181 and its
13 corresponding English translation will be placed under one exhibit
14 number marked for identification, P01014.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 THE COURT OFFICER: Yes, Your Honour. That's the page with ERN
17 043900.

18 PRESIDING JUDGE SMITH: Thank you.

19 Go ahead, Mr. Pace.

20 MR. PACE: Thank you, Your Honour and Court Officer.

21 Q. Witness, once again focusing on this period of time, so May and
22 June 1999, when you were acting brigade commander of Brigade 162,
23 could you tell us what was happening in the brigade? What was going
24 on in those two months or so?

25 A. 15 May to 11 June 1999, that is that period, there was no

1 particular development. Although, I don't remember any details
2 regarding this period since a long time has passed.

3 Q. Was there any fighting or any battles going on at that time, if
4 you remember?

5 A. There was fighting going on on a daily basis.

6 Q. And since there was fighting going on on a daily basis, did you
7 have to issue any orders or instructions to any of the soldiers that
8 you were in charge of at the time in relation to that fighting?

9 A. It was impossible in those circumstances to prepare orders.
10 There was severe fighting. We did not have the luxury to write
11 orders, make plans. We simply had to defend our battle lines.

12 Q. And putting aside written orders, which I did not refer to, did
13 you communicate any instructions or simply tell anyone in your
14 brigade what needed to be done considering that there was fighting
15 ongoing at the time?

16 A. Since it was a voluntary army, most of it, everybody knew what
17 their duties were and they were also on their positions. We did not
18 have time to issue orders, directives, plans, and so forth.

19 Q. Let's put aside the terms "orders" and "directives." How about
20 tasks? Did you give anyone any tasks? Did you ask them to do this,
21 that or the other in relation to the battle or not?

22 A. Of course, everybody knew their duties and tasks. Whoever
23 joined the KLA and assumed their positions in the territory of
24 responsibility, they took up also the duties to defend that
25 territory.

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 Q. Did you not, for example, tell your soldiers anything about what
2 to do with any civilians that may be trapped or part of the battle
3 somehow?

4 A. At the time when I led the brigade, we didn't have civilian
5 population because the entire civilian population was forced out of
6 their homes by the Serb forces and sent outside the borders of
7 Kosovo.

8 Q. And in these months as the battles were going on, did you
9 provide any information to the zone, to the Nerodime operational
10 zone, about what was going on in the area that you were acting
11 brigade commander of?

12 A. It was not possible because we were far from the command of the
13 zone. To go from the Kacanik mountains to there was quite far and
14 impossible.

15 Q. In May and June 1999, did you have mobile phones or telephone
16 communication of any type or capacity?

17 A. I personally didn't.

18 Q. Could you tell us who Shefket Palloshi is, please?

19 A. He was a member of the brigade staff.

20 Q. And which brigade is that?

21 A. 162 Brigade, Agim Bajrami.

22 Q. Did he have any particular role as a member of the brigade
23 staff?

24 A. He had two tasks. One related to personnel, which was not that
25 complicated since every soldier reported voluntarily, and his duty

1 was to systemise or deploy those soldiers within the units of the
2 brigade.

3 Q. Is that one task or is that both of them? Was there another
4 task he had?

5 A. This task that I mentioned was his main task.

6 Q. And was there some other task that he had?

7 A. He did not have any other task. However, he had a hobby. He
8 made some photographs and recordings out of his own will.

9 Q. And what did he take photos and recordings of in May and June
10 1999?

11 A. Sometimes the units of the brigade, and that would happen when
12 there was no fighting going on.

13 Q. And did anyone in the brigade, Mr. Palloshi or otherwise, have
14 any tasks or role in relation to providing information?

15 A. Every now and then, Shefket Palloshi did, but the possibilities
16 were very scarce, limited.

17 Q. Who did Mr. Palloshi provide information to when he could?

18 A. Whenever he could to the information.

19 Q. Whom did he provide information to?

20 A. I do not remember.

21 Q. Did you ever ask him, when you were in your capacity of acting
22 brigade commander of Brigade 162 in May and June 1999, to provide
23 information, for example, to the Nerodime operational zone about what
24 was going on in your area?

25 A. No, because it was not possible at that time due to the

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 circumstances. He could not convey information.

2 Q. Despite the fact that he couldn't, do you recall ever asking him
3 to convey information to the zone?

4 A. I didn't.

5 Q. Could you tell us what your role in the KLA was after you were
6 no longer acting commander of Brigade 162?

7 A. From 12 June 1999, I was on duty in the operational department
8 of the zone command.

9 Q. And where were you based at that time?

10 A. In Ferizaj.

11 Q. And what were your tasks at this time?

12 A. Operations officer. This was a post-war period, and the post
13 had nothing to do with combat duties except for the transformation of
14 the KLA into Kosovo Protection Corps.

15 Q. And how long did you serve in this role?

16 A. I served until 19 September 1999, when I joined the command of
17 zone number 6 of Kosovo Protection Corps as a member of the Kosovo
18 Protection Corps.

19 Q. And in this role that we are currently discussing from June
20 1999, who did you report to in your capacity within the Nerodime
21 operational zone?

22 A. The Nerodime operational zone within the KLA completed its
23 mission on 19 September.

24 Q. Yes. And from 12 June until 19 September, who did you report to
25 within the Nerodime operational zone?

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 A. To the commander, Shukri Buja.

2 Q. And did he remain in the position of commander of the Nerodime
3 operational zone until September 1999?

4 A. Yes.

5 Q. Could you tell us what the area of responsibility of Brigade 162
6 was in 1998 and 1999, please?

7 A. The area of responsibility of the brigade was mainly the area of
8 Kacanik municipality, in particular some villages.

9 Q. And could you tell the Judges the villages that you remember as
10 forming part of Brigade 162 in 1998 and 1999, please?

11 A. Although, it could never cover them all, given the small
12 strength of our units and lack of equipment, we could not cover all
13 the villages. However, battles occurred in the following villages:
14 Gabrice, Gajre, Puset e Nikes, Ivaje, and some other villages.

15 Q. You mentioned that battles occurred in, amongst others, Ivaje.
16 Could you tell the Judges whether or not Ivaje fell within the area
17 of responsibility of Brigade 162 in 1998 and 1999?

18 A. Not in 1998. But, yes, in 1999, for a certain period while
19 there was fierce fighting going on.

20 Q. And what period is that in 1999?

21 A. The main battle in Ivaje took place on 8 March 1999.

22 Q. And from when until when did the KLA have a unit or units in
23 Ivaje in 1999?

24 A. This was not my competence or under my duties. This was under
25 the competence of Qamil Ilazi as brigade commander.

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 Q. And do I understand correctly that by the time you were acting
2 brigade commander in May, the KLA did not have a presence in Ivaje?

3 A. At that time, no, we didn't.

4 Q. Okay. So you told us it had a presence --

5 A. Because there was nothing to defend or protect in Ivaje. The
6 entire civilian population was forced out by the Serb forces and
7 Ivaje village was completely empty.

8 Q. So am I understanding correctly that the KLA unit or units were
9 present in Ivaje before -- in 1999 but before May?

10 A. The main battle in Ivaje occurred on 8 March 1999.

11 Q. You mentioned the brigade commander Qamil Ilazi. Where was he
12 based in 1999 before his death?

13 A. During the Ivaje battle, he was in the centre of the village of
14 Ivaje and led that battle.

15 Q. And had he been in Ivaje before the battle started?

16 A. Yes.

17 Q. Do you recall from when he was there in Ivaje?

18 A. I don't remember exactly from when.

19 Q. Would it sound correct to you if I suggest it was from around
20 26 February 1999 that he was based there?

21 A. Could be, because on 26 February 1999, the Serb forces tried to
22 attack villages of Puset e Nikes, Gajre, and Ivaje, and it is
23 possible that units of 162 Brigade were positioned in these
24 mountainous villages.

25 Q. Where was the command of the 162 Brigade in the first months of

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 1999?

2 A. In Ivaje village.

3 Q. And who was based at this command? Was it Qamil Ilazi? Other
4 people? Him and other people?

5 A. The main responsibility -- the person who had the main
6 responsibility was Qamil Ilazi as brigade commander.

7 Q. And was he based, as in did he, for example, work and/or sleep,
8 in Ivaje at the brigade command in the first few months of 1999?

9 A. I do not have knowledge about this, as to where he slept or
10 where he worked. It was wartime and it was impossible to know the
11 whereabouts of everybody.

12 Q. But you recall that he was present in Ivaje in the first few
13 months of 1999; right?

14 A. Let us understand each other. The first months of 1999 cover a
15 larger amount of time. However, we are speaking about 8 March, which
16 is the date of the main battle in Ivaje, and we're saying that it
17 could have been from 26 February to 8 March.

18 Q. So to make sure that we are understanding each other, are you
19 saying, do I understand correctly, that between -- or around
20 26 February to 8 March, to your knowledge, Qamil Ilazi, the brigade
21 commander of Brigade 162, was based in Ivaje; is that correct?

22 A. Yes.

23 Q. Now, in 1998 or 1999, did the KLA have any unit or units in Bob
24 or in the area above or around Bob?

25 A. Not in 1998.

Witness: Hajrush Kurtaj (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

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1 Q. Okay. So when?

2 A. From 26 February 1999, there was presence above Bob village up
3 to old Ivaje, Ivaje, Gajre, and Puset e Nikes, in these villages. So
4 not in Bob proper but above the village of Bob, in the mountainous
5 area above this village.

6 Q. And who from the KLA in this period of time and in this location
7 above the village of Bob you mentioned was present?

8 A. There were units that were responsible for that area.

9 Q. Do you recall the name of the unit or units or the name of
10 anybody in charge of those units?

11 A. Well, above Bob village, more specifically at Kulla e Hasanit
12 location, there was a company stationed there, and that company --
13 the person in charge of that company was Feriz Guri.

14 MR. PACE: Your Honour, I see the time. I think we can stop
15 here for the day.

16 PRESIDING JUDGE SMITH: Please escort the witness from the room.

17 Witness, we are finished for today. You may not speak to anyone
18 about your testimony outside of this courtroom. If anyone tries to
19 approach you to talk to you about this case, please notify us
20 immediately.

21 You may go with the Court attendant.

22 THE WITNESS: [Interpretation] That's clear. Thank you.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: Mr. Misetic.

25 MR. MISETIC: Yes, if we may move into private session,

1 Mr. President.

2 PRESIDING JUDGE SMITH: Please, into private session,

3 Madam Court Officer.

4 [Private session]

5 [Private session text removed]

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9 [Open session]

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

11 PRESIDING JUDGE SMITH: We are adjourned.

12 --- Whereupon the hearing adjourned at 4.03 p.m.

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