

1 Monday, 24 June 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: I note that the accused are all present
12 in court today except for Mr. Krasniqi, who has been allowed to
13 attend via videolink.

14 I also note that due to personal circumstances Judge Barthe is
15 also attending the hearing via videolink. We expect him to be here
16 tomorrow. There was a transportation issue.

17 Before we start with the next witness, we have some oral orders.
18 First, an oral order regarding video exhibits admitted pursuant to
19 Rule 154 through Witness W04410.

20 I recall that the parties, apart from the Selimi Defence and the
21 Krasniqi Defence who did not respond, agreed that Exhibits P01255 to
22 P01262 can be classified as public.

23 I'll ask now is there any objection to be raised? No objection
24 is heard. Then I direct CMU to reclassify P01255 to P01262 and
25 related transcripts as public.

1 This concludes our first order.

2 Second, an oral order regarding the same witness.

3 I recall that the extracts of W04410's book were tendered by the
4 SPO and the Defence. Since the extracts under P01264 and the
5 extracts tendered by the Defence come from a different ERN, the
6 extracts tendered by the Defence will be grouped into one exhibit
7 number.

8 Is there any objection to that process? None heard.

9 Court Officer, please assign Exhibit 1D00159 to the following:
10 SPOE00351537 and SPOE00351557 tendered by the Thaci Defence,
11 including its translation DHT04004 to DHT04006, and SPOE00351231
12 tendered by the Selimi Defence, including translation DRS00758 to
13 DRS00758.

14 This concludes the Panel's second order.

15 Lastly, regarding the witness order for this evidentiary block.
16 I understand that, through *inter partes* communications, the Defence
17 sought confirmation from the SPO as to which witnesses will testify
18 after W04752, and that the SPO responded that while it has provided
19 the list of witnesses in the proposed order, it cannot guarantee the
20 witnesses' order because factors such as the length of W04752's
21 testimony may alter the proposed order.

22 The Panel recalls that there must be a degree of flexibility in
23 the order of appearance of reserve witnesses due to the nature of
24 such witnesses. Their appearance depends on factors such as
25 available sitting hours, the witness's availability, and logistical

1 considerations which render a definitive order of appearance
2 difficult to provide.

3 That said, considering that the witnesses' schedule at the
4 beginning of this evidentiary block are significant witnesses which
5 require extensive preparations, the Panel orders the SPO to identify
6 two witnesses who will in all probability follow W04752 by tomorrow
7 at 4.00 p.m. The Panel is satisfied that in that way the Defence can
8 meaningfully prepare for either alternative.

9 This concludes the third oral order.

10 We will now start hearing the evidence of Prosecution
11 Witness 4744.

12 Madam Court Officer, please bring us into private session to
13 protect the identity of the witness. I'm sorry, Mr. Court Officer.

14 [Private session]

15 [Private session text removed]

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1 [Private session text removed]

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19 [Open session]

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

21 Thank you.

22 PRESIDING JUDGE SMITH: All right. You have the solemn
23 declaration which you are asked to take pursuant to Rule 141 of our
24 rules. Please read it aloud.

25 THE WITNESS: [Interpretation] Thank you.

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1 Solemn declaration: Conscious of the significance of my
2 testimony and my legal responsibility, I solemnly declare that I will
3 tell the truth, the whole truth, and nothing but the truth, and that
4 I shall not withhold anything which has come to my knowledge.

5 WITNESS: KURTESH FONDAJ

6 [The witness answered through interpreter]

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

9 THE WITNESS: [Interpretation] Thank you.

10 PRESIDING JUDGE SMITH: Witness, today we will start your
11 testimony which is expected to last approximately three days. As you
12 may know, the Prosecution will ask you questions first, and then the
13 Defence has the right to ask questions of you, and members of the
14 Panel might also have questions for you.

15 The Prosecution's estimate for your examination is two hours.
16 The Defence estimates that it will take seven and a half hours. As
17 regards each estimate, we hope that the counsel will be judicious in
18 the use of their time. The Panel may allow redirect examination if
19 conditions for it are met.

20 Witness, please try to answer the questions clearly with short
21 sentences. If you don't understand a question, feel free to ask
22 counsel to repeat the question or tell them you don't understand and
23 they will attempt to clarify.

24 Also, please try to indicate the basis of your knowledge of
25 facts and circumstances that you will be asked about. In the event

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

5 Please also speak into the microphone and wait five seconds
6 before answering a question and then speak at a slow pace so the
7 interpreters can catch up.

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

12 The Panel understands that the SPO has hard copies of your prior
13 witness statements for you to reference during your testimony in case
14 of need. If you cannot recall something and therefore wish to
15 consult these documents to refresh memory, please notify the Panel
16 before doing so. I repeat that this should only be done in the event
17 that you need to make that reference because you cannot recall. You
18 should not read directly from these documents.

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

22 If you feel the need to take breaks at any time, please let us
23 know and we will attempt to accommodate you.

24 So we begin with the Prosecution's questions of you. They're
25 seated to your left. Please give them your attention.

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1 Mr. Halling, you have the floor.

2 MR. HALLING: Thank you, Your Honour.

3 Examination by Mr. Halling:

4 Q. Good morning, Witness. We've met before, but my name is
5 Matt Halling with the SPO, and I will be asking you questions this
6 morning. And we are in public session.

7 Witness, what is your name?

8 A. Good morning. First of all, I am Kurtesh Fondaj.

9 Q. What is your date and place of birth?

10 A. I was born on 4 March 1960 in the village of Pegan in the
11 municipality of Suhareke.

12 Q. Have you been previously interviewed by the SPO?

13 A. Yes, I was interviewed 2019.

14 MR. HALLING: We would ask the Court Officer to please pull up
15 083249-TR-AT Part 1 RED2, and it can take up the entire screen.

16 Q. Witness, the document that you can see on the screen now, is
17 this your 2019 SPO interview?

18 A. Yes, this is the interview.

19 Q. Have you recently had an opportunity to refamiliarise yourself
20 with the contents of this interview?

21 A. Yes, I was given this opportunity last week.

22 Q. And in your preparation session, you indicated some changes and
23 clarifications to this interview; is that right?

24 A. I believe it is.

25 Q. Yes. And these changes were reflected in a note that was read

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1 back to you; correct?

2 A. Correct.

3 Q. Do you confirm that what was read back in that note reflects
4 your changes fully and accurately?

5 A. I do.

6 Q. And subject to the changes provided in that note, does this
7 accurately reflect what you said and what you would say if asked
8 again in court today?

9 A. I believe it does.

10 MR. HALLING: Your Honour, we would say that fulfils the
11 Rule 154 criteria. In accordance with decision F02328, the SPO
12 hereby tenders all of the latest revised version of 083249-TR, as it
13 appears in our presentation queue, along with Preparation Note 1, and
14 this is ERN 121695 to 121702. This tender also includes the
15 associated exhibits listed in footnote 98 of this witness's Rule 154
16 decision.

17 PRESIDING JUDGE SMITH: Any objection?

18 MR. MISETIC: No objection.

19 MR. ROBERTS: No objection.

20 MR. ELLIS: No, Your Honour.

21 PRESIDING JUDGE SMITH: 083249-TR-AT Part 1 RED2 plus Note 1,
22 121695 to 121702, and the associated exhibits are all admitted.

23 THE COURT OFFICER: Thank you, Your Honours. The statement
24 which is 083249-TR Part 1 Revised RED2, and I noted there are nine
25 parts of this statement, will be assigned Exhibit P01327, and for the

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1 Part 1 will be P01327.1. For the Part 2 in both languages, it's
2 going to be P01327.2. For the Part 3, it's going to be P01327.3.
3 For the Part 4, it will be P01327.4. For the Part 5, it's going to
4 be P01327.5. For the Part 6, it's going to be P01327.7. For the
5 Part 8, it's going to be P01327.8. And for the Part 9, it's going to
6 be P01327.9. All classified as confidential.

7 As for the Preparation Note 1, which is the ERN 121695 to
8 121702, it will be assigned Exhibit P01328, currently classified as
9 confidential.

10 As for the associated exhibits, U001-7877 to U001-7877, in both
11 languages, it will be assigned Exhibit P01329.

12 The ERN 083226 to 083226, in both languages, it will be assigned
13 Exhibit P01330, currently classified as confidential.

14 The associated exhibit with the ERN U000-6605 to U000-6605, in
15 both languages, will be assigned Exhibit P1331. I'll repeat:
16 P01331.

17 The associated exhibit IT-03-66 P29, in both languages, English
18 and Albanian, will be assigned Exhibit P01332, currently classified
19 as confidential.

20 The ERN 083227 to 083248, in both English and Albanian, with
21 particular pages 083227 to 083239, in both English and Albanian, will
22 be assigned Exhibit P01333, currently classified as confidential.

23 The next associated exhibit, which is again a portion from the
24 previously mentioned range, which is 083227 to 083248, and in
25 particular pages 083240 to 083240, in both languages, will be

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1 assigned Exhibit P01334, currently classified as confidential.

2 From the same range, and in particular the pages 083241 to
3 083242, in both English and Albanian, will be assigned Exhibit 1335.
4 And I'll repeat, it's P01335, currently classified as confidential.

5 Pages 083243 to 083243, in both English and Albanian, will be
6 assigned Exhibit 1336, currently classified as confidential.

7 Pages of the same range as previously mentioned, which are ERN
8 083244 to 083244, in both English and Albanian, will be assigned
9 Exhibit P01337, currently classified as confidential.

10 The next pages, which is the ERN 083245 to 083245, in both
11 English and Albanian, will be assigned Exhibit P01338, currently
12 classified as confidential.

13 ERN 083246 to 083246, in both English and Albanian, will be
14 assigned Exhibit P01339, currently classified as confidential.

15 ERN 083247 to 083247, in both English and Albanian, will be
16 assigned Exhibit P01340.

17 And the ERN 083227 to 083248, in particular pages 083248 to
18 083248, in both English and Albanian, will be assigned
19 Exhibit P01341, currently classified as confidential.

20 Thank you, Your Honours.

21 PRESIDING JUDGE SMITH: Thank you.

22 Mr. Halling.

23 MR. HALLING: And thank you, Mr. Court Officer.

24 Your Honour, we did have a brief summary for this witness which
25 we can read now before continuing.

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1 MR. MISETIC: Mr. President, if I could just raise one point. I
2 don't think the statements are currently classified as confidential.
3 I think perhaps the Prosecution can indicate if there are portions of
4 it that need to be redacted. Otherwise, I think they should be in
5 public -- that they should be public.

6 MR. HALLING: If redactions of it are needed, then it needs to
7 maintain its confidential classification. There are, indeed, a great
8 many parts of the statements that can be discussed in open session,
9 and there is no problem with doing that. But the classification of
10 the item itself, we would ask that it just maintain its confidential
11 status.

12 MR. MISETIC: Your Honour, if it's a 154 statement and it's what
13 the testimony would have been on direct, and he's now said he wished
14 to testify in public, then I think that testimony should be public.
15 And unless there are particular portions that are sensitive because
16 they discuss matters that are covered by a protective order, then
17 that can be redacted, but I think his testimony should be public.

18 PRESIDING JUDGE SMITH: I understand the point you've raised,
19 and we will rule on it later on.

20 Go ahead.

21 MR. HALLING: Yes. Another alternative before doing the summary
22 is that when we do the review of redactions for the transcript of
23 this witness, we could also review the statements, given counsel's
24 submission.

25 PRESIDING JUDGE SMITH: Then can I have a date by which you

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1 would have that completed?

2 MR. HALLING: It would be the standard deadline as the
3 transcript for this witness. Again, his protective measures were
4 varied in the last 20 minutes, so we haven't yet applied --

5 PRESIDING JUDGE SMITH: Maybe you two can -- you all can talk
6 about this *inter partes* and come up with a solution. It doesn't seem
7 like it's that difficult.

8 MR. HALLING: Yes, thank you.

9 W04744 is a former KLA soldier in the Pashtrik operational zone.
10 W04744 speaks about how the zone worked, including the authority of
11 the KLA General Staff.

12 Q. Witness, I now have some additional questions that I would like
13 to ask you.

14 MR. HALLING: And if we could ask the Court Officer to please
15 pull up the first map annexed to Preparation Note 2. This is 121703
16 to 121713, and it's page 121712, and please put that on the screen.

17 Q. Witness, as this is being put on the screen. In your
18 preparation session, did you indicate on a map the areas of
19 responsibility of brigades in the Pashtrik operational zone in July
20 1998?

21 A. Yes, I did.

22 Q. And, Witness, is the map on the screen that map?

23 A. Yes, it is.

24 Q. Witness, in the interest of having this map be as clear as
25 possible, and perhaps with the assistance of the Court Usher as

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1 necessary, I would ask you to mark the same areas of responsibility
2 you indicated in the preparation session.

3 Could you, using the in-court tool, mark the area of the
4 123rd Brigade as you drew it on this map.

5 A. [Marks]

6 Q. Thank you, Witness. You anticipated my next question to
7 indicate that on the brigade.

8 Now, as I understand it, you've split this into battalions with
9 the divisions. Can you indicate where the 1st Battalion of the
10 123rd Brigade was? Which of these is that?

11 A. [Marks]

12 Q. And then the 2nd?

13 A. The 3rd Battalion was not formed and it did not function during
14 the war. It was, however, foreseen for it to operate in this area.

15 Q. And is that what the dashed line is on the bottom of this shape?

16 A. Yes. I indicated it here with dash lines because it did not
17 function in this area. However, the plan was for it to function.

18 Q. Now just to indicate where some of the nearby brigades were on
19 this same map. Where was the area of responsibility of Brigade 121
20 at this time, which again is July 1998?

21 A. [Marks]

22 Q. Thank you, Witness. Could you do the same for Brigade 122?

23 A. [Marks]

24 Q. And again for Brigade 124.

25 A. The area of responsibility of Brigade 124 was mainly the

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1 municipality of Rahovec. The other part bordering Brigade 122, 123
2 is ...

3 The command in that period of time was in Zatriq.

4 Q. Now, Witness, is there -- in the area of Brigade 124, am I
5 correct that that extends as far down as Opterushe and Reti on this
6 map?

7 A. Yes. This point here is Opterushe, then Reti, and this one is
8 Zocishte. Yes.

9 Q. Okay. Could you put as the letter Z as to where Zocishte is
10 because the location isn't on the map itself.

11 A. Zatriq.

12 Q. Zocishte.

13 A. Zocishte, okay. I think it should be here.

14 Q. Thank you. One last question. It says -- was there a
15 General Staff special battalion with an area of responsibility in
16 this area?

17 A. We thought there was one. This is about a special battalion led
18 by Commander Guri in the area of Llanishte and Greicec.

19 Q. Please indicate the area where you understood that battalion to
20 operate.

21 A. Again, the zone is this one. Now bordering Brigade 121 and
22 Brigade 123.

23 MR. HALLING: And the witness has indicated "bsp" at that place.

24 Q. Witness, this doesn't need to be drawn on the map, but just a
25 quick question, was there a special unit in the 123rd Brigade?

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1 A. Can you please ask the question again?

2 Q. Certainly. And I mean at this time. In July 1998, was there a
3 special unit of the 123rd Brigade?

4 A. There was a small unit we referred to as a special unit. It
5 functioned within the 1st Battalion of Brigade 123.

6 Q. And who was the commander of that special unit?

7 A. Vehbi Krasniqi.

8 Q. Thank you.

9 MR. HALLING: Your Honour, we were going to tender this map at a
10 later point in the examination, but for the moment we would ask the
11 Court Officer to please take a picture of the map as annotated
12 because this will be the one that we intend to tender along with a
13 second map later.

14 Once that's done, it can be removed from the screen. And then
15 U000-2995 to U000-2995, we would ask to be pulled up.

16 Q. And, Witness, as this next document is being pulled up on the
17 screen. In July 1998, was the Pashtrik zone in communication with
18 other zones?

19 A. Sometime in July -- so in July 1998, there were no operative
20 zones. Maybe there were on paper as a concept, but they were not
21 functional.

22 Q. When you say it was not functional, is this in relation to
23 Pashtrik operational zone as well?

24 A. Yes, including the Pashtrik zone, because I know more about the
25 Pashtrik operational zone, and I have very little information about

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1 the other zones.

2 Q. Now, Witness, you said in your preparation session - and this
3 would be P01328, paragraph 13 - that:

4 "KLA units in Pashtrik reported to the General Staff throughout
5 the war, but this area only started functioning as an operational
6 zone in December 1998 because this was when Commander Drini became
7 the zone commander."

8 Witness, is that correct?

9 A. Yes.

10 Q. And is this what you mean when you said the zone was not
11 functioning as a zone in July 1998?

12 A. When I say this, what I have in mind is the fact that
13 Brigade 123, from the moment it was set up in July, it communicated
14 with the General Staff; namely, with the head of the General Staff,
15 Bislum Zyrapi, not with the zone.

16 Q. When communicating with the territory of other areas that become
17 operational zones, to say it that way, how was that communication
18 organised in July 1998?

19 A. Look, in July 1998 I was commander of a platoon, and my task was
20 to prepare soldiers, train them in using weapons and combat
21 activities. With respect to the organisational aspects, I am not
22 really informed. But to my knowledge, the communication was done
23 with the General Staff; namely with Bislum Zyrapi.

24 Q. Do you know if the territory of the Pashtrik operational zone
25 was communicating with the territory of the Dukagjini zone in July

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1 1998?

2 A. There was such communication, but it was between Brigade 123 and
3 the Dukagjini operational zone; namely, with the units of
4 Ramush Haradinaj.

5 Q. Now, Witness, I'd like to turn your attention to the document on
6 the screen and specifically the left side because that's in Albanian.
7 This is dated 28 July 1998, and it's a request to the Suhareke staff
8 for basic food supplies. "Aid requested to supply our Staff" is
9 written.

10 Witness, is this an example of communication between zones?

11 A. Yes, but we're dealing here with the regional KLA command or
12 staff. So we're talking about units before the brigade was formed.
13 There were regional local staffs as there were in Rahovec, Malisheve,
14 Suhareke. So initially these were local staffs, re general staffs,
15 in the course of the month of June. In July 1998, these staffs then
16 were transformed into brigades.

17 Q. And so we see on the top here it says Dukagjin Operational
18 Staff, Glllogjan local staff. Were these names of how that territory
19 in Kosovo was described in July 1998?

20 A. Based on this your document, it appears that this was the case.
21 However, I'm personally not really acquainted or informed in relation
22 to these developments.

23 Q. And as I understand it, you have not seen this specific request
24 before the preparation session; is that right?

25 A. I haven't. That's right.

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1 Q. But you said that there were requests like this that were
2 received by the Suhareke staff.

3 A. With respect to cooperation, I know because in -- there were
4 other circumstances in which a group of soldiers helped, assisted the
5 Dukagjini operational zone. Perhaps in our exchange we are confusing
6 concepts. We are talking about zones at a time where there were no
7 zones. So I apologise in advance if I make mistakes in referring to
8 these concepts. But in July, August, there was a communication
9 between the units operating in Suhareke with the units operating in
10 Dukagjini, specifically in Gllogjan.

11 Q. Thank you, Witness.

12 MR. HALLING: And, Your Honour, we would say that the witness's
13 explanation is clear, and that this ICTY exhibit originally provided
14 by the Serbian authorities should be admitted.

15 MR. MISETIC: No objection.

16 MS. O'REILLY: No objection.

17 MR. ELLIS: No objection.

18 MR. ROBERTS: Nothing from me.

19 PRESIDING JUDGE SMITH: The exhibit is admitted. Please give it
20 a number.

21 THE COURT OFFICER: Your Honours, U000-2995 to U000-2995, in
22 both English and Albanian, will be assigned Exhibit P01342, currently
23 classified as confidential. Thank you, Your Honours.

24 PRESIDING JUDGE SMITH: Thank you.

25 MR. HALLING: And we'd ask the Court Officer to now please pull

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1 up P1327.1, and this would be page 23 to 24 in the English and 27 in
2 the Albanian.

3 MR. MISETIC: While that's being pulled up, Mr. President, I
4 don't see a reason why the document that was just admitted needs to
5 be confidential.

6 MR. HALLING: No objection to reclassifying.

7 PRESIDING JUDGE SMITH: The document U000-2995 is reclassified
8 as public.

9 THE COURT OFFICER: Yes, it is now P01342, classified as public.
10 Thank you, Your Honours.

11 MR. HALLING:

12 Q. Witness, I'd now like to turn to the time when your
13 123rd Brigade appointment was communicated to you. And I'm asking
14 the Court Officer now to pull up a page of your statement that I
15 wanted to ask you a question about.

16 MR. HALLING: If we can go to the bottom of the page in the
17 English.

18 Q. And so, Witness, at this point you are disagreeing with the
19 characterisation that you were elected, and it says the following:

20 "Again, the words, 'He was elected,' but that's not the right
21 word, 'commander of Brigade 123 and Kurtesh Fondaj', but actually it
22 was Hashim Thaci who named me, who gave me the position of commander
23 of Brigade 123 on the 6th of October."

24 And we understand that's 1998.

25 Witness, my question is what exactly does Hashim Thaci say when

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1 communicating this appointment to you?

2 A. On that day, on 6 October 1998, he communicated my appointment
3 to me. As I explained, the appointments of commanders at brigade
4 level were carried out by the General Staff and by the chief of
5 staff, Bislím Zyrapi. So Hashim Thaci communicated the appointment
6 to me and said that I had the right to form the brigade without the
7 need for verification for the commanding staff.

8 Q. What did it mean to "form the brigade" at this time? This was
9 6 October 1998.

10 A. When we jump up, maybe it's not that understandable. I need to
11 explain that in September 1998, we had an offensive in Budakove area
12 even before that, in August 1998. So I can say that the command of
13 the brigade and the army at the time was dispersed. So seeing it
14 necessary to consolidate and to continue the work of the brigade, I
15 think this was the result of that. And from this moment on, we
16 started with the consolidation of the ranks of the brigade.

17 We should not forget the fact that Blerim Kuqi, as brigade
18 commander at the time, was in Albania, and all other members of the
19 command of the brigade were with him at the time in Albania.

20 Q. You talk in your last answer about the brigade being dispersed.
21 At around this time, approximately how many soldiers were there still
22 in the 123rd Brigade?

23 A. The 123rd Brigade, in this phase, that is end of September,
24 beginning of October, comprised of 600 soldiers in two battalions
25 which were within the territory of Semetishte, Rreshtan, and Peqan.

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1 Q. You also said that "from this moment on, we started with the
2 consolidation of the ranks of the brigade." Is the moment you're
3 referring to for when you start at the end of this meeting with
4 Hashim Thaci?

5 A. The consolidation started even a bit earlier, but we intensified
6 our activities as of that date because we had full authority and
7 competencies to continue with the work.

8 Q. Did you start exercising your functions as brigade commander as
9 soon as this meeting ended?

10 A. Yes.

11 Q. One last question on this. Hashim Thaci also said you had the
12 right to form the brigade without the need for verification for the
13 commanding staff. I was just wondering if you could explain further
14 what that means.

15 A. We were in a war situation, and for every formality - can this
16 be done or that be done - made our work more difficult. So my
17 conviction is that on this occasion Hashim Thaci fully trusted me,
18 and he wanted to put the most meriting persons in a commanding
19 position.

20 Q. Is this verification without the need for the commanding
21 staff -- first of all, is the commanding staff the General Staff when
22 you say that?

23 A. Since there was no zone at that time, this refers to the chief
24 of staff of the KLA.

25 Q. And was the responsibility of the chief of staff of the KLA --

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1 are you referring to General Staff, the chief of the General Staff?

2 A. Yes. Chief of the General Staff appointed brigade commanders
3 and approved the members of the brigade command.

4 Q. So was the rule at the time generally to have such appointments
5 approved by the General Staff?

6 A. From -- by the Chief of General Staff, yes.

7 Q. And why was that authority delegated to you by Hashim Thaci
8 here?

9 A. I believe that he had full faith in me. Maybe that was
10 communicated to him by the chief of staff. But at that time, the
11 chief of staff was not in the territory of Kosovo. That's why it was
12 communicated in this way. However, it is possible that Hashim Thaci
13 had contact and communication with the chief of staff. And I believe
14 that is correct.

15 Q. Yes. So, Witness, in paragraph -- and this is paragraph 23 of
16 P1328, in Preparation Note 1, you wrote:

17 "From July-November 1998, it was the commander of the brigade
18 who made appointments. These were then approved by the
19 General Staff, usually Bislum Zyrapi. A different appointment would
20 be necessary if not so approved, but such matters generally fell
21 under the brigade commander's authority."

22 Witness, is that answer of yours reflected in the preparation
23 note describing the general system of how things worked at this time?

24 A. In principle, it should have functioned that way. And I believe
25 that is how it functioned.

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1 Q. Thank you.

2 MR. HALLING: I'd now like the Court Officer to please pull up
3 SPOE00226718 to SPOE00226719, and specifically the second page, which
4 is SPOE00226719.

5 Q. And, Witness, I just wanted to ask you a question about a
6 document in which your name appears.

7 MR. HALLING: If we go to page 2.

8 Q. It's a signed report that says 24 November 1998, 3rd Platoon
9 Commander Haqif Kadriaj. Do you know who Haqif Kadriaj is?

10 A. He was a commander in a platoon of the 2nd Battalion; that is,
11 the Budakove Battalion.

12 Q. And it says on left side of this page:

13 "On 10.10.1999 an order was given by Ise Morina, who said that
14 he received the order from the brigade commander Kurtesh Fonda, that
15 soldiers shall carry out reconnaissance during the day unarmed and
16 guard duty during the night armed. Let them operate as a civilian
17 protection force and not roam around armed. The order was given that
18 all soldiers shall disperse and operate each of them in their
19 villages."

20 Witness, did you give an order to Ise Morina around 10 October
21 1998?

22 A. With the constitution of the brigade command, I gave the tasks
23 and specifically directed them as to what they should do and how they
24 should do it up to a moment of rehabilitation following the
25 offensive. And according to the dates, this was 24, 25 days

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1 following the offensive on the 2nd Battalion. The commander
2 formulated it in this manner as in the document, but I do not know
3 exactly what I ordered. But this is true.

4 Q. And you gave a specific order to Ise Morina; is that right?

5 A. Yes. Ise Morina was an authority for leading the 2nd Battalion
6 of the Budakove -- in Budakove.

7 Q. Do you know if he had any intelligence functions at other points
8 in the war?

9 A. Later on in December, there was a reconstruction, change in
10 staff in the 123 Brigade. But at that time, I had already assumed
11 the position of the chief of staff in the Pashtrik operational zone.

12 THE INTERPRETER: The interpreter did not hear the last sentence
13 that the witness said.

14 MR. HALLING:

15 Q. Witness, could you repeat your last sentence? It wasn't picked
16 up by the interpretation.

17 A. In December, there were changes in the staff of the 123 Brigade
18 command. Nexhmedin Kastrati became commander, and he changed the
19 personnel, the structure of the brigade. In that context, Ise Morina
20 could have been appointed the person in charge for intelligence and
21 counter-intelligence, but I'm not sure.

22 Q. Thank you, Witness.

23 MR. HALLING: Your Honour, I see the time for a break, but we
24 would tender this item now. It's SPOE00226718 to 226719. It's a
25 signed and dated report. The witness has confirmed the general

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1 accuracy of the order that he's described as providing, and this is a
2 seized item from Rexhep Selimi.

3 PRESIDING JUDGE SMITH: Any objection?

4 MR. MISETIC: No objection.

5 PRESIDING JUDGE SMITH: None? All right.

6 SPOE00226718 to SPOE00226719 is admitted.

7 THE COURT OFFICER: And it will be assigned Exhibit P01343,
8 currently classified as confidential. Thank you, Your Honours.

9 MR. HALLING: And, Your Honours, I note the time for the
10 mid-session break.

11 PRESIDING JUDGE SMITH: All right. We will take a short break,
12 ten minutes.

13 Witness, we will take a ten-minute break, and then you'll be
14 back in the courtroom.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: We're adjourned until 10.10.

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

18 --- On resuming at 10.12 p.m.

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

21 MR. HALLING: And if it assists the Court Officer, the next
22 document we'll ask to have on the screen is P1338.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: Be seated.

25 All right.

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1 MR. HALLING: Thank you, Your Honour. And we'd ask the
2 Court Officer -- it's P1338 to have on the screen.

3 Q. Witness, I'd now like to turn to your time as the Pashtrik
4 operational zone chief of staff. First of all, during what period of
5 time were you in this position?

6 A. As chief of staff of Pashtrik operational zone, I was between
7 December 1998 and January and February 1999. In the end of February,
8 I made a request to be transferred to another commanding structure
9 and this was approved, and I joined the sector for education and
10 training within the General Staff in March.

11 Q. You mentioned before the break that Nexhmedin Kastrati succeeded
12 you as 123rd Brigade commander. After you stopped serving as chief
13 of staff of the Pashtrik operational zone, who succeeded you in that
14 role?

15 A. If I'm not mistaken, again Nexhmedin Kastrati. He replaced me
16 as chief of staff of Pashtrik operational zone.

17 Q. Now, Witness, there's an order that you provided on 3 January
18 1999.

19 MR. HALLING: The English is on the screen. I think the
20 Albanian is coming any moment.

21 Q. But early on in your period as Pashtrik operational zone chief
22 of staff, were you asked to assist the 124th Brigade?

23 A. Yes. In fact, I was not asked but I was ordered to do that.
24 And I carried out that order in consolidation with the commander of
25 the 124th Brigade. At the time, its command was in Reti village.

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1 Q. And is the document on the left the order that you're describing
2 now?

3 A. Yes, this is the document.

4 Q. What was the assistance that you provided to this brigade?

5 A. Well, the order contains the specific tasks and you can look at
6 them. These were the tasks that I know we worked on. Following
7 this, I composed a written report on the findings related to the work
8 that I carried out and the task that I gave the members of the
9 command regarding future activities.

10 Q. Did you take over the command of this brigade while you were
11 fulfilling these duties?

12 A. Yes, this is done automatically. The moment I am installed in
13 the command of the brigade, the command of the brigade from that
14 moment onwards was under my command. And as foreseen in the order, I
15 gave the duty to Skender Hoxha, and then I returned to the command of
16 the operational zone in Kosterc.

17 Q. You mentioned that you gave the duty to Skender Hoxha. Was
18 Skender Hoxha the commander of the 124th Brigade at the moment you
19 were taking up these responsibilities?

20 A. Yes. Even before that, he was commander of that brigade, but
21 there were difficulties and the command of the zone. That is, the
22 commander of the operational zone, Ekrem Rexha, saw it necessary, and
23 this was issued based on the order of the chief of staff of the
24 General Staff, so this was also envisaged by the General Staff and
25 Bislim Zyrapi, to send officers as assistance to the 124 Brigade.

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1 And I acted pursuant to this order.

2 Q. Was Skender Hoxha a professional soldier like yourself?

3 A. As far as I remember, he was a military person. He had
4 completed secondary military education.

5 Q. When you say "secondary military education," was that the same
6 level of military experience that you had?

7 A. No, it wasn't. I graduated from the technical military academy
8 and I had a rank as an officer, the rank of a lieutenant; whereas
9 Skender had a non-commissioned officer rank.

10 Q. And the non-commissioned officer rank is lower than the rank
11 that you had; correct?

12 A. Yes, the rank of a sergeant is a non-commissioned officer rank.

13 Q. What were the difficulties in Skender Hoxha's command of the
14 zone that you were going to assist with?

15 A. According to this document, as I can see, the purpose was to see
16 the number, the strength of this brigade. When we would ask for
17 reports in the zone regarding the situation in the brigade,
18 Skender Hoxha would never have information to give. So the point was
19 to see how would we be able to improve this situation so that he
20 could include all the data regarding the structure that was under his
21 command.

22 There were also other elements, but now a long time has passed,
23 and I could only be guess-working.

24 Q. Do you know if the problems in Skender Hoxha's brigade continued
25 after you left the zone?

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1 A. I don't know the specific problems he had. I myself had a lot
2 of work to do and did not deal with this issue.

3 Q. Thank you.

4 MR. HALLING: We'd now ask Court Officer to please pull up
5 SPOE00232264 to SPOE00232265, and the first page specifically.

6 Q. Witness, I'd now like to ask you some questions about the
7 detention of Blerim Kuqi, which you discussed in your SPO interview,
8 and in particular the statement that you gave in Blerim Kuqi's
9 defence.

10 First of all, if you look at the document you see "Indictment,"
11 and you see some allegations in the paragraph below. Are these the
12 same allegations that were made against Blerim Kuqi?

13 A. I saw this document during the preparations with you,
14 Mr. Prosecutor. I had never seen this document before. However,
15 based on what is written in there, I, as a member of the KLA, was
16 convinced at the time that this was the issue based on which Blerim
17 was being accused.

18 Q. Thank you. And if we scroll to the bottom of this page where it
19 indicates witnesses, and you see your name along with Habib Elshani
20 and Ilaz Kadolli, are these the witnesses in Blerim Kuqi's
21 proceeding?

22 A. I was, yes. Since we mentioned this, there is another witness,
23 but his name is not included here. When we went to give statements,
24 Isuf Krasniqi was there with me and he also gave a statement, but his
25 name is not listed here.

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1 Q. Okay. But these three names, including yours, were witnesses in
2 this case; right?

3 A. If I'm not mistaken, yes. I myself was. I don't know precisely
4 about the other two, but I myself was.

5 Q. Thank you.

6 MR. HALLING: And if we can now pull up SPOE00231841 to
7 SPOE00231843, and specifically page 2, which is SPOE00231842, in
8 Albanian and English.

9 Q. And, Witness, this says it's an appeal document by Blerim Kuqi's
10 defence. And if you look at paragraph 2 here, you see:

11 "Very particularly, this is proven" --

12 MR. HALLING: If we could zoom out. Yeah.

13 Q. "Very particularly, this is proven by the witness statement of
14 Kurtesh Fondaj ..."

15 And then it goes on to give a summary of your evidence. And my
16 question to you is, is this summary accurate as to what you said
17 about Blerim Kuqi?

18 A. Yes, I stated more than it is here, but this is a summary, yes.

19 Q. Where did you give this statement?

20 A. I gave this statement before the prosecutor, or at least that's
21 what I thought he was. I gave this statement in Divjake. I don't
22 know exactly the date, but it was during the month of February 1999.

23 Q. Who asked you to give that statement?

24 A. I gave the statement before Sokol Dobruna, and I always had the
25 conviction that he was a prosecutor in the case against Blerim Kuqi.

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1 I gave this statement in the presence of the defence counsel of
2 Blerim Kuqi and a note-taker who recorded everything that I said in a
3 notebook.

4 Q. Thank you. I understand that. My question, I'll ask it a
5 little differently. Who asked you to give the statement in the first
6 place? Who asked you to go to Divjake to give the statement?

7 A. Someone asked the commander of the zone, Ekrem Rexha, and he
8 informed me then that I had to go to Klecke for a statement regarding
9 Blerim Kuqi. Now, who precisely wanted me to go there and give that
10 statement, that I don't know.

11 MR. HALLING: And, Your Honour, if we could ask for a
12 clarification then of paragraph 24 of the Preparation Note 2.

13 PRESIDING JUDGE SMITH: Yes, go ahead.

14 MR. HALLING: Thank you.

15 Q. Witness, it said in the preparation note that you came to
16 Divjake at the behest of Blerim Kuqi's defence to give this
17 statement; is that correct?

18 A. Could be based on his request. But I understood your
19 following -- you as follows: Who told you to give -- and give a
20 statement. This is how I understood your question. But this could
21 be true, what you are saying, that I went upon the request of Blerim
22 Kuqi's counsel. I'm not saying anything against what you just said,
23 Mr. Prosecutor.

24 Q. I understand. And you mentioned that Sokol Dobruna was there
25 and you understood him to be the prosecutor. Why did you understand

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1 that he was the prosecutor in the proceeding?

2 A. I gave a statement to him. He asked questions. I gave answers
3 to the questions put by Sokol Dobruna, who, in my eyes, was a
4 prosecutor, because I don't know how otherwise a question would have
5 been put to me.

6 Q. Okay. So you understood he was the prosecutor because he was
7 the one asking you questions; is that correct?

8 A. Precisely. And to this day, I am convinced that I gave evidence
9 in front of a prosecutor.

10 Q. Thank you.

11 MR. HALLING: Your Honour, these two items, SPOE00232264 to
12 00232265, and then SPOE00231841 to 231843, are seized items from
13 Jakup Krasniqi. They've been meaningfully contextualised by the
14 witness, and they form part of a group of other similar items of this
15 kind. And just to give an example, P1106 is a military police report
16 of 16 January 1999 with a number of PP599. A report of the same day
17 with the same number is actually on top of the first tendered item's
18 second page.

19 So we would submit that the admissibility threshold is met for
20 both of these documents.

21 MR. ELLIS: Your Honour, we do oppose. We have the usual
22 objection to the conduct of the search operation. These are, as I
23 understand it, documents that were seized from a workstation. And as
24 such, they're documents the witness has never seen before. And
25 whether -- when they were prepared, whether or when they were

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1 actually printed and left the workstation, are not matters that this
2 witness can answer to, or indeed who prepared them.

3 PRESIDING JUDGE SMITH: Anyone else?

4 All right. SPOE00232264 to SPOE00232265 and SPOE00231841 to
5 SPOE00231843 are both admitted, meeting the *prima facie* standard of
6 Rule 138.

7 You may go ahead.

8 THE COURT OFFICER: Thank you, Your Honours. The SPOE00232264
9 to SPOE00232265 will be assigned Exhibit P01344, currently classified
10 as confidential. And this goes for both Albanian and English
11 versions of the document.

12 And for the ERN SPOE00231841 to SPOE00231843, in both English
13 and Albanian, it will be assigned Exhibit P01345, currently
14 classified as confidential. Thank you, Your Honours.

15 PRESIDING JUDGE SMITH: Can these be reclassified as well?

16 MR. HALLING: Yes, they can.

17 PRESIDING JUDGE SMITH: Both of those documents, P1344 and
18 P1345, are reclassified as public.

19 THE COURT OFFICER: Thank you, Your Honours. It will be
20 reclassified.

21 MR. HALLING: Thank you.

22 The next item for the Court Officer, this is the second map. So
23 this is 121703 to 121713. And then the last page, P121713, if that
24 can be pulled up on the screen.

25 Q. Witness, I would now like to turn to February 1999. And this

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1 was in the period where you were the Pashtrik operational zone chief
2 of staff. In your preparation session, were you also asked to mark a
3 map of the areas of responsibility of the brigades in the zone at
4 that time?

5 A. Yes.

6 Q. And just as we did earlier with the July 1998 map, we would ask
7 you to trace over, with any assistance of the Court Usher as
8 required, the different areas of responsibility as of that time.

9 MR. HALLING: As Your Honours will see when the map is on the
10 screen, it is a zoomed-out version of the previous one.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 Witness, please wait until we get it on the screen.

13 All right. We're all up now.

14 MR. HALLING: Thank you.

15 Q. So, Witness, just as we did before, if we could start with
16 drawing the area of responsibility of 123rd Brigade on this map.

17 A. May I? Can the image be zoomed in a little bit more?

18 PRESIDING JUDGE SMITH: I think so.

19 MR. HALLING:

20 Q. Witness, is it clearer or does it need to be zoomed in further?

21 A. That's fine. That's fine.

22 Q. So, again, if we could start as before with 123rd Brigade and
23 its battalions.

24 A. If we can enlarge it a little bit more because I can't read some
25 of the names.

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1 THE COURT OFFICER: Your Honours, at this point, if we enlarge
2 it, we're going to lose the save -- the already-marked document.

3 MR. HALLING: Your Honours, given that the witness has just
4 started and he's requested to have it zoomed in, we would ask that it
5 be zoomed in and that the witness just redraw the brigade in
6 question.

7 THE WITNESS: [Interpretation] We can then zoom out as I draw. I
8 only need it enlarged as I'm drawing the part around the Suhareke
9 municipality.

10 MR. HALLING: And I still think that the witness wanted -- I
11 think a zoomed-in version would make sense given what the witness has
12 said, just to make sure that everything is drawn correctly. We'll
13 just redraw this part.

14 THE COURT OFFICER: In that case, we will need to ask the
15 witness to stop proceeding with drawing.

16 MR. HALLING:

17 Q. So, Witness, if you could just stop annotating this version.
18 We're going to zoom in one more level and then draw it again.
19 Witness, is that sufficient in order to draw what you need to?

20 A. That's fine.

21 Q. Thank you.

22 MR. HALLING: And thank you to the Court Officer.

23 Q. So, Witness, just begin again with the 123rd Brigade, please.

24 A. [Marks]

25 MR. HALLING: The witness is jumping ahead, of course, but these

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1 are all subsequent brigades that I am asking the witness to mark. So
2 the witness has marked B124 on the map as well.

3 THE WITNESS: [Interpretation] Brigade 123 is delineated in the
4 southern part -- in the western part with Rahovec; namely, with
5 Brigade 124. On the southern part, with Brigade 125, a battalion of
6 this brigade had its command in Kabash. The Budakove Battalion from
7 Brigade 121. The 2nd Battalion in Budakove. The command of the
8 brigade was in Breshanc neighbourhood in Nishor village. In the
9 operative zone, there was the zone command --

10 MR. HALLING:

11 Q. Yes. Now, Witness, just to -- just so that we keep everything
12 in an ordinary fashion. What you've just written as ZOP, is that
13 the command for the Pashtrik operational zone or for the
14 123rd Brigade?

15 A. ZOP is the Pashtrik operational zone command in the northern
16 part. And when it says Nishor, it's the command of Brigade 123.

17 Q. Right. And we see B2 and B3 with the same dashed line, these
18 are the other two battalions of the same brigade; correct?

19 A. Correct. Correct. Battalion 1, Battalion 2. And the third
20 one, which was meant to be but did not come into effect, it never
21 functioned on the ground, represented with a dashed line. Despite
22 the fact that there were attempts -- actually, an increase in
23 capacities and capabilities of Brigade 123. There were two other
24 battalions on the same area where Battalion 1 was operating, but this
25 happened after March.

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1 Q. Right.

2 A. I was asked to make this drawing for the period of time January
3 and February.

4 Q. You did, indeed. And the number that you've written that
5 straddles the battalion line, is that a B123; is that correct?

6 A. 123. Brigade 123.

7 Q. Thank you.

8 A. The B1 and --

9 Q. Can you now delineate where the 121st Brigade was?

10 A. 121 is bordering Brigade 123 in this part. Then continues to
11 Baje, up to the gorge of Llapushnik. On this side, we have the main
12 road to Shtime, close to Shtime. So this area was under -- was the
13 area of responsibility of Brigade 121.

14 Q. And now for Brigade 122?

15 A. Brigade 122 is -- controlled the area in the municipality of
16 Malisheve up to the main road. So this area was under Brigade 122
17 whose command was in Dragobil, and exactly -- specifically in Marali,
18 the point I just indicated.

19 Q. Now, there's also a small circle, B.sp. Is that the
20 General Staff special battalion you were drawing in July 1998?

21 A. Yes, yes. It was operating in Llanishte, stationed in
22 Llanishte, and the command of Brigade 121 was in Klecke.

23 Q. And just south-east of that, it says OP Nerodime. What is that?

24 A. This is the Nerodime operational zone.

25 Q. Yes. Just one last point before we leave this map. You've

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1 indicated the brigade headquarters on the map for the 123rd Brigade
2 and the zone, but it would be helpful if you could indicate the
3 headquarters of the other brigades at this time. Where was the 121st
4 Brigade headquarters?

5 A. Brigade 121 had its command in Klecke, close to the area of the
6 General Staff in Divjake. So the circle here in the map is where the
7 command of the General Staff was thought to be.

8 Q. Understood. And you mentioned where the 122nd Brigade command
9 was, but can you just indicate that on the map?

10 A. The command of Brigade 123 is in Breshanc --

11 Q. No, I said --

12 A. -- in the village of Nishor.

13 Q. -- 122. The 122nd Brigade.

14 A. Brigade 122 had its command in the village of Dragobil, exactly
15 in Marali. These are two adjacent villages.

16 Q. Yes. And then the 124th Brigade, if you could indicate that on
17 the map, the headquarters.

18 A. During this time, the brigade had its command in Reti.

19 Q. And the 125th Brigade headquarters?

20 A. Brigade 125 functioned with several battalions, one of which
21 operated in Kabash, and its command was in the village of Kabash. I
22 don't know about the other parts including Vrrin and other areas.
23 I've never been in that area, that territory during the war.

24 Q. Thank you, Witness. I think that's clear.

25 MR. HALLING: Unless the Court has any questions for the witness

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1 about his map, we would ask to tender this map as well as the July
2 1998 map annotated in the courtroom today. The ERNs of these is
3 121712 to 121713.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. MISETIC: No objection.

6 MR. ELLIS: No, Your Honour.

7 PRESIDING JUDGE SMITH: All right. Both versions of the map
8 will be admitted and will be assigned a single P number.

9 THE COURT OFFICER: Your Honour, the first map that was marked
10 by the witness, which is now REG001181 to REG001181, currently
11 classified as confidential, and the second map, which is REG001182 to
12 REG001182, currently classified as confidential, will be assigned the
13 Exhibit number P01446. Thank you, Your Honours.

14 MR. HALLING: And, Your Honour, needless to say, these can be
15 classified as public as well.

16 PRESIDING JUDGE SMITH: Both maps are reclassified as public.

17 THE COURT OFFICER: Thank you, Your Honours.

18 MR. HALLING:

19 Q. So, Witness, staying in February 1999, I would like to show you
20 an additional document.

21 MR. HALLING: This is 066777, and if that can be put on the
22 screen. If it assists, the Albanian page is found in a slightly
23 larger range of 066767 to 066797, but it's the same page, 066777.

24 Q. Witness, as this document's being pulled up on the screen. In
25 your capacity as Pashtrik operational zone chief of staff, when you

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1 issued orders, did you have a standing protocol number that you used?

2 A. In the period of time in December, end of December, in
3 particular in January and February, we have a very strict protocol in
4 the Pashtrik operational zone.

5 Q. Do you recall your protocol number?

6 A. No, I don't.

7 MR. HALLING: So if we can just focus on the order that's on the
8 screen here, and if we can scroll down just a little in the Albanian
9 just to see the signature. So there -- no -- and a little bit up. A
10 little up. Thank you.

11 Q. Now, Witness, is that your signature on this order?

12 A. Yes.

13 Q. And it says "Prot. No. 02/1-73." Does that refresh your
14 recollection as to your protocol number?

15 A. 02/1-73, yes, this is the protocol number.

16 Q. And this is a transfer ordinance as indicated. In the preamble,
17 it says here:

18 "Based on GS Rules and Regulations, points 1, 2 and 15, for
19 service needs in order to improve military readiness ..."

20 What are those regulations?

21 A. I'm not able to remember exactly what regulation are we talking
22 about. Is this about internal work issues? I'm not able to say what
23 exactly said the regulation or the regulations. But I can say that
24 in December we tasked, assigned personnel to prepare regulations. We
25 read some of them, we approved some of them at the command or the

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1 Pashtrik operational zone staff command, and then we acted based on
2 those.

3 In January, numerous regulations were issued dealing with the
4 internal organisational matters and work and tasks of the Kosovo
5 Liberation Army, in particular regarding the zone level.

6 Q. Yes. You said in your last answer you were acting on the basis
7 of regulations. Is this, what's cited here, the basis for the
8 ordinance that appears below?

9 A. I don't remember the details of it. However, I can say
10 something. An ordinance is an official order issued at the time, and
11 I stand by it.

12 Q. So as I understand it, these provisions that are cited at the
13 front of the order you don't recall from what they said in the GS
14 rules and regulations; is that right?

15 A. I don't know them today. I don't know them.

16 Q. Was this ordinance issued on the basis of these provisions, even
17 if you don't remember them?

18 A. It wouldn't make sense for provisions to contain certain things
19 and the ordinance contain other different things, so they should be
20 compatible. So these points must certainly refer and deal with the
21 issues dealt further down.

22 Q. Thank you.

23 MR. HALLING: Your Honour, we tender this for admission as well.

24 PRESIDING JUDGE SMITH: Any objection?

25 MR. MISETIC: No objection.

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1 MR. ELLIS: Your Honours, is it just this page being tendered?
2 Can I just check?

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. HALLING: Yes, counsel is correct. It's just this page
5 being tendered, 066777.

6 MR. ELLIS: Yes, there's no objection to that page.

7 PRESIDING JUDGE SMITH: 066077, plus the Albanian version, is
8 admitted and can be assigned an exhibit number.

9 THE COURT OFFICER: And will be, Your Honours, assigned
10 Exhibit P01347, and it's currently classified as confidential.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. HALLING: Yes, it can be.

13 PRESIDING JUDGE SMITH: This will be reclassified as public.

14 THE COURT OFFICER: It's noted, Your Honours. Thank you.

15 MR. HALLING: Apologies, Your Honour. This particular item is
16 actually going to require a redaction to something that appears
17 beneath the order, so we would actually need to maintain the
18 confidential classification of this page. A redacted version could
19 be public. But I think if -- you can't see it on the page because
20 I've deliberately not scrolled that -- but there is another witness's
21 signature at the bottom of this page.

22 PRESIDING JUDGE SMITH: We'll withhold ruling then based on
23 that.

24 MR. HALLING: Thank you.

25 PRESIDING JUDGE SMITH: Withhold ruling on the classification

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1 only.

2 THE COURT OFFICER: Thank you, Your Honours. In that case,
3 P01347 will remain confidential. Thank you.

4 MR. HALLING: And this will probably be an item we can at least
5 start before the break. U001-2310 to U001-2319, and specifically
6 U001-2317.

7 Q. Witness, as this document is being pulled up on the screen. In
8 February 1999, did you participate in a training for KLA battalion
9 candidates?

10 A. Yes, I did participate, although I was not included or part as
11 an initial plan. But an officer was missing, Gzim Hazrolli, so I
12 replaced him and gave a two-hour lecture with the battalion
13 commanders in February 1999 in Nishor.

14 Q. Do you know of any other persons who spoke to this same group?

15 A. The Pashtrik operational zone at the time had several career
16 officers and most of them gave lectures in this event, starting with
17 the zone commander, Ekrem Rexha, Sylejman Kollqaku. If I'm not
18 mistaken, there was also Sadik Halitjaha who gave a speech, and
19 others.

20 Q. And, Witness, just before leaving this page, are these notes
21 from the talk that you gave during your lecture?

22 MR. HALLING: And if we can scroll a little bit further down on
23 the English page to see your name. Yes. So it's U001-2317 is the
24 correct ERN. So we need to move English to a different page. Thank
25 you.

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1 Q. Now, Witness, I'll ask my question again. Are these notes from
2 the talk that you gave to this group of candidates? It says your
3 name and it's dated 18 February 1999.

4 A. I have forgotten details about the training specifics, but I
5 know these were operational documents. Now, was this a unit or not,
6 I don't remember. I don't remember its content. I do remember,
7 though, that I gave a two-hour lecture in relation to the preparation
8 of operational or operative documents.

9 Q. All right. And are these the same topics that are discussed on
10 this page that you were talking about?

11 A. Yes.

12 MR. HALLING: Your Honour, we can finish with this document
13 after the break. I see the time.

14 PRESIDING JUDGE SMITH: All right. Witness, we'll take a
15 half-hour break at this time so that you can relax a bit. Please do
16 not talk to anybody about your testimony outside of the courtroom,
17 and we will see you in a half hour.

18 THE WITNESS: [Interpretation] Thank you.

19 [The witness stands down]

20 MR. HALLING: And, Your Honour, just from the SPO's side, we'll
21 finish in the first half of the next session.

22 PRESIDING JUDGE SMITH: Thank you very much.

23 We're adjourned until 11.30.

24 --- Recess taken at 11.02 a.m.

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

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1 PRESIDING JUDGE SMITH: You may bring the witness in,
2 Madam Usher.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. Witness, can you hear okay?

5 THE WITNESS: [Interpretation] Yes, Your Honour.

6 PRESIDING JUDGE SMITH: Good. We continue now. Mr. Halling
7 still has some more questions for you.

8 Go ahead.

9 MR. HALLING: Thank you, Your Honour.

10 Q. Witness, we would like to stay on this lecture set document that
11 we've been talking about. You mentioned before the break that Ekrem
12 Rexha and, you think, Sadik Halitjaha also spoke in the context of
13 this training course.

14 MR. HALLING: If we could please go to page U001-2311.

15 Q. And, Witness, do you see a "Lecturer: Ekrem Rexha, Drini,
16 Monday 15 February" on this page?

17 A. Yes, I can see that.

18 MR. HALLING: And now if we go to page U001-2314.

19 Q. And, Witness, what is the name in the upper left-hand corner of
20 this page? Witness, do you want me to repeat my question?

21 A. Musli -- I cannot quite read it.

22 Q. What we have in the English translation is Sadik and then
23 Alijaha, and "Subject: KLA War March." And my question is does this
24 correspond to what you understood Sadik Halitjaha's speech at this
25 training to be about?

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1 A. I really don't know the details. These are documents that are
2 not mine. I wouldn't like to comment on others' documents. As I
3 said, I remember that Sadik Halitjaha gave a lecture to the
4 candidates for battalion commanders. I am not aware of any details.

5 Q. Okay. Because if you remember that he gave the lecture, then
6 that's sufficient. And then, finally, U001-2318. And while that
7 page is being pulled up, do you know a KLA soldier named Musli
8 Kololli?

9 A. Musli Kololli, yes.

10 Q. And what was Musli Kololli's role in the Pashtrik operational
11 zone in February 1999?

12 A. During that phase, Musli Kololli had tasks within the
13 123 Brigade. Its command was very close to the Pashtrik operational
14 zone. And this lecture, if he gave one on this issue, he gave it
15 based on his position in 123 Brigade.

16 Q. Yes.

17 MR. HALLING: And the English page still needs to be -- to
18 correspond to the Albanian one. It's U001-2318. But the page itself
19 has Musli Kololli on the top of the page. So U001-2 -- there it is.
20 Thank you to the Court Officer.

21 Q. So at an earlier point in the war, did Musli Kololli have
22 intelligence functions in the 123rd Brigade?

23 A. Yes. Initially, he was part of the Budakove Battalion. And in
24 the second part, starting from October, I engaged him within the
25 command of 123 Brigade. And there, he had the position of assistant

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1 commander for intelligence and counter-intelligence.

2 Q. The title of his subject lecture is "Criminalistics." Is this
3 something that would be incorporated into KLA trainings?

4 A. In this particular training, I don't know what the plan was. I
5 only know, as I mentioned, that I replaced Gzim Hazrolli for a
6 two-hour lecture and that was on the subject of operations. I
7 explained the problems with documents in theory, and then I scheduled
8 some training with the potential candidates.

9 Q. Witness, to be clear, I'm not asking about this specific
10 training. My question is more general. I can ask it again. Is
11 criminalistics a topic that would be incorporated into KLA trainings?

12 A. Well, every sector or department within the framework of the
13 work know their tasks. I was not familiar with all the specifics at
14 brigade level. Once a brigade is formed, the entire team is formed.
15 It is impossible for one person to know everything. The subject
16 treated here, in my opinion, is something that took place in real and
17 was lectured by Musli Kololli.

18 Q. Okay. One last question. On the right half of this page,
19 because you mentioned that this gentleman had intelligence functions,
20 if you move the page over to the right, it says:

21 "Information is collected directly ... through a network of
22 collaborators.

23 "Information can also be disinformation and has to be confirmed
24 through a network of collaborators."

25 Based on your Yugoslav Army experience, is what's being

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1 described here tasks of intelligence in a war?

2 A. To tell you the truth, a long time has passed and I cannot be
3 precise. I believe yes. Although here, about the subject that
4 Kololli deals with, it's criminalistics in general terms. He had
5 completed his education in internal affairs and police, and he was
6 quite knowledgeable about this subject.

7 Q. Thank you.

8 MR. HALLING: Your Honour, we've been lingering on this document
9 because we tendered it through the bar table and it was dismissed in
10 decision F01596 because it required contextualisation through a
11 witness. We would submit that we have provided that
12 contextualisation, and we tender this item for admission at this
13 time. Again, the ERN range is U001-2310 to U001-2319.

14 PRESIDING JUDGE SMITH: Any objection?

15 MR. ELLIS: Your Honour, we would object, following on from the
16 bar table decision, that the contextualisation is not sufficient.
17 The witness has confirmed it's not his document. He said he wouldn't
18 like to comment on it for that reason.

19 And in terms of the detailed content, we would say that that's
20 not been sufficiently contextualised by the witness. He's identified
21 some names from the lectures and -- but that's all, in our
22 submission.

23 PRESIDING JUDGE SMITH: Anybody else?

24 MR. MISETIC: Just to add that in terms of foundation, the
25 witness in the prep session, at Prep Note 2, paragraph 36, says he's

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1 not aware of Muse Kololli speaking at this lecture.

2 PRESIDING JUDGE SMITH: There appears to be adequate
3 contextualisation at this time. He was able to speak with some
4 authority about the entire process, so therefore it will be admitted
5 under the *prima facie* standard of Rule 138. That is, the entire
6 range, U001-2310 to U001-2319.

7 Please assign an exhibit number.

8 THE COURT OFFICER: Thank you, Your Honours. The exhibit number
9 will be P01348, currently classified as confidential. Thank you,
10 Your Honours.

11 PRESIDING JUDGE SMITH: Thank you.

12 Go ahead.

13 MR. HALLING: Thank you.

14 Q. And, Witness, there is one other document in the context of sort
15 of trainings that I wanted to discuss.

16 MR. HALLING: If the Court Officer could now please pull up
17 IT-05-87 P02459 and its English translation. This is an ICTY exhibit
18 from the Milutinovic *et al.* trial. And if we could start on page 8
19 in the Albanian -- sorry, on page 8 in the English and page 6 in the
20 Albanian. And if the stamp on the -- that the ICTY gave to the
21 Albanian page is of assistance, it's K053-5468.

22 Q. And, Witness, just one moment for the English version to also be
23 pulled up on the screen.

24 So, Witness, this has your name on the bottom, and on the top it
25 says: "Plan of command assignments of the operational zone of

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1 Pashtrik on the date D." And it also says Suhareka, 20 February
2 1999.

3 Witness, do you know what this document is?

4 A. This is an operational preparatory document regarding the
5 assignment of command in a specific situation. The command of the
6 Pashtrik operational zone, that is.

7 Q. Was it a preparatory document for a specific operation?

8 A. No. It's a document that can serve as a model on how to prepare
9 an operational document. It's not related to a concrete situation.
10 That's why it doesn't bear a signature, this document. It is
11 prepared, composed, but it's not signed.

12 Q. So as I understand it, it's a kind of template; is that right?

13 A. Exactly.

14 Q. If we go to the page before, we can see the end of a
15 16-paragraph document that says "Commander Ekrem Rexha" on the
16 bottom. Would Ekrem Rexha also contribute model or template
17 documents of the same kind?

18 A. Yes. But within the framework of the zone, we prepared a lot of
19 documents of this kind. A lot of work and effort was put in this
20 respect. That is, in preparing operational documents.

21 MR. HALLING: If we move to a little earlier in this
22 16-paragraph document and we go to page 4 in the English, and I
23 believe that's K053-5465 in the Albanian, so one page further back.

24 Q. Witness, is this also a template when it says:

25 "To commander ...

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1 "Order to attack ..."

2 A. It's a operational preparatory document in case something is
3 undertaken, to serve as a template for an order to attack. So it's
4 not an actual order, it's a template. It's a model document.

5 Q. And if you look at paragraph 2, the template provides:

6 "Our units, consisting of a part of the units of the 121st,
7 122nd, 123rd, 124th, and 125th Brigades and the PU /Military
8 Police/ of the SHP /General Staff/ will attack the enemy positions in
9 Malisheva ..."

10 So is this reference to the General Staff military police the
11 same General Staff military police unit you talk about in your SPO
12 interview?

13 A. Here, as we already mentioned, we are dealing with a model
14 document. And according to the specifics, it could only be 121, 122,
15 and 123 Brigade, but all other units that more or less existed at the
16 time are specified in this document. Again, this is a material that
17 is a template, not a material that provides the basis to support an
18 action undertaken based on this document.

19 Q. Thank you.

20 MR. HALLING: Your Honour, we would submit that the reference to
21 the General Staff military police in a template document, the
22 witness's contextualisation of that document, and his confirmation
23 that one of his own documents is part of the same set of templates
24 justifies the admissibility of this set, and we would tender for
25 admission IT-05-87 P2459 in both Albanian and English.

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1 PRESIDING JUDGE SMITH: Objection?

2 MR. MISETIC: No objection.

3 MR. ELLIS: No.

4 PRESIDING JUDGE SMITH: IT-05-87 P2459 is admitted. Please
5 assign an exhibit number.

6 THE COURT OFFICER: It will be assigned Exhibit P01349,
7 currently classified as confidential. Thank you, Your Honours.

8 PRESIDING JUDGE SMITH: Classification?

9 MR. HALLING: I believe this can be classified as public,
10 Your Honour.

11 PRESIDING JUDGE SMITH: P01349 is reclassified as public.

12 THE COURT OFFICER: This is noted. Thank you so much,
13 Your Honours.

14 MR. HALLING: Thank you.

15 Q. Now, Witness, I'd like to talk a little bit more about 1999 and
16 KLA intelligence. Just as a threshold question, you mentioned in
17 Preparation Note 1, and this is at paragraph 24, that you did not
18 know concretely what the KLA military police was doing but you know
19 the functions they were supposed to have from the Yugoslav Army
20 model. Do you remember saying this last week?

21 A. Yes.

22 Q. And is your understanding of KLA intelligence functions based on
23 your same experience?

24 A. I don't know. However, there could be differences. A number of
25 officers from our ranks that had completed their education in the

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1 former Yugoslav Army schools, we had a certain logic that we followed
2 and based ourselves on the Yugoslav Army model. Some parts are maybe
3 taken from other sources and literature where other models are
4 described.

5 Q. I understand that. But just simply are you familiar with the
6 tasks of intelligence from your military experience in the former
7 Yugoslavia?

8 A. In certain aspects during our education we had subjects that
9 dealt precisely with the intelligence and counter-intelligence
10 sectors. We had these as subjects in the military academy.

11 MR. HALLING: Could the Court Officer now please pull up
12 U000-6462 to U000-6464, and the first page specifically.

13 Q. Now, Witness, this document is entitled "KLA Headquarters for
14 Prizren." I understand you hadn't seen this document before the prep
15 session last week; is that correct?

16 A. Correct.

17 Q. Here at the top it talks about the duties of a commander. And
18 is this an accurate description -- to the extent that you know, is
19 this an accurate description of a KLA zone commander?

20 A. Here you can clearly see that this material was prepared by
21 someone who, more or less, did not have the experience of a former
22 Yugoslav Army officer.

23 Q. My question wasn't about the experience level. My question was
24 about whether the functions are described accurately. Are they?

25 A. That's why I said that there is a description but not fully

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1 accurate. In principle, I would say yes.

2 Q. You said it's accurate in principle, but it's not fully
3 accurate. Which part's not accurate?

4 A. I cannot go into these matters because I'm not prepared. Time
5 has done its part. 25 years have passed. I've not dealt with this
6 problematics, and therefore I cannot go into any discussions
7 regarding this document.

8 Q. Witness, is this description then accurate to the extent you
9 remember?

10 A. In principle, yes.

11 Q. And the same question for the chief of operations. Is that
12 description accurate to the extent you remember?

13 A. Again, this too in principle is correct.

14 MR. HALLING: And if we could now go to the next page.

15 Q. And, specifically, Witness, I want to direct you to where it
16 says "Assistant commander for intelligence and counterintelligence."
17 It says:

18 "This commander has his assistants and his duty is to conduct
19 intelligence and counterintelligence work. He is in charge of
20 collecting information about enemy forces, their size, concentration
21 and positions. His duty is to find out" --

22 PRESIDING JUDGE SMITH: A little slower.

23 MR. HALLING: Oh. Thank you.

24 Q. "His duty is to find out the enemy's plans and type and quantity
25 of armament.

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1 "His duty is to uncover enemy collaborators and, against those
2 that there is sufficient evidence that they are harming the national
3 cause, takes action as necessary. His duty is to check and control
4 KLA members to find out traitors and those who collaborate with the
5 enemy or share military secrets, our positions, etc.

6 "He has the authority to act at the company level and in the KLA
7 in general and every request that he makes to the Military Police
8 squad must be met."

9 Now, Witness, is this an accurate description, to the extent you
10 remember, of the KLA intelligence commander functions?

11 A. In principle, that's the description. Now, whether it's
12 accurate, whether something was left unsaid, that I don't know. As I
13 said, a long time has passed, and I cannot go into any details or
14 expertise regarding this material.

15 MR. HALLING: Your Honours, we would say that the witness's
16 description of these matching his understanding in principle is
17 sufficient for admission. This is an ICTY item seized by the Serb
18 authorities. This particular one was taken by the Serbian MUP at
19 Lubiqeve, Prizren, in September 1998. And it says KLA headquarters
20 Prizren on the first page. We would tender it for admission.

21 PRESIDING JUDGE SMITH: Comment?

22 MS. O'REILLY: Yes, Your Honour. We do oppose that. The
23 witness hasn't seen the document before. He's commenting on
24 something that he cannot really recollect. All he can say really is
25 that he doesn't have anything to contradict it.

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1 So we would submit that given the origin of this document and
2 the lack of the identity of the author, the foundation for this
3 document has not been provided. And I would note that it was also
4 not provided the last time it was shown to a witness, which was
5 Witness W04765.

6 PRESIDING JUDGE SMITH: Anybody else?

7 MR. MISETIC: I just have a question on the foundation again, if
8 the Prosecution can proffer what is KLA headquarters Prizren, who or
9 which unit that's referring to?

10 MR. HALLING: The exact identity of that unit, we don't know any
11 information beyond what's on the page. But what we were asking this
12 witness to do is to describe it at a structural functional level.
13 And contrary to what the Veseli Defence just said, a witness like
14 this not being in a position to contradict that information we think
15 is meaningful given his qualifications.

16 MR. MISETIC: Then we do object. If the Prosecution and the
17 Defence doesn't know what unit or what is KLA headquarters Prizren,
18 we object.

19 MR. ELLIS: We join that objection, Your Honour.

20 PRESIDING JUDGE SMITH: Understood. There is some qualification
21 in his statement, but we will admit the document but we'll give it
22 the weight we think appropriate given those qualifications.

23 [Microphone not activated].

24 THE COURT OFFICER: Your Honours, U000-6462 to U000-6464, in
25 both Albanian and English, will be assigned Exhibit P01350, currently

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1 classified as confidential. Thank you, Your Honours.

2 PRESIDING JUDGE SMITH: Thank you.

3 Thank you. Go ahead.

4 MR. HALLING: Thank you. And the next document that we'd ask to
5 have pulled up is SPOE00226622, and it's a single page.

6 Q. Witness, I'm going to show you a few items that were discussed
7 in your preparation session and ask you some additional questions.

8 And, Witness, as the English version is being pulled up, am I
9 correct, you hadn't seen this document before the preparation
10 session; is that right?

11 A. I saw this document for the first time when it was shown to me
12 last week.

13 Q. Yes. And my questions on this, I want to separate the persons
14 and positions listed in this document from the accusations made
15 within it. Are the persons in positions in this document, are these
16 KLA members in these positions? Is this accurate in that aspect?

17 A. For most of them, yes. Although when it comes to Blerim Kuqi,
18 he's not a platoon commander but he was a company commander. This
19 was a reconnaissance company. The others seem to be all right.

20 Q. From the positions as listed, from when approximately would this
21 list have been made?

22 A. It must have been January 1999, most likely, because during this
23 period of time I was personally in the Pashtrik operational zone.
24 Although the title says chief of operations at Pashtrik operational
25 zone, my duty was chief of staff. So there are inaccuracies when it

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1 comes to titles. But in principle, in general, it's correct.

2 Q. Now to the accusation:

3 "Kurtesh Fondaj has played a role in the thrashing of KLA in the
4 Suhareka region."

5 First of all, is that accusation true? What is your comment on
6 that?

7 A. I did not join the Kosovo Liberation Army to harm it but, quite
8 on the contrary, to give my best contribution. I did not act by a
9 nickname. I used my first name and last name, and I was fully aware
10 of the consequences I would have to bear if the KLA were to fail. I
11 strongly believed in the Kosovo Liberation Army and tried to give my
12 best to it.

13 However, we have an expression which says even the sun does not
14 warm everyone the same way. So in this context, if individuals made
15 the remarks regarding my work, it's a normal thing. My purpose and
16 my goal was to give my best contribution to the KLA.

17 Q. So I understand you disagree that you were thrashing the KLA in
18 the Suhareke region; is that right?

19 A. It's correct, I did not play a role.

20 Q. Were you ever accused of anything like this during the war?

21 A. To my knowledge, formally no.

22 Q. Then how about informally?

23 A. It would appear to be the case informally. One of them is a
24 document I gave which indicates that it is the case. But I never
25 received any warnings officially. Quite the contrary. I received

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1 recognition.

2 Q. Yes. I want to focus in your last answer on:

3 "One of them is a document I gave which indicates that it is the
4 case."

5 Can you just describe the document you're describing in that
6 part of your last answer?

7 A. It is about a document prepared by Halil Qadraku together with
8 Sadik Halitjaha.

9 Q. And what was Halil Qadraku's role in the KLA in early 1999?

10 A. His duty at the Pashtrik operational zone was in charge of the
11 intelligence and counter-intelligence sector.

12 Q. Is this sector also known as the information service?

13 A. I don't know that. During the time I acted as a chief of staff,
14 we called it intelligence and counter-intelligence.

15 Q. In Albanian military terminology, what do they call the
16 intelligence and counter-intelligence service?

17 A. I don't know. If I'm not mistaken, in Albania it's also called
18 the intelligence service, but I'm not certain. I might be wrong. I
19 truly did not deal with this aspect at all after the war.

20 MR. HALLING: Your Honour, if we could just clarify with
21 paragraph 43 of Preparation Note 2.

22 PRESIDING JUDGE SMITH: Yes, go ahead.

23 MR. HALLING:

24 Q. So, Witness, this is something that you said in the preparation
25 session:

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1 "Halil Qadraku was in charge of the intelligence service ([also
2 known as] intelligence/counter-intelligence). In Albanian military
3 terminology, this is known as the 'information service'."

4 Is that correct?

5 A. In principle, one can say so. Yes.

6 Q. Okay.

7 MR. HALLING: Now the next document is SPOE00227 to SPOE00227 --
8 sorry, 227677 is the first page and 227682 is the last page. And
9 we'll start at page SPOE00227678.

10 MS. O'REILLY: Your Honour, I believe there may be a mistake on
11 the transcript. There's a reference to "investigation" which, if
12 we're following Prep Note 2, paragraph 43, should be "information"?

13 MR. HALLING: Counsel is correct, and I think I said
14 "information service." So, yes.

15 PRESIDING JUDGE SMITH: Thank you. Thank you, counsellor.

16 MR. HALLING: So, yes, so again the page is SPOE00227678 and in
17 the English as well.

18 Q. So, Witness, this page is just to orient you. It says this is a
19 meeting of the General Staff of the KLA, 5 January 1999, at Divjake.
20 And if we go to the next page, it says the following:

21 "Kurtesh Fondaj / as read/ says - We do not need *Tens* ... and
22 *gjarpna* /snakes/ here. We recognise only B Zyrapi!"

23 Do you see that on the screen?

24 A. Yes, I see it.

25 Q. Is this something that you ever said?

Witness: Kurtesh Fondaj (Open Session)

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1 A. I don't think so. For me, the members of the General Staff were
2 men who enjoyed authority, respect, and I tried to be as correct as
3 possible, and I am convinced that they also in turn were correct
4 towards me. It's not in my nature or character to use this language.

5 Q. And did that include respecting the authority of Hashim Thaci?

6 A. This sentence is outrageous, actually.

7 Q. Thank you.

8 MR. HALLING: The next one, SPOE00226730 to SPOE00226746, and
9 specifically page SPOE00226741.

10 Q. Now, Witness, on this page at the top it sounds similar to the
11 previous document:

12 "Kurtesh Fondaj

13 "'10' and," it's hard to read, "have no business here, you need
14 to follow the orders of Bislim Zyrapi. Declares H. Pacarizi."

15 Do you know a KLA member named H. Paqarizi?

16 A. Yes, I know him. And I think the previous document originates
17 from this, so there are no two different documents. The source is
18 this. Paqarizi was in the intelligence and counter-intelligence
19 sector within Brigade 122 in January 1999.

20 Q. And if we go to the next page of this item, it talks about a
21 meeting with what is translated in English as Halil Paqarizi. Is
22 this Habib Paqarizi being discussed here? Can you tell?

23 A. Precisely. It's Habib, the same Habib. Not Halil.

24 Q. Can you think of why someone from KLA intelligence would make a
25 declaration like that against you?

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1 A. No, I can't say because I don't know.

2 MR. HALLING: If we could now go to P500, which is SITF00021875
3 to SITF00021876, at the bottom of the first page.

4 Q. Witness, on the bottom of this page it talks about:

5 "... another case regarding all the anomalies of Kurtesh Fandaj
6 and all the demerits he was given going from platoon commander to
7 brigade commander and from brigade commander to the POZ operational
8 chief and from there to the General Staff in the staff training,
9 something that seems to imply that if he weren't suitable for the
10 KLA, he was much better for the FARKists and was advanced."

11 Is this the allegation Halil Qadraku made against you that you
12 were discussing earlier in your examination today?

13 A. The document prepared by Halil Qadraku containing the name of
14 Sadik Halitjaha, that is the document. I would take this opportunity
15 to say one more sentence. There has not been any FARK in the
16 territory of Kosovo. Let's be clear about that. The soldiers who
17 initially were under the Ministry of Defence in the territory of
18 Kosovo operated with the Kosovo Liberation Army insignia and were
19 under the command of the General Staff of the Kosovo Liberation Army.

20 Q. Okay. Now a part of your statement.

21 MR. HALLING: And this is P1327.6, and it's pages 17 and 18 in
22 the English, and 18 and 19 in the Albanian.

23 Q. Witness, I want to take you to the part of your SPO interview
24 where you were talking about Halil Qadraku's reporting specifically.

25 MR. HALLING: And I'll go to the page with the assistance of the

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1 Court Officer.

2 And, Your Honours, I notice the time. If it's possible to go an
3 extra 10 to 15 minutes in my questions. I'm almost done. Thank you.

4 PRESIDING JUDGE SMITH: Yes, go ahead.

5 MR. HALLING: Okay. So page 17 in the English, and it should
6 begin with: "To whom did he report?" So if we could scroll down to
7 the bottom of the page. There it is.

8 Q. So, Witness, it says:

9 "To whom did he report? In a military structure."

10 And then you replied, in relation to Halil Qadraku:

11 "Normally, he had to report to Ekrem Rexha. But the truth is
12 that he had contacts within the General Staff with Kadri Veseli.

13 "And was Kadri Veseli the head of the ZKZ at the time on the
14 General Staff level?

15 "Yes.

16 "So do I understand correctly that we had a problem with
17 Halil Qadraku because he circumvented the command structure, went
18 around, and went directly to General Staff?

19 "A. Yes. I think this is due to the lack of knowledge or maybe
20 there is something else. But in my opinion, it is so that he didn't
21 know that he had to report to the commander and that's why he
22 immediately directly went to the General Staff."

23 Witness, first of all, is this -- this is accurate from your SPO
24 interview?

25 A. Yes, it is.

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Examination by Mr. Halling

1 Q. Now, you said that Halil Qadraku had lack of knowledge about the
2 proper reporting. Did Ekrem Rexha ever tell Halil Qadraku how to
3 properly report?

4 A. Ekrem Rexha received several complaints from brigade commanders
5 regarding the work of Halil Qadraku with respect to the intelligence
6 and counter-intelligence sector at the brigade level. Ekrem Rexha
7 warned Halil Qadraku, telling him: You can go and consult and give
8 advice, receive information from the heads of intelligence and
9 counter-intelligence sectors within the brigade. However, you need
10 to have an order from me. And namely based on that order, you would
11 be permitted by brigade commanders to carry out your work.

12 This was received by him as if Ekrem Rexha was trying to
13 obstruct the work of the intelligence and counter-intelligence. So I
14 reached some form of a conclusion which was that Halil Qadraku does
15 not understand his work and his responsibilities. So in brief, this
16 would be it.

17 Q. Is what you just described Ekrem Rexha as saying the correct way
18 of reporting in an army based on your Yugoslav Army experience?

19 A. Yes. The commander is a commander and he should know
20 everything. When he receives information about intelligence or
21 counter-intelligence, as it was mentioned that they need to find out
22 enemy positions, for example, they need to report to the commander,
23 not to somebody outside their unit.

24 Q. And you also said that he -- Ekrem Rexha warned Halil Qadraku
25 with the proper way to report. Did you see this warning yourself?

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1 A. In the period in January, February, we had regular daily
2 meetings. We called them briefings. And in one of those meetings,
3 it might have also happened on two other -- two or three other
4 occasions, the conversation I mentioned before took place.

5 Q. After those conversations occurred, did Halil Qadraku continue
6 the improper reporting after?

7 MR. EMMERSON: Excuse me. I'm sorry, but as I read the
8 transcript, the witness has described Mr. Halitjaha as having -- and
9 Qadraku as having obtained information from the brigades so far.
10 Nothing about reporting.

11 MR. HALLING:

12 Q. Witness, is what Halil Qadraku was doing reporting to the
13 General Staff in circumvention of Ekrem Rexha?

14 A. Mr. Prosecutor, the Defence counsel is right in what he said.
15 The dissatisfaction and complaints regarding Halil Qadraku were made
16 by brigade commanders. Now, did he report at a higher level?
17 Ekrem Rexha would not have been able to have information about this.
18 The document we gave was after we finished the work in the zone and
19 Ekrem Rexha was almost finishing his work.

20 MR. HALLING: And, Your Honours, with that we would ask to
21 clarify with paragraph 45 of the Preparation Note 2.

22 PRESIDING JUDGE SMITH: Yes, go ahead.

23 MR. HALLING:

24 Q. So, Witness, here's what was said in the preparation session:

25 "It was Ekrem Rexha who was correct in the proper military

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1 reporting procedures. [You were] present in zone commander meetings
2 when Ekrem Rexha told Halil Qadraku how to properly report. But
3 Halil Qadraku continued to go directly to ZKZ in the brigades and
4 report directly to the General Staff even after Ekrem Rexha told
5 Halil Qadraku the proper reporting line. Halil Qadraku would bypass
6 Ekrem Rexha by going to higher levels and ZKZ at lower levels without
7 informing him."

8 MR. EMMERSON: Before the witness answers, it is Mr. Halling's
9 note of this meeting, and it is Mr. Halling who, in the course of the
10 last series of questions and answers, has conflated reporting -- the
11 use of the word "reporting" with information received from below,
12 information routes thereafter. So I'm perfectly happy for the
13 witness to have Mr. Halling's recollection of that conversation read
14 to him, but the questions need to be put from this point onwards
15 carefully and in a non-leading fashion.

16 MR. HALLING: Your Honour, the witness certified last week the
17 accuracy of this. We're asking him to clarify.

18 PRESIDING JUDGE SMITH: Yes, of course, and you may. Go ahead.

19 MR. HALLING: Thank you.

20 Q. Witness, is what I just read to you accurate?

21 A. In fact, bearing in mind the workload and the materials I had
22 within a week in my hands, my statements, we might have missed some
23 terminology with respect to communication and reporting, receiving
24 information. So I wouldn't want you to hold me on one word if I
25 mistakenly stated it.

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1 I was mostly referring to communication with the brigades and
2 not with -- I was not thinking about communication with the
3 General Staff.

4 Q. So, Witness, my question then to you is why did you say that
5 Halil Qadraku continued to report directly to the General Staff in
6 your preparation session?

7 A. In the preparation session, I based my statement in the document
8 that he sent which bears the date of 16 March, if I'm not mistaken.
9 I was not in the Pashtrik operational zone during that period of
10 time. This was the basis, thinking that he also communicated with
11 the General Staff following the vertical line without Ekrem Rexha
12 being aware or informed.

13 However, again, I was not in the Pashtrik operational zone
14 during this period of time.

15 Q. Is it correct from the document Halil Qadraku wrote about you
16 that he did not trust you?

17 MR. EMMERSON: Again, that's not a question the witness is in a
18 position to answer. [Microphone not activated].

19 PRESIDING JUDGE SMITH: I don't know what the foundation is for
20 that question. I don't know what his basis of knowledge is.

21 MR. HALLING: It would be based on --

22 PRESIDING JUDGE SMITH: Is it something in writing or something
23 he's heard? We have to find that out.

24 MR. HALLING: It would be based on what is in writing, and I can
25 clarify with the witness.

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1 Q. So, Witness, in the letter that you were shown by Halil Qadraku,
2 did you understand from what he wrote about you whether or not he
3 trusted you?

4 A. Mr. Prosecutor, that letter does not contain only my name.
5 There are the names of a considerable number of military officers, in
6 particular from Brigade 123. However, I would not want to speculate
7 and say that he had certain allegations. Again, I'm repeating what I
8 said earlier which is that Halil Qadraku did not know his tasks or
9 work or responsibilities.

10 MR. HALLING: And with that, Your Honour, we'd ask to clarify
11 with paragraph 44 of Preparation Note 2.

12 PRESIDING JUDGE SMITH: Yes, go ahead.

13 MR. HALLING:

14 Q. Witness, you said:

15 "Based on what Halil Qadraku said in his letter ...
16 Halil Qadraku did not trust Drini, [you], or the other senior
17 officers."

18 Witness, is that true?

19 A. I am not able to say whether he trusted us or not. What can be
20 seen from the document is that he was not satisfied with our work. I
21 don't know about the trust.

22 Q. With the warnings you described seeing in person by Ekrem Rexha,
23 did Halil Qadraku change his behaviour after those warnings?

24 A. I don't know. I don't know.

25 Q. Witness, you said that you don't know whether or not

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1 Halil Qadraku was reporting to the General Staff. Is that your
2 statement now?

3 MR. EMMERSON: Again, that's a misrepresentation of the
4 evidence. The witness has already testified just a few moments ago
5 that his understanding that Halil Qadraku was reporting to the
6 General Staff was based on that one document.

7 MR. HALLING: That is a speaking objection and --

8 MR. EMMERSON: No --

9 MR. HALLING: -- again --

10 MR. EMMERSON: -- I'm so sorry. Read the transcript.

11 PRESIDING JUDGE SMITH: Please just raise and -- raise your
12 objection when you need one. We don't need to have an explanation so
13 that the witness can hear it. If you want to make a longer
14 statement, we need to excuse the witness.

15 MR. EMMERSON: I don't need to make a longer statement. The
16 simple objection is it's a misrepresentation of what the witness said
17 just two minutes ago.

18 PRESIDING JUDGE SMITH: Go ahead.

19 MR. EMMERSON: We can all see the transcript.

20 MR. HALLING: Thank you.

21 PRESIDING JUDGE SMITH: The objection is overruled.

22 Go ahead.

23 MR. HALLING: Thank you.

24 Q. And, Witness, indeed, my question is to clarify exactly what you
25 are saying now. So my question is that you -- are you saying now

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1 that you don't know whether or not Halil Qadraku reported to the
2 General Staff?

3 A. I don't know. He filed a request or an official document to the
4 General Staff. The one you have in your evidence. Now, whether he
5 reported there or not, I don't know.

6 Q. Witness, you said on the SPO interview page that's on the
7 screen:

8 "Normally, he had to report to Ekrem Rexha. But the truth is
9 that he had contacts within the General Staff with Kadri Veseli."

10 That's true, isn't it?

11 A. That he should have reported to Ekrem Rexha? I did say that. I
12 also said that he was in a position to communicate about matters with
13 the General Staff as well, because the General Staff could also give
14 professional advice. However, Ekrem Rexha consistently said when you
15 are communicating upwards or downwards, this communication should go
16 through him as a commander and not in direct way or line.

17 Now, I can say nothing else in relation to his work. That I saw
18 the document, it ended up in my hands, and I submitted it with you.
19 With respect to Halil Qadraku.

20 Q. Thank you.

21 MR. HALLING: Your Honour, I think that's sufficiently clarified
22 now.

23 The three yet-to-be-tendered items shown in this line of
24 questioning before P500, they further the illustrate what we would
25 submit is a level of distrust that certain parts of the KLA had

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1 towards professional soldiers trying to follow the rules, parallel
2 reporting to the General Staff which circumvented such soldiers,
3 important KLA intelligence members making accusations against them,
4 and these intelligence accusations making their way --

5 MR. MISETIC: Mr. --

6 MR. HALLING: -- to the General Staff.

7 MR. MISETIC: I'm going to object in front of the witness to
8 making submissions on what's important and what -- what the
9 Prosecutor is trying to prove with the witness in front of the
10 witness.

11 MR. HALLING: We need to make a proffer of relevance and
12 probative value. That's all I'm intending to do.

13 MR. MISETIC: I'm just objecting to it being done in front of a
14 witness.

15 MR. HALLING: The only last point I wanted to make was that on
16 the --

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. HALLING: Yes.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. HALLING: As to the accusations going to the General Staff,
21 not only does item SPOE00227677 to 227682 claim to reflect notes of a
22 General Staff meeting in Divjake on 5 January 1999, this item was
23 seized from Jakup Krasniqi. And the other two items, the thrashing
24 document, which is SPOE00226622, and then finally SPOE00226730 to
25 226746, were seized from Rexhep Selimi.

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1 And on this basis, we would tender all three of those items for
2 admission into evidence.

3 PRESIDING JUDGE SMITH: [Microphone not activated]. The first
4 one, U000-6462.

5 MR. HALLING: That one has already been addressed. The three
6 ERNs, and I'll do them in the order I just said them.

7 SPOE00227677 --

8 PRESIDING JUDGE SMITH: Wait a second. Okay. Go ahead.

9 MR. HALLING: And then the last page would be 227682. And that
10 was the second document shown in the sequence.

11 And then SPOE00226622 and then finally SPOE00226730 to 226746,
12 which were the first and third documents in the sequence.

13 PRESIDING JUDGE SMITH: All right. Now any objection?

14 MR. MISETIC: I have objections to this -- to the proffer, but I
15 don't wish to make those objections in front of the witness.

16 PRESIDING JUDGE SMITH: All right.

17 MR. MISETIC: Let me just add, I don't object to the admission,
18 but I object to the proffer.

19 PRESIDING JUDGE SMITH: Understood.

20 MR. EMMERSON: We raise no specific objections. Obviously, the
21 material, a large amount of it is unsourced and its provenance
22 unknown and therefore its weight minimal. But with that in mind,
23 given the weight function being one for Your Honours, we don't
24 object.

25 PRESIDING JUDGE SMITH: Thank you.

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1 Anybody else?

2 MR. ELLIS: We do object again, Your Honours. One of documents,
3 the first of those, is a search document and we have a standing
4 objection to those documents. But more than that, these are
5 documents that the witness has never seen before and hasn't been able
6 to authenticate in any meaningful way, so we would say the
7 Prosecution has not met the required standard through this witness.
8 They can, of course, be raised with another witness who might be able
9 to speak to them.

10 PRESIDING JUDGE SMITH: All right. The Court finds that
11 SPOE00226622, SPOE00227677 to 227682, and SPOE00226730 to 226746 --
12 have I got them all?

13 MR. HALLING: Correct, Your Honour.

14 PRESIDING JUDGE SMITH: All right. Those are admitted having
15 met the standard -- *prima facie* standard of our Rule 138.

16 Go ahead.

17 THE COURT OFFICER: Your Honours, SPOE00226622 to SPOE00226622,
18 in both Albanian and English, will be assigned Exhibit P01351,
19 currently classified as confidential.

20 The SPOE00227677 to SPOE00227682, in both Albanian and English,
21 will be assigned Exhibit P01352, currently classified as
22 confidential.

23 And the SPOE00226730 to SPOE00226746, in both Albanian and
24 English, will be assigned Exhibit P01352, and it will be -- my
25 apologies. It will be P01353, and it is currently classified as

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1 confidential. Thank you, Your Honours.

2 PRESIDING JUDGE SMITH: Do you want to reclassify these?

3 MR. HALLING: These, we would actually ask that they maintain
4 their confidential classification just because they're seized items.

5 PRESIDING JUDGE SMITH: All right.

6 Go ahead.

7 MR. HALLING: Thank you. And, yes, Your Honour, I have no more
8 documents to tender but just a few last questions to the witness.

9 Q. Witness, I'd now like to focus on the period of time at the KLA
10 military school just briefly. Were you ordered to go and start
11 working at the military school?

12 A. We are talking about end of April 1999 when Agim Ceku became
13 chief of staff, and he communicated this order to Ekrem Rexha for
14 commander of the military school, training school. But the order was
15 issued orally, not in writing.

16 Q. So at the end of February when you made the request to be
17 transferred to another commanding structure - and this is page 27 of
18 today's realtime transcript - are you speaking about the military
19 school at that point?

20 A. No. Initially my duty was person in charge of training
21 education within the framework of the operational directorate of the
22 General Staff. Within that sector, there were not so many
23 opportunities to give any contribution because at that time we had
24 combat activity that was going on on a daily basis, every single day.

25 Q. Okay. So did you ask to go to the military school in April

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1 1999?

2 A. I asked to leave from the Pashtrik operational zone because I
3 thought I could give a greater contribution somewhere else. In
4 coordination with Bislum Zyrapi, I decided to take up the duty of the
5 trainer in the military training and education centre. As I said, it
6 was difficult to give a contribution. Because of the daily fighting,
7 I was engaged within the 123 Brigade during the fightings in March
8 1999. I basically inspected the front lines at that time.

9 Q. Okay. So is what you're describing now, that predates your time
10 at the military school; is that right?

11 A. Yes.

12 Q. Thank you. And then the last question: Witness, in your SPO
13 interview you finished talking about Serbian crimes and UNMIK.

14 MR. HALLING: And for the record, this is P1327.9, and it's
15 pages 32 to 33 in the English, and page 41 in the Albanian.

16 Q. You said that:

17 "The UNMIK was the authority that was present after the war, but
18 they had -- they were responsible, they had to do such investigation
19 but they didn't."

20 Do you remember this from your SPO interview?

21 A. Yes.

22 Q. Once UNMIK and KFOR were active in Kosovo, could anyone have
23 reported crimes to them?

24 A. I didn't deal with that matter. I know that the authority in
25 Kosovo until 2008 was UNMIK. And if anybody had information

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1 concerning a certain breach or crime, of course, they could report
2 them to UNMIK authorities at that time. In my opinion, the UNMIK did
3 not do its work and did not perform its duties and functions as it
4 should have.

5 Q. All right. UNMIK actually brought prosecutions against former
6 KLA members after the war; is that right?

7 A. I don't remember any particular details or cases. But if I'm
8 not mistaken, there were such.

9 Q. Do you have any information that the KLA ever referred crimes by
10 KLA members to UNMIK or KFOR?

11 A. I have no information about that. In fact, at the time, just
12 like any other citizen of Kosovo, I had to work and to create the
13 fundamental basis to secure my existence. So I dealt with my own
14 work and I was not interested in other matters that were beyond my
15 competencies.

16 I was demobilised at the end of the war, and after that, I
17 simply was not interested in such aspects.

18 Q. Thank you, Witness.

19 MR. HALLING: No further questions.

20 PRESIDING JUDGE SMITH: All right. Mr. Misetic.

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

22 Cross-examination by Mr. Misetic:

23 Q. Good afternoon, Witness. My name is Luka Misetic. I am counsel
24 for Hashim Thaci, and I have a few questions for you this afternoon.

25 First, I just want to confirm, you served as an officer in the

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1 Yugoslav national army from 1985 to 1987; is that correct?

2 A. First of all, good afternoon. Yes, honoured counsel, it's the
3 years that you mentioned.

4 Q. Okay. Between 1987 and June 1998, did you serve in any military
5 function or any military organisation?

6 A. No, I didn't.

7 Q. Okay. Then in June 1998, you joined the KLA; correct?

8 A. Yes.

9 Q. But prior to that, in March, April and May, you had already had
10 contacts with the KLA through Blerim Kuqi; is that correct?

11 A. Especially in the last phase of the period March, April, May.

12 Q. Okay. And according to your SPO interview, Blerim Kuqi had by
13 then already formed his Lisi unit within the KLA; is that correct?

14 A. Correct.

15 Q. And in that time period - March, April, May - he had the support
16 of Uke Bytyqi in forming the Lisi unit; is that correct?

17 A. Yes.

18 Q. And both Blerim Kuqi and Uke Bytyqi were LDK leaders in Suhareke
19 at the time; is that correct?

20 A. Before they joined the KLA, yes.

21 Q. And then in that time period, and I'm talking about March, April
22 or May, were Blerim Kuqi and Uke Bytyqi both still in the LDK as they
23 were forming the KLA in the Suhareke area?

24 A. I don't know the details. Uke Bytyqi could still have had party
25 functions, but Blerim Kuqi, he didn't. Once he joined the KLA, he

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1 did not exercise any other functions, political functions in
2 Suhareke.

3 Q. Okay. I'm asking you that question because in your SPO
4 interview at P01327.7, page 2, lines 11 to 12 in English, you say:

5 "In Suhareke, the KLA was created by the structures of the LDK."

6 Do you recall saying that?

7 And you also said the KLA was commanded or run by former LDK
8 supporters. Is that accurate?

9 A. Yes.

10 Q. When you say, "In Suhareke, the KLA was created by the
11 structures of the LDK," can you explain a little bit more what you
12 meant by that?

13 A. Let's take Uke Bytyqi as an example. He was the chairman of the
14 LDK, the biggest party branch. Whereas Blerim, his task was to
15 collect funds to finance the parallel organs - that is, the
16 ministries - that we had within the Yugoslav system. I don't know
17 what it was called at that time. Provisional council or something
18 like that. But, in fact, he was in charge of collecting funds to
19 finance the parallel authorities and organs, state organs at that
20 time.

21 These two persons were the main persons in local government that
22 functioned as a parallel organ to the Serb authorities and organs at
23 the time.

24 Q. Okay. And those two persons, Blerim Kuqi and Uke Bytyqi, is it
25 fair to say that they were two of the primary founders of the KLA in

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1 the Suhareke region?

2 A. For Lisi unit, yes. But there was also another unit that
3 existed at the time called Celiku 50.

4 Q. Yes. But staying with the Lisi unit first. Is it correct that
5 Blerim Kuqi was chosen as commander of the Lisi unit in April 1998?

6 A. I don't know the details. As to how he became the leader of
7 that unit, how he was elected, I don't know the details, and I cannot
8 give you any explanation.

9 MR. MISETIC: If we could put Exhibit P1333 on the screen at
10 page 1 in the English and page 2 in the Albanian, please.

11 Q. Witness, you recognise the document on the screen?

12 A. Yes.

13 MR. MISETIC: If we could scroll in the English to the bottom in
14 the paragraph that begins: "In March 1998 ..." And I believe it's on
15 the next page in the Albanian, please. Oh, sorry, it is on the first
16 page, I'm told now, on the Albanian. I apologise. Yes, at the
17 bottom.

18 Q. So, Witness, at the paragraph that begins, "In March 1998 this
19 structure," it says:

20 "... this structure would go to Drenica where it would cooperate
21 with the structures of that area as well as with the KLA
22 General Staff. After the above-mentioned contacts and because of the
23 circumstances created in April 1998 a decision was made to form
24 'Lisi' ... unit, with Blerim Kuci chosen as unit commander. In the
25 beginning this unit had 70 soldiers and went public for the first

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1 time in Doberdolan village," et cetera.

2 Do you have any reason to dispute that Blerim Kuqi was appointed
3 commander of the Lisi unit in April 1998?

4 A. Technical issues as to whether he was appointed or whether he
5 self-proclaimed him leader or whether he formed the unit, that I
6 don't know. But what I know is that Lisi, headed by Blerim Kuqi, had
7 very good communication with the structures created at the time, such
8 as Celiku 50, Lumi unit, and other units that were operational in
9 that area.

10 Q. Okay. Let me ask you, at that time, given the roles that LDK
11 leaders had, particularly Blerim Kuqi and Uke Bytyqi, was there --
12 did the KLA, as far as you know at the time, consider someone to be
13 an opponent of the KLA because they were or had been a member of the
14 LDK? And I'm talking about in the Suhareke region.

15 A. I don't think so. I don't think that that could have happened.

16 Q. Were you ever aware of an order in the Suhareke region to try
17 to, for example, shut down the KLA? Sorry, to shut down the LDK. I
18 apologise.

19 A. No.

20 Q. As far as you were aware, did the LDK in Suhareke continue its
21 normal activities after the formation of the KLA or did the LDK cease
22 with its activities in the Suhareke region?

23 A. No, it continued its activities until the end of the war.

24 Q. Okay. Speaking of the period of March, April, May 1998, do you
25 know what Bislum Zyrapi's role was in the KLA in that three-month

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1 time period, March, April, May 1998?

2 A. As far as I recall, Bislím Zyrapi came in the territory of
3 Kosovo at the end of May 1998, which means that he was not part of
4 these military formations.

5 Q. Okay. So your information is that he was not part of the KLA
6 until he joined or he entered the territory of Kosovo at the end of
7 May 1998; is that correct?

8 A. Correct.

9 Q. What was his function in the KLA at the end of May 1998 when he
10 entered Kosovo?

11 A. After Bislím Zyrapi joined the KLA, his first duty was to give
12 the military shape to the KLA. And I'm convinced that he
13 successfully completed this duty.

14 Q. But I mean what was his post? What function, what title did he
15 have when he entered Kosovo?

16 A. I don't know the titles themselves, but we referred to him as
17 chief of operations of the General Staff. Later on, we know that he
18 took up the position of chief of staff. But when it comes to the
19 definition of military structures, in fact, even for me it is
20 complicated as someone who's been part of that structure and let
21 alone to someone who was outside that structure.

22 Q. Okay. We'll pick up on that after lunch, but I do want to ask
23 you one question before the break. Bislím Zyrapi is from the
24 Suhareke region; is that correct?

25 A. Yes. He comes Studencan village which is in Suhareke

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1 municipality.

2 Q. So is it fair to say, as far as you know, Bislim Zyrapi had a
3 particular interest in Suhareke because that's where he's from?

4 A. If you look at it from a different angle, it appears so. He had
5 this wish for Suhareke to give its utmost contribution to the KLA.

6 Q. Thank you, Witness.

7 MR. MISETIC: It's time for lunch, Mr. President.

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

9 Witness, we'll take an hour and a half lunch break, then you'll
10 come back to the courtroom and we'll finish at 4.30 today. Remember
11 not to speak to anyone about your testimony in the courtroom while
12 you're out of the courtroom.

13 THE WITNESS: [Interpretation] Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: We're adjourned until 2.30.

16 --- Luncheon recess taken at 1.01 p.m.

17 --- On resuming at 2.29 p.m.

18 PRESIDING JUDGE SMITH: Madam Court Officer, you can bring the
19 witness in.

20 I think we'll do our best to skip the break after one hour so we
21 can get as much finished with your cross-examination as possible, so
22 we'll power through. If somebody needs to take a break, though, just
23 let me know. We'll understand.

24 MR. MISETIC: It might be me, Judge, but we'll see.

25 PRESIDING JUDGE SMITH: More likely me.

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1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 I hope you had a good lunch. We're ready to continue on with
4 your testimony. We are going to go from now until 4.30. If you feel
5 the need to take a break, please let us know.

6 THE WITNESS: [Interpretation] Understood. Thank you.

7 PRESIDING JUDGE SMITH: All right. Mr. Misetic will continue.

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

9 Q. Good afternoon, Witness. You mentioned in your testimony before
10 the break, you said that you knew Bislim Zyrapi as the chief of
11 operations. Can you tell us when Bislim Zyrapi became chief of
12 operations in the General Staff of the KLA?

13 A. No, I'm not able to say when because I was not informed.
14 Perhaps I had this information before, but as we stand now, I am not
15 in a position to say anything about dates.

16 Q. And can you tell us when he became the chief of the
17 General Staff?

18 A. I can't say that either. I don't know.

19 Q. Was he the chief of the General Staff, as far as you know, in
20 August 1998?

21 A. We called him chief, but I don't know what his functions were
22 exactly. We considered and viewed him as chief of the General Staff.

23 Q. When did you consider him as chief of the General Staff? Can
24 you tell us the earliest point in time when you considered him to be
25 chief of the General Staff?

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1 A. There are two concepts: One as chief of operations, and another
2 one as chief of the General Staff. I don't know when this transition
3 occurred. Mostly in the second phase or second half of October or
4 November we viewed and knew him as chief of the General Staff.

5 Q. Can you tell us when you first started --

6 PRESIDING JUDGE SMITH: Excuse me, could you clarify the year?
7 Just to be --

8 MR. MISETIC: Yes.

9 PRESIDING JUDGE SMITH: -- clear for the record.

10 MR. MISETIC:

11 Q. When you say October, November, which year are we talking about?

12 A. October, November 1998.

13 Q. And when was the first time that you can recall that you
14 considered him to be the chief of operations of the General Staff?

15 A. I can't be precise with respect to dates because a long time has
16 passed, so I don't know. I might be wrong.

17 Q. So let's go back on your path. On 10 June, you told the SPO you
18 became a member of the Lisi unit; is that correct?

19 A. Yes, that's correct.

20 Q. And also before the break you mentioned that, in addition to the
21 Lisi unit, there was also a unit called the Celiku 50 unit; correct?

22 A. Correct.

23 Q. And the commander of that unit was Habib Elshani?

24 A. Correct.

25 Q. Now, you told the SPO that about a week or ten days after you

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1 joined the Lisi unit, the regional staff of Suhareke was set up. Do
2 you recall that?

3 A. The regional staff in Suhareke was formed in the course of June.
4 Not before I joined the KLA but after I joined the KLA.

5 Q. Yes. And I believe what you told the SPO was that it was about
6 a week to ten days after you joined the KLA. Does that sound about
7 right?

8 A. Yes, that's right.

9 Q. And is it correct that the regional staff was set up by the Lisi
10 unit and the Celiku 50 unit, that they themselves had set up the
11 regional staff?

12 A. That's correct.

13 Q. I'd like to show you a document. First of all, let me ask you a
14 preliminary question: Do you know someone named Xhem Karaxha?

15 A. Yes, I know him.

16 Q. And how do you know Xhem Karaxha?

17 A. He's a co-villager of mine.

18 Q. And you know that Xhem Karaxha -- how is he connected to
19 Brigade 123?

20 A. He was a member of the KLA within the Brigade 123. From the
21 beginning, from June, first within the Lisi unit, and then as a
22 member of Brigade 123.

23 Q. Okay. First let me show you something from his Facebook page,
24 which is DHT03988.

25 First of all, the person in the picture is who?

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1 A. This is my photograph taken immediately after the war in June
2 1999.

3 Q. Is that uniform that you're wearing the type of uniform that you
4 would have been wearing in the summer of 1998?

5 A. I had another uniform, a camouflage one, but it came from the
6 Swiss army. This uniform belonged to Bali Muharremaj who wore it.
7 We took this photograph in Prizren sometime around the 16th or 17th
8 June. The uniform belongs to Bali Muharremaj.

9 Q. 16th or 17th June of what year?

10 A. 1999.

11 Q. And was it common, as far as you know, for KLA soldiers to have
12 uniforms that said "US Army" on them?

13 A. No. Maybe this should have been removed, but we did not remove
14 it. The uniforms we had, camouflage uniforms we had from the German
15 army, we would also often have the flag on the arm, but it didn't
16 bother us really.

17 Q. Okay. The post, and I'm sorry we don't have an English
18 translation on the screen, and I'll just read it, what Xhem Karaxha
19 wrote there is:

20 "Respect for fellow fighter Kurtesh M. Fondaj from Peqan, former
21 commander of Brigade 123 from October to November 1998."

22 Now, do you know Xhem Karaxha as someone who has a good opinion
23 of you, let's put it that way? A respectful opinion of you?

24 A. To tell you the truth, I have not had any conflict or disputes
25 with any Kosovo Liberation Army soldier.

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1 Q. Well, I just want to show you another post from Facebook.

2 MR. MISETIC: And this is DHT03987. If we could have on the
3 screen, please.

4 Q. It's also something posted by Xhem Karaxha. And it's a document
5 he purports to be an original document that formed the local staff in
6 Suhareke. Do you see the document?

7 A. Yes.

8 Q. And if you read the document, it purports that there was a joint
9 meeting held on 26 June 1998 in Studencan. Do you recall whether you
10 were present at such a meeting?

11 A. No.

12 Q. Were you present at a meeting where the Celiku 50 and Lisi units
13 agreed to fall under or to form a local staff, a local headquarters?

14 A. I think this document reflects the moment when the regional
15 staff was set up or, in other words, the merging of the two units
16 into one single military formation. I was not present.

17 Q. And if we read the document, it's -- point 1 is that they merge
18 the two units, Celiku 50 and Lisi, under one command. Point 2 is
19 that they create a local headquarters of the KLA for Suhareke.

20 Now, local headquarters or local staff, that's how the local
21 staff was created. Do you agree?

22 A. Yes.

23 Q. And then it says, pursuant to this agreement between the two
24 units, that Blerim Kuqi would be the commander and Habib Elshani
25 would be the deputy commander. Do you see that?

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1 A. Yes.

2 Q. And point 3 only says that Bislrim Zyrapi and Gafur Elshani
3 attended the meeting. Do you see that?

4 A. Yes.

5 Q. And then there are signatures of eight people there which
6 include Blerim Kuqi and Habib Elshani at the very top and
7 Bislrim Zyrapi is in the seventh position. Do you see that?

8 A. Yes.

9 Q. Do you have any reason to dispute that this is how the local
10 staff in Suhareke was formed on the date and place indicated in the
11 document?

12 A. No, I'm not in a position to dispute anything. I was not
13 present when this regional staff was set up, and I don't know how the
14 events unfolded.

15 Q. Okay. Then, Witness, what I'm just suggesting to you is that in
16 Preparation Note 1 at paragraph 12 you say that you understand that
17 it was the General Staff that created Brigade 123 because Zyrapi was
18 present when it was created.

19 And what I'm going to suggest to you is that it was actually the
20 local staff that was created by an agreement between the two units
21 where Zyrapi was present at the end of June. Do you agree with me?

22 A. Sir, I agree in principle. However, the reason why I thought
23 and said that this was of the General Staff is because the name of
24 Bislrim Zyrapi is mentioned in this document. I don't know in what
25 capacity was Bislrim Zyrapi there. But in my opinion, I thought he

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1 was representing the higher KLA structures. Maybe this was wrong,
2 but this is how I perceived things.

3 Q. That was your assumption; is that correct?

4 A. In a certain way, in my mind, my opinion was that since
5 Bislim Zyrapi was present, he came there on his initiative. So with
6 respect to this form of organisation. Because then very similarly
7 things happened with other regional staffs, and then quite rapidly
8 the transition was made from this staff to the formation of the
9 brigade. Therefore, I logically thought we were dealing here with a
10 higher-level organisation. This is my opinion.

11 Q. Yes. But do you see now that the document says that the
12 decision was reached by the Celiku 50 and Lisi units and not by the
13 General Staff?

14 A. Correct, I do.

15 Q. Thank you.

16 MR. MISETIC: Mr. President --

17 THE WITNESS: [Interpretation] But I was not informed about the
18 form or the content of this document.

19 MR. MISETIC: Okay. Mr. President, I tender this document into
20 evidence.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. HALLING: None, Your Honour.

23 PRESIDING JUDGE SMITH: DHT03987 is admitted. Please give it an
24 exhibit number.

25 THE COURT OFFICER: It will be assigned Exhibit 1D00164,

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1 currently classified as public. Thank you, Your Honours.

2 MR. MISETIC: Thank you.

3 Q. Now, Witness, in your SPO -- or, sorry. Just one more point on
4 this document. In Prep Note 1 at paragraph 12 -- or, sorry, let me
5 get the right citation.

6 In Part 1 of your SPO interview, P1327.1, page 20 in the
7 English, beginning at line 18, here's what you said, and you're
8 talking about the establishment of the local staff. You're asked
9 when it was formed, and you said:

10 "The beginning of June. So all this took place till 20 June.
11 And then end of June, the end of June, based on this regional staff,
12 we created the Brigade 123."

13 And I will suggest to you that the document -- what the document
14 actually shows is that it wasn't Brigade 123 that was created at the
15 end of June. It was the regional staff that was created by the end
16 of June. Do you have any reason to dispute that timing?

17 A. No, but if I'm not mistaken, I have made corrections to this
18 matter, adding that first the regional staff was formed and then the
19 brigade. I have provided other notes not only that one. And based
20 on my findings, I see that Brigade 123 was formed on 7 July 1998.

21 Q. And what do you base that on? What findings?

22 A. Based on the data and notes I had in my possession.

23 Q. You say "had." Do you still have those notes in your
24 possession?

25 A. No, I don't.

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1 Q. So in 2019 you told the SPO that it was formed at the end of
2 June. Were you able to review your notes between 2019 and today?

3 A. I read them last week. And if I'm not mistaken, I said
4 something to the Prosecutor during the preparation session in
5 relation to this matter.

6 Q. Wait. So I'm a little bit confused. You read your own notes
7 last week, is that what you're saying, and your own notes record
8 July 7 as the date of formation of Brigade 123?

9 A. In the interview transcripts of 2019 it reads as you stated.
10 However, during the preparation session, I gave this note to the
11 Prosecutor. I believe the Prosecutor has this information.

12 Q. Okay. Let me ask you one more question about June 1998. And in
13 your SPO interview at P1327.3 at pages 5 to 6 in the English and
14 page 7 in the Albanian, you say that in June 1998:

15 "The army was being created" and "there were a lot of issues,
16 gaps that were not following up the military line."

17 What did you mean when you said there were a lot of issues or
18 gaps that were not following up the military line in June 1998?

19 MR. HALLING: Your Honour, we would just ask that that last line
20 of that answer be read. He read everything but for the last four
21 words.

22 MR. MISETIC: He can do this on redirect, Mr. President. It has
23 nothing to do with my question.

24 PRESIDING JUDGE SMITH: Go ahead.

25 MR. MISETIC:

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1 Q. Witness, let me repeat my question. In your SPO interview, you
2 said that:

3 "In June 1998, the army was being created," and "there were a
4 lot of issues, gaps that were not following up the military line."
5 What issues were you referring to and what gaps were you referring
6 to?

7 A. We are now discussing a situation that occurred 25 years ago, so
8 it's normal for me not to remember the details of it. However, I can
9 say that we were -- there was some sort of enthusiasm. We had young
10 people flooding in to join the KLA, and, therefore, some caution and
11 care should have been applied to accept and arrange and organise
12 those young men within the KLA ranks. Also a significant number of
13 these young men had no previous or prior military experience, and
14 they needed basic training, starting with how one carries a weapon
15 and so on and so forth.

16 Q. I take from your answer that you're saying it's difficult to
17 have a functioning command structure if the soldiers are not properly
18 trained. Would you agree with that?

19 A. Certainly, yes.

20 Q. Were there trained officers at every level of command in June
21 1998 as far as you know?

22 A. No. No, there weren't.

23 Q. Let me turn to a different topic. You mentioned in answer to
24 the Prosecutor this morning, you were talking about the situation
25 that Brigade 123 found itself in in September and October 1998, and

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1 you said the army was dispersed. And I want you to just tell us a
2 little bit about what was the state of the army in Suhareke in late
3 September and early October 1998.

4 A. I'll start with the period prior to that, which is end of August
5 1998. We were engaged in fierce fighting in the territory of the
6 municipality of Suhareke in the direction of the battalion which was
7 operated in Studencan, Rreshtan, Sllapuzhan, Nishor, and we had a
8 considerable, extraordinary high number of casualties. We suffered
9 casualties.

10 After this, the villages were burned down and the civilians were
11 displaced to the northern part of Suhareke, in the village of
12 Pagarushe and in other regions. Therefore, again, we suffered huge
13 damage and casualties as an army, as a population as well.

14 The northern part of Suhareke, which included the 2nd Battalion,
15 suffered the same, probably even worse, on 27 September 1998, where a
16 significant number of Serbian forces were engaged and wreaked havoc,
17 unprecedented destruction in one single day. As a result of all
18 this, the army was completely dispersed.

19 Q. And in addition to the heavy casualties that you took, it's
20 correct, is it not, that Blerim Kuqi had left for Albania, and so you
21 were without a commander of Brigade 123 for the second half of
22 September and into early October; is that correct?

23 A. It's correct, because in the beginning of September, around 10
24 September, Blerim Kuqi went to Albania. I escorted him and wished
25 him safe travels. The idea was to simply strengthen the army, not to

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1 weaken it, because I mentioned before we had problems to even exist
2 from a logistical perspective.

3 However, the Kosovo Liberation Army used the resources of the
4 civilian population. They supported the army. However, in those
5 circumstances where everything was destroyed, the civilian population
6 was not able to support us anymore. So the purpose of Blerim Kuqi
7 going to Albania was to seek support, financial support from the
8 Bukoshi government.

9 Q. But trying to stay on the topic of the state of the KLA in
10 Suhareke at that time period, so late September, early October. A
11 lot of casualties, the commander has left. I'm sorry, I can't recall
12 now this morning, but you were asked how many soldiers were still
13 left in the brigade in early October 1998. Can you remind me what
14 your answer was?

15 A. 300 plus 300, which is around 600 soldiers.

16 Q. These 600 soldiers, where were they? Were they at home? Were
17 they at the front line? Were they in trenches? Where were these
18 people?

19 A. Mostly in their homes, but the remaining were maintaining some
20 sort of coordination to reorganise. A considerable number of these
21 reorganised their lives within small units.

22 Q. So when you say that -- let me make sure I get this right.
23 These 600 mostly were in their homes. Does that mean that you had to
24 expend some effort to try to get these people back to being in
25 formation with the KLA; correct? They had all gone back to their

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1 homes -- or not all. Many of them had gone back to their homes.

2 A. The form of the organisation was mixed. A considerable number
3 of soldiers lived in their homes. A small number of soldiers, around
4 40 per cent, I'm saying this as an approximate number, were in
5 barracks. The remaining part were not in the barracks of the army,
6 including in other time periods not only during this period.

7 Q. Let's turn to your appointment -- your testimony that Mr. Thaci
8 appointed you commander of Brigade 123. You've said that that took
9 place, that Mr. Thaci personally appointed you -- or I think you've
10 clarified that to say he may have transmitted your appointment to you
11 on 6 October 1998; is that correct?

12 A. Correct.

13 Q. And the only people present when Mr. Thaci appointed you were
14 yourself, Mr. Thaci, and I believe you said Fatmir Limaj; is that
15 correct?

16 MR. HALLING: Objection, misstates the evidence. There's one
17 extra person.

18 MR. MISETIC: Let me look at the ...

19 PRESIDING JUDGE SMITH: Mr. Prosecutor, perhaps you can indicate
20 who the extra person was so we don't --

21 MR. MISETIC: I was just going --

22 MR. HALLING: Yes, if the name Vllaznim Kryeziu could also be
23 put to the witness.

24 THE WITNESS: [Interpretation] Vllaznim Kryeziu. Yes.

25 MR. MISETIC: That was where?

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1 Q. I'm reading Part 1, SPO interview, and I'm just going to read it
2 to you, Witness:

3 "Who else was present at this meeting?"

4 Your answer:

5 "When myself, when I was appointed?"

6 "Q. Yes.

7 "A. Fatmir Limaj.

8 "Q. So Hashim Thaci, Fatmir Limaj, you?"

9 Your answer:

10 "And myself, the three of us."

11 THE WITNESS: [Interpretation] I gave this information and
12 completed it, gave the additional information indicating that
13 Vllaznim Kryeziu, deputy commander of Brigade 122, was present.

14 MR. HALLING: And, Your Honour, if it assists, this would be
15 P1327.3, page 2 in the English that that supplement is provided.

16 MR. MISETIC:

17 Q. So let's continue. You receive this order appointing you, and
18 then my question to you is -- well, first question: There was no
19 written order; correct?

20 A. No, there wasn't.

21 Q. No written decision of appointment?

22 A. No, it was issued orally. It was a notification, I would say,
23 for my appointment.

24 Q. Okay. And you go -- now you have this -- in this meeting,
25 whether it's three or four people, you have an oral appointment. You

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1 go back to other members of Brigade 123, and what do you tell them?
2 Since you don't have a piece of paper to show you've been appointed
3 the commander, what do you tell them to justify your claim to
4 appointment as the new commander?

5 A. I had this trust. And in real term, we had to deal with a
6 completely new structure that was formed within the 123 Brigade on
7 this date, 8th or 10th. Now I'm not quite sure which one it was.
8 October. And this is when I constituted the command of 123
9 Brigade -- or, rather, reconsolidated the brigade.

10 Q. Okay. But my question is quite specific, so I need you to try
11 to tell us as best you can what words you used when you went back to
12 the other members of Brigade 123 to tell them that you're the new
13 commander. Since you don't have a piece of paper to show people to
14 say, "The authority is now mine," give us the exact words you used or
15 as close as you can to say, "This is how I justify my status as the
16 new commander."

17 A. At that time, I was battalion commander. And simply, people
18 around me, including people from the 2nd Battalion, I called them for
19 a meeting and informed them that I received this communication from
20 Hashim Thaci that I've been appointed brigade commander, and that we
21 need to consolidate the brigade and start the preparations for
22 organising the army.

23 Q. Exactly. You must have told other people, "Hashim Thaci
24 appointed me the new commander on behalf of the General Staff";
25 correct?

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1 A. I told them that he communicated my appointment. That is,
2 Hashim Thaci, on behalf of the General Staff, communicated my
3 appointment to me.

4 Q. So the person who became deputy commander was Bali Muharremaj;
5 is that correct?

6 A. Yes.

7 Q. Sadri Emerllahu became assistant for logistics?

8 A. Yes.

9 Q. Muse Kololli became assistant for intelligence and
10 counter-intelligence; correct?

11 A. Yes.

12 Q. Ylmet Fondaj became commander of the military police?

13 A. Yes.

14 Q. Did Uke Bytyqi have any role in reconstituting the command of
15 Brigade 123?

16 A. Yes, he did. He was engaged with the civilian-military
17 relations within the brigade or at brigade level, because these
18 relations were necessary at the time and very beneficial, and
19 Uke Bytyqi gave a great contribution in this respect.

20 Q. So would you agree with me you must have told all of these
21 people that Hashim Thaci had conveyed to you a decision appointing
22 you as the new commander of Brigade 123?

23 A. Yes.

24 Q. Then let me show you something that you brought to the SPO, and
25 one of those people that I identified was the commander of the

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1 logistics, Sadri Emerllahu.

2 MR. MISETIC: If we could have Exhibit P1333 on the screen,
3 please.

4 Q. Now, this is -- as we're getting the English up on the screen.
5 You told the SPO that -- when you gave them this document that this
6 was a document prepared by Sadri Emerllahu in 2006; is that correct?

7 A. Yes.

8 Q. And he read it in public, you said, in June 2006 on the
9 anniversary of the independence of Suhareke; is that correct? The
10 commemoration of the independence of Suhareke.

11 A. The day of Suhareke's liberation, 13 June 2006.

12 Q. Yes. But he read it in public; is that correct?

13 A. Yes.

14 Q. And you told the SPO that -- you first started by saying
15 everything in this document is correct and true except, and then you
16 said some grammar mistakes and dates may be off by one or two days.
17 Do you recall testifying to that effect?

18 A. Yes, I do. Amongst these is the following: Sadri Emerllahu
19 says in this document that the commander of the brigade was elected,
20 and this was not true. I was not elected. I was appointed.

21 Q. It doesn't say that, and we'll turn to that page now, but that's
22 not what he says in either Albanian or in English, and I'd like to
23 take you to that page.

24 MR. MISETIC: Which is at page 8 in the English and Albanian.

25 Oh. Then I'll call up the -- if you don't have the entire document.

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1 It should be 083227 to 083248-ET, page 8. And in Albanian, 083226 to
2 083248 RED2 at page 8.

3 Just, Mr. Court Officer, there is some confusion on our side,
4 because the document which is admitted had been -- has been admitted
5 as P1333, according to the transcript has 13 pages, not 3 pages. And
6 you called out, and this is at provisional transcript, page 10, lines
7 19 to 21, that you were admitting -- or that you were identifying
8 P0133 as the range 083227 to 083239.

9 So if we could go for now to page 8 of this document in English
10 and Albanian.

11 Q. Now, Witness, as I understand it, in the Albanian it doesn't say
12 that you were elected. What it says is, and I'll read it out loud in
13 English:

14 "It was exactly the evening of 8 October 1998 in the house of
15 Gani Sallauka in Studenqan when the KLA's 123 Brigade for the area of
16 Suhareke was reorganised. Kurtesh Fondaj was unanimously appointed
17 the commander of the 123 Brigade; his staff was comprised of the
18 following individuals:"

19 Now, in Albanian, the word is "appointed," isn't it?

20 A. Yes, but unanimously, it appears from that word that the
21 appointment was made by members of that staff, not by an external
22 organ.

23 Q. You've anticipated my next point which was going to be
24 Mr. Emerllahu, by using the word "unanimously," suggests there is at
25 least two people, and maybe more, who is involved in your appointment

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1 as the new commander; correct?

2 A. According to my interpretation, from what Sadri Emerllahu said,
3 it turns out that I became commander of the brigade by the team or
4 members that will later become the brigade staff. But I stick to
5 what I said to my -- in my interview with the SPO that this was a
6 mistake.

7 Q. When I asked you before, one of the people I identified was
8 precisely Sadri Emerllahu as someone to whom you must have told --
9 and he became your assistant for logistics. You must have told him
10 that you had been appointed -- that you had been informed of your
11 appointment by Hashim Thaci. Do you have any explanation for why
12 Sadri Emerllahu in 2006 would not recall that and would instead think
13 that something happened in the house of Gani Sallauka where you were
14 unanimously appointed by people present at that meeting?

15 A. I'm not able to interpret this document. However, it is my
16 opinion that he mixed the terminology. He made a mistake with the
17 terminology. It's not a simple issue, seven, eight people meet up,
18 and they are jointly creating a brigade command. In reality, this is
19 not how it's done.

20 Q. Well, let me suggest to you that the document I showed you from
21 Facebook a little while ago when the local staff was created, that's
22 exactly how it was created, wasn't it? It was the local people who
23 got together and elected Blerim Kuqi to be the commander of the local
24 staff in Suhareke; isn't that right?

25 A. However, those two military units had a certain structure and

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1 more or less agreed to initially form a regional staff. And from
2 that regional staff, almost the same structure became the command of
3 the brigade. In reality, appointments in army are not done that way.

4 Q. Let me ask you a foundational question. Were you present at
5 this meeting on 8 October in the house of Gani Sallauka?

6 A. Even this date, the 8th, is wrongly recorded. It should be
7 10 October. This document that the Court now possesses could have
8 been amended or supplemented because I was given this version to
9 read. I had the draft document that was read on the liberation day.
10 Now, what the exact content of this document, original content was,
11 that I don't know, but this document came out as a draft of a history
12 of events that were read -- that was read out in 2006 on the
13 anniversary of liberation.

14 Q. Okay. But my question is, regardless of whether it was the 8th
15 or the 10th, were you present in the house of Gani Sallauka on this
16 occasion?

17 A. I organised the meeting and I called these specific persons and
18 communicated their tasks and duties within the brigade command to all
19 the members that are mentioned here.

20 Q. Okay.

21 A. And another thing that I would like to explain. Sadri Emerllahu
22 personally was not present at this meeting. The rest, yes. That's
23 why this -- he might have gotten the wrong information because he was
24 not present. I just remembered this fact and that's why I am
25 mentioning it here.

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1 Q. Okay. Was Hashim Thaci present at this meeting?

2 A. No, he wasn't.

3 Q. But you now say Sadri Emerllahu was not present. Were other
4 people that I mentioned earlier present, like Bali Muharremaj?

5 A. The rest, all of them, were present. Sadri Emerllahu was also
6 invited to attend but he did not show up.

7 Q. When you say "the rest," you're talking about the rest of the
8 people on that list on page 8 there, right, which would be Bali
9 Muharremaj, Uke Bytyqi, Muse Kololli, Ylmet Fondaj, and Ise Morina?
10 Yes?

11 A. Yes, Ise.

12 Q. And of those that are alive, they would be able to confirm that
13 you relayed at this meeting that you had been informed by
14 Hashim Thaci that you were the new commander; correct?

15 A. Maybe it would be good to ask them, to tell you the truth. If
16 I've done something on my own initiative, then it's a different
17 thing. Maybe we should ask them. If you want to seek the truth, you
18 can ask them.

19 Q. No, no, I'm not -- I'm just saying, as far as you're aware, you
20 told them at this meeting that Hashim Thaci had conveyed your
21 appointment, so there was -- as far as you know, there's no reason
22 why they wouldn't be able to confirm that you relayed that
23 information to them at the meeting at Gani Sallauka's house; correct?

24 A. Correct. But as I said, Sadri Emerllahu was not present at this
25 meeting. That's why these mistakes could have leaked. Again, I will

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1 repeat, this document was a draft, not the final document that was
2 read on the liberation day. This was a draft that was given to me to
3 check for mistakes. Now, whether I improved or corrected the
4 document, that I would not be able to say because a long time has
5 passed since.

6 Q. Okay. Let me turn to a different point but related. You said
7 in your SPO interview that you thought that it may be that Mr. Thaci
8 relayed your appointment to you because he and Rexhep Selimi were the
9 only two members of the General Staff who were still in Kosovo. Do
10 you recall giving that evidence?

11 A. I do.

12 Q. Now, you also said that when you entered Kosovo, you met shortly
13 after your entry with Jakup Krasniqi and Sokol Bashota. Do you
14 recall giving that evidence?

15 A. I was in Kosovo. But on 10 June, I went to Negroc village, and
16 there I contacted and saw these two persons for the first time.

17 Q. Yes, you're right. My apologies. You were already in Kosovo.
18 But were you aware at the time or thereafter that Jakup Krasniqi and
19 Sokol Bashota were members of the Central Staff which became the
20 General Staff?

21 A. To me, they were important persons. As to what their positions
22 or posts were, I didn't have any information at the time. However, I
23 knew that they were important people. They were important to me then
24 and today, and much respected.

25 Q. Okay. Then in early October 1998, did you know that

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1 Jakup Krasniqi and Sokol Bashota were members of the General Staff?

2 A. Now, when we talk about the General Staff, I myself cannot
3 understand some terms, "Central Staff," "General Staff." However, I
4 know that they were high structures of the Kosovo Liberation Army.
5 This is what I can confirm in hindsight. But as to what they were
6 called precisely and when it was formed, that I don't know.

7 Q. Okay. And forgive me, because -- and it's my mistake because
8 I'm slightly confused, so I need you to help me understand. But in
9 your SPO interview you said --

10 MR. MISETIC: And for the benefit of the parties, it's P1327.1,
11 page 28, lines 1 to 5.

12 Q. You said:

13 "So honestly speaking, in that period in Kosovo," and we're
14 talking about early October 1998, "only Bislum -- [only] Hashim Thaci
15 and Rexhep Selimi were present or members or leaders of this
16 General Staff. The rest or the others, they were not in Kosovo."

17 If you didn't know who was in the General Staff, then how do you
18 know that they were the only two members of the General Staff that
19 were in Kosovo?

20 A. This was the part that we called Central Staff or General Staff.
21 But in real terms, the only ones that I had contact with were these
22 two.

23 Q. At that time, you mean?

24 A. I'm speaking about October. Especially October. Because in
25 November, others started to return to Kosovo. Amongst them was also

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1 Bislrim Zyrapi.

2 Q. You also say in your SPO interview that -- and this is at
3 P01327.1, page 27, lines 17 to 21. You say that you believe at the
4 time that Mr. Thaci was in contact with Bislrim Zyrapi, and "so I was
5 appointed in a legal way, not [an] illegal way."

6 And then in your preparation note you say -- at paragraphs 9 and
7 38, you say something similar:

8 "... this appointment was communicated by Hashim Thaci on the
9 6th October. The appointment itself fell under the responsibility of
10 Bislrim Zyrapi - whether Hashim Thaci consulted Bislrim Zyrapi or made
11 the appointment on his own is not something [that you know]."

12 Right?

13 A. Yes.

14 Q. So is what you're saying -- is what you were saying in 2019 that
15 you believed that Mr. Thaci was simply communicating your appointment
16 that had been made by Mr. Zyrapi?

17 A. Well, from the logic, how things functioned, I came to that
18 conclusion.

19 Q. Okay. So then let me just follow up. When you said in 2019
20 that because Mr. Thaci was in communication with Mr. Zyrapi, you were
21 appointed in a legal way, not an illegal way, what would have been an
22 illegal way? Or would it have been illegal -- let me rephrase.

23 Would it have been illegal if Mr. Thaci had made your appointment
24 without consulting with Mr. Zyrapi, in your view?

25 A. I will not go into that, but it would have been unlawful for me

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1 to be arbitrarily appointed commander of the brigade or to
2 self-appoint.

3 Q. Okay. Well, following up on that, is your testimony, therefore,
4 that in order to not be arbitrary, your appointment had to have
5 originated with Bislum Zyrapi?

6 A. To what I know, in October, November period, but even in
7 September and later, the appointments in the army were made
8 exclusively by Bislum Zyrapi as far as brigade commanders are
9 concerned.

10 Q. Okay. Now, turning to another topic related. And you say in
11 your Preparation Note 1 at paragraph 42 that, in October 1998,
12 Hashim Thaci did not issue any specific orders to you, but issued
13 orders of a general nature such as to "attack Serb positions."

14 Do you recall telling that to the Prosecution last week?

15 A. Yes, I said that.

16 Q. And at paragraph 42 of your preparation note, you say that you
17 were receiving these general orders from Mr. Thaci orally and not
18 over the telephone; correct?

19 A. Correct.

20 Q. Do I understand correctly that this means that you were meeting
21 with Mr. Thaci in person and he was issuing you oral general orders?

22 A. We are talking about two or three meetings, not more than that.
23 And, of course, this communication occurred during these two or three
24 meetings. That -- there was not more than that.

25 Q. Okay. All two or three of these meetings took place in October

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1 1998; is that correct?

2 A. In October and November.

3 Q. Okay. When was the last meeting in November 1998?

4 A. I don't know the exact date, but if I'm not mistaken we had a
5 meeting in Nishor. I don't know the exact date.

6 Q. Okay. So can you give us -- with respect to any meeting that
7 you can recall where Hashim Thaci issued general orders to you, can
8 you give us the exact location of these meetings?

9 A. When he communicated the oral order to me, this was in the
10 village of Marali in October. I can't recall the exact date. Then
11 when we met for the last time later in the course of November, this
12 was in Nishor village.

13 Q. And you said -- let me just understand. Did he issue any orders
14 to you in Nishor?

15 A. He did not issue orders to me in Nishor.

16 Q. Okay. So any orders that he would have issued to you would have
17 been, to the best of your recollection, in the village of Marali;
18 correct?

19 A. In Marali.

20 Q. What --

21 A. Only once. There were no other orders.

22 Q. What building in the village of Marali?

23 A. In the courtyard of a private house.

24 Q. When you say "a private house," was it a KLA command post? Was
25 it -- had it been converted to some use by the KLA?

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1 A. Something like that. I don't know exactly. I do know that we
2 met in the village of Marali.

3 Q. Who else was present for this conversation?

4 A. Present was only Fatmir Limaj, no one else.

5 Q. No one? You didn't bring along your deputy commander or anyone
6 else from your staff to attend, to meet with someone who was coming
7 from the General Staff?

8 A. No, I didn't. I only had my soldier who would usually escort
9 me, who was not close and present when we had this conversation.

10 Q. Okay. When you went back to your staff to relay an order from
11 the General Staff to a -- generally to attack Serb positions, can you
12 tell us the names of the members of your staff who would have
13 received you passing on that order?

14 A. Yes, mainly with the Budakove Battalion commander and commanders
15 of companies from the 1st Battalion, which I led. I cannot recall
16 exact names now.

17 Q. Can you give us the name of anyone who would be able to
18 confirm -- as far as you know, should be able to confirm that when
19 you received this general order, you passed that information on to
20 your subordinates? By name. I need a name. At least one.

21 A. Unfortunately, with respect to a name which was mentioned
22 earlier by the Prosecutor, he's not with us anymore. He's deceased.
23 Commander Ise Morina, who at that time was a commander in the
24 Budakove Battalion. The others -- Ylmet Fondaj was from the military
25 police. Muse Kololli from other brigade structures. Uke Bytyqi is

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1 also deceased. Bali Muharremaj who was a deputy commander was
2 obviously informed. Same goes with Sadri Emerllahu who was in charge
3 of the logistics.

4 But the company commanders were also informed, but I do not
5 recall their names.

6 Q. Okay. So of all the names you've given us now and all those
7 people -- of those who are alive, as far as you know, they can all
8 confirm that you went back and told them that, "Hashim Thaci has told
9 me to generally attack Serb positions"; correct?

10 A. I certainly communicated this to them. Now, will they follow up
11 or confirm this? I don't know. What's important is that what I'm
12 saying is the truth.

13 Q. Now, you had told the SPO -- and this is at Part 8 of your SPO
14 interview, page 14, lines 14 to 19. This is in the context of
15 Fatmir Limaj. You were asked if Fatmir Limaj in his role as head of
16 the KLA military police directorate had issued an order to you in
17 your role as commander of Brigade 123, would you have carried out
18 that order. Your answer was:

19 "Me personally, no. I personally, no. I would first ask the
20 approval of the chief of the General Staff."

21 Do you recall giving that evidence?

22 A. I might have said so. And in principle, this is how it should
23 have worked, functioned, because Fatmir Limaj, and particularly in
24 the second half of the year, December, he was commander of the
25 military police. Whereas a brigade commander receives orders from

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1 the zone commander or the head of the army, not from a special
2 structure or organ, like in this case the military police.

3 Q. Yes. So can you explain why a brigade commander doesn't, in
4 your understanding, or wouldn't accept orders from a member of a
5 directorate of the General Staff?

6 A. In a military structure, orders are received from the commander;
7 namely, the chief of staff. Whereas all directors of directorates we
8 had at the General Staff, they are advisers to the chief of staff.
9 In their role as advisers, they advise the chief of staff how to
10 formulate an order but not go directly through the directors or heads
11 of directorates.

12 Therefore, following this logic, I would have then asked for
13 clarifications from the chief of staff. This is a hypothetical
14 situation, however, and I probably went into this unnecessary
15 clarification.

16 Q. It's fine. And I appreciate your answer. I want to turn to a
17 different topic which you've already begun discussing, which is
18 Blerim Kuqi's departure for Albania. And you've already said that he
19 went to obtain financing from the Bukoshi government. And in your
20 SPO interview, you said that he left on 10 September 1998; is that
21 correct?

22 A. He went to Albania around 10 September 1998.

23 Q. And in your SPO interview, you said he specifically went to go
24 meet with Bujar Bukoshi and Ahmet Krasniqi, who was the minister of
25 defence, in order to obtain financing for Brigade 123; correct?

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1 A. That's correct. And he accomplished this mission.

2 Q. Were Bujar Bukoshi and Ahmet Krasniqi Blerim Kuqi's superiors?

3 A. Bujar Bukoshi was the prime minister of the government-in-exile.

4 In the meantime, the Ministry of Defence had been formed within that
5 government, which was at the time only functioning, operating in

6 Tirana. At a later stage in the course of November, we reached -- a

7 military agreement was reached as a result of which a significant

8 number of officers entered Kosovo, and soldiers, who were within the

9 Ministry of Defence, and they gave a great contribution within the

10 KLA.

11 Q. Yes. Witness, I know you're a professional soldier and a

12 professional officer, so I'm asking a very specific question, and I'd

13 ask if you please do your best to give me a precise answer here. But

14 were Bujar Bukoshi and Ahmet Krasniqi in Blerim Kuqi's chain of

15 command?

16 A. Sir, when you indicated or laid out the formation of Lisi unit

17 and its merging with other units to form a regional staff and then a

18 brigade, you indicated that this was done based on some sort of a

19 compromise.

20 Here as well, the Bukoshi government was not a government set up

21 or belonging to some foreign country. It belonged to us, to Kosovo.

22 It was ours. And for us to survive, we needed financing. We needed

23 financial support. We would not have been able to even exist if we

24 hadn't had the support of the Bukoshi government.

25 Again I reiterate, in particular towards the end of November,

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1 this support was present. And from that moment onwards, the entire
2 zone of Pashtrik was financed by the Bukoshi government.

3 Q. I agree, and we will get to that point, I promise, in a little
4 while. But I still don't know what your answer is, and it should be
5 either yes or no. So were Bujar Bukoshi and Ahmeti Krasniqi in
6 Blerim Kuqi's chain of command? If you could please answer "yes" or
7 "no."

8 A. No.

9 Q. If no, then do you know if Blerim Kuqi had permission from
10 anyone in the General Staff to leave the brigade and go meet with
11 Bukoshi and Krasniqi?

12 A. Before going there, Blerim Kuqi for at least three days
13 insisting to meet members of the General Staff -- what we called
14 General Staff or the Central Staff, but he was unsuccessful in his
15 attempts to meet with them, and after which he just went to Albania.
16 The situation was urgent and very dire.

17 Q. You are aware, are you not, that Bislim Zyrapi was upset with
18 Blerim Kuqi and accused him of abandoning the brigade; correct?

19 A. Yes.

20 Q. You are also aware that Bislim Zyrapi said Blerim Kuqi should be
21 arrested for desertion; correct?

22 A. No, I'm not aware of this.

23 Q. Are you familiar with Tahir Zemaj?

24 A. I am but I do not know him.

25 Q. Are you aware that Tahir Zemaj was in the Dukagjin zone?

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1 A. Yes, I am.

2 Q. Are you aware that Tahir Zemaj was part of the Armed Forces of
3 the Republic of Kosovo, or FARK?

4 A. I am stating here in full responsibility that for the time the
5 Pashtrik operational zone was functioning, the soldiers who came with
6 Blerim Kuqi at the end of November 1998, they had no FARK insignia or
7 any distinctive signs, but they functioned as members of the Kosovo
8 Liberation Army and reported to the chief of the General Staff,
9 namely, Bislim Zyrapi.

10 One more thing. I led their entry into the territory of Kosovo,
11 but this was done in coordination with Bislim Zyrapi. I did not make
12 this decision on my own. Having in mind always what the goal of
13 strengthening the army, coordinating our actions, and strengthening
14 its combat capabilities to fight the Serb occupier in Kosovo.

15 Q. Okay. So as far as you know, Tahir Zemaj was under the command
16 of the KLA General Staff and was reporting to the KLA General Staff?

17 A. I don't know about Tahir Zemaj. But here again, based on the
18 information I have, there was a moment they got closer, but then
19 Tahir Zemaj and Ramush Haradinaj structured -- moved apart, and I
20 don't know exactly what happened.

21 Q. Okay. Are you aware that Tahir Zemaj also withdrew from the
22 Dukagjin zone and went to Albania around the same time that
23 Blerim Kuqi did?

24 A. No, Tahir Zemaj left to Albania long before. It's not
25 approximately the same.

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1 Q. Well --

2 A. I'm sorry to interrupt you.

3 Q. No, no. So when you say "long before," how long before
4 10 September did Tahir Zemaj withdraw to Albania?

5 A. In wartime, a week is a long time. I do not know the exact
6 circumstances of this. If I'm not mistaken, it happened either
7 beginning of -- end of July, beginning of August, but I think this
8 was the time period.

9 Q. Okay.

10 MR. MISETIC: Let me show you another document which has been
11 admitted already, which is P1336, please.

12 Q. And this is another document that you provided to the SPO. Let
13 me just ask you to confirm that. You provided this document to the
14 SPO; correct?

15 A. Correct, I did.

16 Q. And this is a document dated 27 October 1998, and it's issued by
17 the minister of defence of the Bukoshi government, Halil Bicaj;
18 correct?

19 A. Correct.

20 Q. And pursuant to this order, Halil Bicaj appoints you as the
21 chief of staff of the Pashtrik zone; correct?

22 A. Correct.

23 Q. And the document says you are being appointed to operational
24 zone number 4 of the Kosovo Liberation Army; correct?

25 A. That's what it reads.

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1 Q. And so far as you -- well, let me ask a different question
2 first. How was this document delivered to you?

3 A. I will tell in detail if -- I would like to explain this in
4 minute detail, the issue of documents and, please, I would not want
5 to be interrupted.

6 It's true that we received this document. It was typed on
7 27 October, so I might have received it at the beginning of November,
8 no later than three, four days after this moment. This document was
9 of a diplomatic and political nature as well because we used it to
10 achieve the goal of mobilising people into the KLA, in particular the
11 LDK structures in Suhareke.

12 After the offensives, people started to withdraw or be -- show
13 some reluctance to join the KLA. So in order to show and demonstrate
14 that the army was unified, I had information that talks were
15 constantly going on about unifying the army. So when we received the
16 order, we called the chairman of the LDK in Suhareke and told him,
17 "We have an order and we would ask you, LDK, not to engage into
18 actions without coordinating with us." We did not shut down their
19 activity, but we asked them to coordinate their actions with us.

20 Their answer was, the deputy chairman, Viktor Markaj, of the LDK
21 branch replied, saying, "We usually meet on every Friday with
22 President Rugova and then we receive orders from him." To which I
23 replied -- I was there with the now late Uke Bytyqi. We told him,
24 "Then inform Rugova and tell him that there are within the KLA
25 officers who have been appointed by the government-in-exile, the

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1 Bukoshi government." They informed him, Rugova. Following this
2 moment, the chairmanship was in a dilemma how to further proceed.

3 Now, Uke Bytyqi made up a saying attributing it to Rugova, which
4 was, "These young men must get support because they are serious in
5 this." Following this, we had the entire support of people and
6 citizens in the municipality of Suhareke. Therefore, this order was
7 of a political and diplomatic nature.

8 Q. Okay.

9 A. I am sorry. With your permission, one more aspect or matter.
10 The chief of staff of the Kosovo Liberation Army, Bislim Zyrapi, was
11 aware, informed about this order.

12 Q. Okay. Let me get back to my initial question, which is that
13 Halil Bicaaj was making an appointment of you as the chief of staff of
14 operational zone number 4 within the Kosovo Liberation Army, so there
15 was a -- at least a claim by Mr. Bicaaj that he could make such
16 appointments in the Kosovo Liberation Army at that time; correct?

17 A. With respect to this order, and on this occasion, when the chief
18 of staff came from Albania, I met with him and informed him about
19 this order. And Bislim Zyrapi said, "It's not proper for Halil Bicaaj
20 to issue orders or ordinances. The agreement is between the
21 General Staff and the Ministry of Defence. However, the
22 appointments, based on the agreement, are made by the General Staff,
23 meaning by myself, not by the Ministry of Defence." However, this
24 was not particularly relevant because we did not act according to
25 this order. I did not -- I was not assigned with any tasks as per

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1 this order.

2 Q. Well, if we could scroll to the bottom of the page, please. It
3 says, the last sentence says:

4 "Appointed for the FA ... service needs."

5 FA stands for FARK there; correct? Armed Forces Republic of
6 Kosovo; is that correct?

7 A. The armed forces, that's what it means.

8 Q. Yes, but armed forces -- I want to be particular here. Armed
9 forces. FA is short for FARK, the Armed Forces of the Republic of
10 Kosovo; correct?

11 A. I wouldn't know. I don't want to defend or dispute this order.
12 I wanted to explain why I received it and in what sense I used it.

13 Q. Yes.

14 A. This order made the Kosovo Liberation Army a massive presence.

15 Q. Yes. But you were the one who received it, you said, within
16 days of it being issued, and I want to know what you understood or if
17 you understood the sentence "Appointed for the FA ... service needs"
18 to mean appointed for the FARK service needs.

19 A. I wouldn't want to speculate. A long time has passed. And
20 based on my knowledge, the armed forces comprises a larger
21 definition. Armed forces and security forces include the police and
22 many other -- numerous elements in the armed forces. So I wouldn't
23 want to go into details, and I wouldn't wish to say more in this
24 respect. I have forgotten a lot in this regard.

25 Q. Were you communicating with Mr. Bicaaj prior to this document

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1 being issued?

2 A. No, I did not communicate before or after. Until they settled
3 in Prishtine after the war. I met with Halil Bicaj on two occasions
4 after the war, no more than that.

5 Q. You've just testified a few minutes ago that you wanted this to
6 be issued because it would help you recruit people in the area to
7 strengthen the KLA, and then, as I understood it, that's why he
8 issued the document. So how did you communicate that to Halil Bicaj?
9 Was it through the LDK?

10 A. No. When Blerim Kuqi went to Albania, he communicated with a
11 minister and asked to strengthen the army. He asked for this order,
12 which was issued by Halil Bicaj and conveyed to me by members of the
13 Kosovo Liberation Army.

14 Q. Okay. And you ultimately did become the chief of staff of the
15 Pashtrik zone; correct?

16 A. I did. But as per the appointment of Bislim Zyrapi, not based
17 on this document.

18 Q. Okay. But is it fair to say that Bislim Zyrapi, subsequent to
19 the agreement that you've referred to now between FARK and the KLA of
20 2 November, Bislim Zyrapi confirmed a proposal that had come from the
21 Bukoshi government to nominate you as chief of staff of the Pashtrik
22 zone?

23 Or do you say it's a coincidence that both Mr. Bicaj and then
24 subsequently Mr. Zyrapi both wanted you to be chief of staff of the
25 Pashtrik zone?

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1 A. I don't think this document had any -- or influenced
2 Bislim Zyrapi in making my appointment. I don't think this document
3 had any effect or impact.

4 MR. MISETIC: Let me turn to a different document, which is
5 Exhibit P633-ET and P633 in the original Albanian at page 1.

6 Q. Now, as we bring this document on the screen, I think you've
7 already spoken to it, but you are, of course, aware that there was an
8 agreement that was reached in November combining the forces of the
9 Bukoshi government and the KLA into one force; correct?

10 A. I am aware of an agreement reached between the General Staff and
11 the Ministry of Defence. In this case, between Halil Bicaaj and
12 Bislim Zyrapi. I was informed about this by Bislim Zyrapi.

13 Q. Have you seen this document before, Witness?

14 A. No, no.

15 MR. MISETIC: If we can scroll down a little bit, please, so he
16 can see the signature block.

17 Q. This is an appointment order issued by Bislim Zyrapi on 11
18 February -- or, sorry, 12 February 1999, appointing
19 Nexhmedin Kastrati as the chief of staff of the Pashtrik zone. Do
20 you see that?

21 A. Yes.

22 Q. You, at the time this order was issued, you had been the chief
23 of staff of the Pashtrik zone between December and this order;
24 correct?

25 A. I'm not aware of this order. I had another different order

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1 based on which I handed over my duties, and I reported at the
2 General Staff to take up the functions as in charge of the education
3 and training of soldiers of the Kosovo Liberation Army. My position
4 was left vacant.

5 If I can see the date of this document?

6 Q. Yes. It's --

7 MR. MISETIC: If we can scroll up, please.

8 Q. It's 12 February 1999.

9 A. I handed over my position functions as a chief of staff in
10 February. I see this document is protooled, but it does not have a
11 signature. Maybe it was prepared at that time. However, I exercised
12 my functions until the end of February.

13 Q. Well, obviously, you know that Nexhmedin Kastrati did replace
14 you as the chief of staff of the Pashtrik zone; correct?

15 A. Correct.

16 Q. Are you aware of when Sylejman Selimi was rising to the position
17 of overall commander of the KLA?

18 A. On 7 February 1999, when our delegation had the negotiations in
19 Rambouillet. That's why I remember the date.

20 Q. Okay. And let me -- so this is a document that's been admitted
21 by the Prosecution dated 12 February 1999 purporting to appoint
22 someone else in your position.

23 MR. MISETIC: And then if we go to P01347, please.

24 Q. Now, you were shown this document --

25 MR. MISETIC: Sorry, let's get the Albanian as well.

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1 Q. Witness, you were shown this document this morning by the
2 Prosecutor.

3 MR. MISETIC: And if we can go to the signature block in the
4 Albanian.

5 Q. You said that this was a document that you signed as the chief
6 of staff of the Pashtrik zone, and it's dated 21 February 1999. My
7 question to you is, is it your testimony that at the time you signed
8 this document that you were unaware that nine days earlier
9 Bislum Zyrapi had issued an order appointing Nexhmedin Kastrati as
10 the chief of staff?

11 A. Sir, the document you showed me previously didn't bear a
12 signature or a stamp, and that's why I think that that document was
13 prepared but not executed.

14 Q. Okay. That's fair enough. So I'll accept that.

15 MR. MISETIC: But then if we go to another document, which is
16 P1340, please.

17 Q. Now, Witness, do you recall this order?

18 A. Yes.

19 Q. And this is the order where Bislum Zyrapi ordered you -- sorry,
20 ordered the chief of staff of the Pashtrik zone, Officer Kurtesh
21 Fondaj, to hand over the above-mentioned duty within three days to
22 the commander of the Pashtrik operational zone, Ekrem Rexha; correct?

23 A. That's what the document says.

24 Q. And is it your testimony that Mr. Zyrapi issued this order at
25 your request?

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1 A. Yes.

2 Q. Okay. Thank you.

3 Witness, in your SPO interview you state that you saw Mr. Thaci
4 in Divjake in April or May 1999. Do you recall that?

5 A. Can you please repeat the question?

6 Q. Yes. In your SPO interview - and I'll cite it for the parties,
7 P01327.9, pages 4 to 5 in the English, 5 to 6 in the Albanian - you
8 say that you saw Mr. Thaci in Divjake in April or May 1999. Do you
9 recall that?

10 A. In April 1999 in Divjake, I don't know. I did not see
11 Hashim Thaci in April in Divjake. In Jezerc, yes, I did.

12 Q. Okay. That could be my mistake then. If it's Jezerc, you saw
13 him how many times there?

14 A. We were together for several days. I don't remember exactly for
15 how many days, but for four or five, I would say.

16 Q. Okay. While you were there, did you see any detainees, people
17 who had been detained, or detention facilities?

18 A. No, there weren't.

19 Q. On the issue of communiqués - this is at P01327.7, page 32,
20 lines 2 to 5 - you told the SPO that you were never aware of any
21 communiqués issued by the KLA that reference collaborators; is that
22 correct?

23 A. The communiqués that were issued through the media, those I'd
24 seen. But today, I could not speak in detail about any of them.

25 Q. Okay. Well, I'm asking you something that you specifically said

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1 to the SPO, and I'll read it to you. It's Part 7 of your SPO
2 interview, page 32, line 2, and it says:

3 "Are you aware that the communiqués issued by the General Staff
4 referenced concerns about collaborators?"

5 And your answer was:

6 "I am not aware of it."

7 Is that correct?

8 A. Yes, that's what I actually said a moment ago. I have
9 nothing -- I'm not aware of them.

10 Q. Okay. So if there were such communiqués, they were never
11 transferred to you as a battalion commander or a brigade commander or
12 chief of staff of the Pashtrik zone; correct?

13 A. I did not see in a written form any of such communiqués.

14 Q. And you didn't see them otherwise in the media; correct? And
15 I'm talking about during the war.

16 A. I don't know. The media, the print media especially, were quite
17 limited at the time. I would not be able to speak at length about
18 this because I don't have any information that would make me say yes
19 or no. I would, however, say no, I did not have any information
20 concerning the communiqués.

21 Q. Okay. And you told the SPO that when you talk about
22 communiqués, you're also talking about statements that were issued by
23 Adem Demaci and Albin Kurti; is that correct?

24 A. For those issued by Adem Demaci, I remember a passage from one
25 of them that says that the KLA has to change its form of operation

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1 from frontal warfare to begin with guerilla warfare. This is more or
2 less how it was formulated by Adem Demaci, this passage.

3 Q. Okay. And I'm glad you brought up an example of one that you
4 could remember. And I'm asking you now if you don't remember any
5 that would reference collaborators, as you sit here today can you
6 recall any specific communiqué other than the one you just mentioned
7 issued by Adem Demaci?

8 A. No. However, why I remembered precisely this one, it's because
9 this communiqué was the one that reflected the difficulties in the
10 reconstruction of the army. That's why I remembered this. Because
11 people then started to say that we have to change the warfare based
12 on this communiqué, and that's why I remembered it.

13 Q. Okay. A different topic. You discuss in your SPO interview the
14 possibility of capital punishment for collaborators. And I want to
15 be clear here. When you were speaking to the SPO that capital
16 punishment of collaborators was a possible penalty, were you speaking
17 be about the capital punishment for members of the KLA only or were
18 civilians also subject to capital punishment for collaborating?

19 A. Only about members of the KLA.

20 Q. And then you said that -- you told the SPO that "capital
21 punishment could not be inflicted by a commander but was a punishment
22 that had to be decided by higher structures." Which higher
23 structures were you referring to?

24 A. Well, a higher authority. For a brigade commander to have such
25 an authority would have been problematic. And in general terms, this

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1 was spoken about. Nothing was discussed in specific terms.

2 Q. Okay. Are you aware of any case where capital punishment was
3 actually enforced against any member of the KLA by a higher
4 authority?

5 A. No, I'm not aware of that.

6 Q. As a former officer of the Yugoslav Army, are you aware that
7 even under Yugoslav law collaboration with the enemy in a time of
8 armed conflict was subject to the death penalty?

9 A. Yes, of course.

10 Q. You also told the SPO that there was a document that new
11 soldiers were given and they had to read it.

12 MR. MISETIC: And let me give the parties the citation,
13 P01327.5, Part 5, page 18, lines 4 to 7, and page 19, lines 1 to 2.

14 Q. You said there was a document that new soldiers were given and
15 they had to read it and accept and approve that they had to obey the
16 rules of the KLA or else a violation of the rules could result in
17 punishment, including capital punishment. Do you recall giving that
18 evidence to the SPO?

19 A. It is possible that I told them this. I was referring to the
20 text of the oath. Unfortunately, we did not have the opportunity to
21 do the oath ceremony in a solemn way.

22 Q. And that's what I thought.

23 MR. MISETIC: So if we could please put on the screen
24 Exhibit P00641, please. And it's page 8 in both English and
25 Albanian. It's numbered page 8, sorry. It should be six pages

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1 before this.

2 Q. Witness, I'd ask you to read there what's under the section
3 titled "The Content of the Military Oath" and ask you if that's what
4 you were referring to in terms of what soldiers had to read that
5 informed them about the possibility of capital punishment.

6 A. Yes, precisely.

7 Q. Thank you. Now, you also discuss in your SPO interview some
8 events in the spring of 1999. And in Preparation Note 1, at
9 paragraph 45 -- actually, that's not the correct citation.

10 But you were responsible for the educational sector within the
11 KLA at that time; is that correct?

12 A. As I mentioned earlier, when I ended my duty as chief of staff
13 of Pashtrik operational zone, I reported to the sector of education
14 and training within the General Staff, which had an office in Nishor.
15 And that's where I worked and prepared plans, training plans for the
16 commanding staff, for commanders of lower and medium level.

17 Q. Okay. And in your SPO interview you say -- which was
18 subsequently corrected in your Preparation Note 1, so I want to be
19 clear here. You initially said that you thought Mr. Thaci was making
20 changes in an effort to weaken the KLA and put aside potential
21 political competitors. But then in Preparation Note 1 at paragraph
22 45, you say that this is just your opinion about preparation of the
23 situation for after the war, and you don't know for sure if that's
24 what was happening; is that correct?

25 A. Sir, let's be correct on one matter. The interview with the SPO

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1 lasted for two days and was quite tiring, so it is quite normal to
2 have omitted or made mistakes. So what was said here in the
3 preparation session, that material was read, and we made some
4 corrections with the Prosecutor.

5 But things that are interpreted or shown on the transcript of
6 the 2019 interview represent my opinion. Whether it's a good or bad
7 opinion, it's my opinion. It's not a document of an official form.

8 Q. I agree with you. So I just have to ask you these questions to
9 clarify things that are in your statement. Okay?

10 So just to clarify then, even if it's just your opinion, but who
11 did you assume were Mr. Thaci's potential political competitors?
12 That's the phrase you used in the SPO interview.

13 A. Well, Mr. Thaci formed the Democratic Party after the war, and
14 there were other rival parties. One of them was the LDK.

15 Q. Yes. No --

16 A. Excuse me, but I really am not getting the core or the essence
17 of what you want.

18 Q. And that's entirely my fault, so let me give you the context.
19 When you said -- you were discussing with the SPO in the interview
20 the period of the spring 1999, and there was some discussion about
21 whether Mr. Thaci, in that time period, was making some decisions or
22 changes to the KLA with a view towards eliminating potential
23 political competitors. And so my question was very specific about
24 who, in the spring of 1999, you believe Mr. Thaci may have perceived
25 as a potential political competitor.

1 A. I don't think that he had any competition within the KLA or a
2 candidate that would assume a post, politically speaking.

3 Q. Okay.

4 MR. MISETIC: Mr. President, I note the time, and so I'll pick
5 up in the morning for not very long, and then I have one housekeeping
6 matter before we break today.

7 PRESIDING JUDGE SMITH: Mr. Fondaj, you're finished today.
8 Thank you for being with us and sharing your information with us.
9 You'll have to be back here tomorrow at 0900 to continue. You may go
10 with -- please remember to not speak with anyone about your testimony
11 outside of the courtroom, and you may now go with the Court Usher. I
12 hope you have a good evening.

13 THE WITNESS: [Interpretation] Thank you. You too.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: We're in public session. Do you want
16 to --

17 MR. MISETIC: Yeah, that's fine.

18 PRESIDING JUDGE SMITH: All right.

19 MR. MISETIC: First, just on time. I'm going to be within the
20 two and a half hours that I asked for, so I should be about
21 15 minutes tomorrow and I should finish.

22 The other concern I had was the document that I had a discussion
23 with the Court Officer on, I just want to make sure, because I used
24 the document, that it is part of P1333. Otherwise, I would tender
25 the rest of it.

1 THE COURT OFFICER: It was already communicated with your team,
2 and I do -- I did confirm that P01333 is a 13-page document, so
3 everything is there.

4 MR. MISETIC: Okay. We're good then.

5 Thank you, Mr. President.

6 PRESIDING JUDGE SMITH: Mr. Emmerson.

7 MR. EMMERSON: Purely for planning purposes, it's likely that
8 any questions asked by the Veseli Defence will be considerably
9 shorter than expected.

10 PRESIDING JUDGE SMITH: Thank you for the information.

11 Anybody else want to trim their estimates?

12 MR. ROBERTS: No, thanks.

13 MR. ELLIS: I'll look overnight, but at the moment I think it's
14 about the same.

15 PRESIDING JUDGE SMITH: Thank you very much for your cooperation
16 today, and we'll see you all tomorrow.

17 We're adjourned until 9.00 a.m. tomorrow.

18 --- Whereupon the hearing adjourned at 4.31 p.m.

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