

1 Tuesday, 25 February 2025

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.02 a.m.

5 PRESIDING JUDGE SMITH: We have just a few matters before we  
6 begin.

7 First of all, last week --

8 [Trial Panel and Court Officer confers]

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

13 PRESIDING JUDGE SMITH: Last week at our Status Conference, I'm  
14 not sure who asked, I think it was Mr. Misetic wanted to know and  
15 inquired whether the Panel had an idea that they were going to call  
16 witnesses or call additional evidence. I can tell you we have no  
17 present intent or desire to call witnesses or seek further evidence.  
18 It's always possible that something occurs in the record that could  
19 justify such an action, but at the late stage that we're in of this  
20 case it's not likely to happen, and we feel comfortable advising you  
21 of our present intent.

22 MS. TAVAKOLI: Thank you, Your Honour.

23 PRESIDING JUDGE SMITH: The accused are all present in court.  
24 The record will reflect that.

25 We have two oral orders. First, the Panel will issue its ruling

1 on the Urgent Joint Defence Request to Caution the SPO and Related  
2 Request, filing number F02938.

3 On 17 February 2025, the Defence requested the Panel caution the  
4 SPO to abide by its obligations under paragraph 98 of the Order on  
5 Conduct of Proceedings and draw adverse inferences about W04491's  
6 credibility from a procedural irregularity that allegedly manifested  
7 during the course of witness's preparation session. In particular,  
8 the Defence argued that presenting a witness with the evidence of a  
9 legal adviser and requesting the witness to attest to the accuracy of  
10 that evidence amounts to leading the witness in an impermissible  
11 fashion and, therefore, to seeking to influence the substance of the  
12 witness's testimony.

13 On 18 February 2025, as directed by the Panel, the SPO responded  
14 orally that the Defence had failed to establish any violation or  
15 prejudice arising from the SPO's conduct of the witness preparation  
16 session, and had provided no legal basis for its request for the  
17 Panel to draw adverse inferences in relation to the assessment of the  
18 witness's credibility. The SPO further argued that the Defence will  
19 be able to cross-examine the witness concerning the specific  
20 information at issue.

21 On the same day, the Defence replied orally that the information  
22 elicited from the legal adviser was put before W04491 and effectively  
23 laundered through him with a view to turning it into the witness's  
24 evidence, so that, in effect, the adviser became a witness to the  
25 proceedings.

1 On the same day, Victims' Counsel submitted orally that it  
2 supported the SPO's submissions.

3 Having considered the parties' and participants' submissions,  
4 the Panel is of the view that the request is without merit. The  
5 Panel notes that during the preparation session the legal adviser  
6 merely described a domestic proceeding involving W04491 and then  
7 noted what the witness told him about the proceeding. During  
8 readback, W04491 confirmed that what the adviser had said was  
9 accurately captured. There is nothing to suggest that the SPO  
10 attempted to influence the substance of the witness's evidence. The  
11 Panel therefore finds that the SPO acted in compliance with the  
12 Panel's Order on the Conduct of Proceedings so that there is no valid  
13 reason to caution the SPO.

14 The Panel further finds that there is no basis for the Panel to  
15 draw any negative inference regarding the witness's credibility based  
16 on the material recorded in the preparation note. Any determination  
17 regarding the credibility of W04491, like any other witness, will be  
18 made by the Panel based on facts and circumstances that are validly  
19 placed on the record of these proceedings and which are relevant to  
20 the Panel's assessment of the witness's credibility.

21 For these reasons, the Panel rejects the Defence request, and  
22 orders the Defence to request the reclassification or submit a public  
23 redacted version of the filing F02938 by Friday, March 7, 2025.

24 This concludes the first oral order.

25 Now the second oral order.

1 On 16 April 2024, the Panel granted the SPO's request for the  
2 admission of W02677's evidence pursuant to Rule 154, which was filing  
3 F02245. On Friday, 21 February 2025, the SPO informed the Panel that  
4 the parties had reached an agreement to admit the evidence of W02677  
5 pursuant to Rule 153 instead of Rule 154. The Panel was also  
6 informed that the agreement is limited to the material listed in  
7 Annex 3 to the SPO request for the admission of W02677's evidence  
8 pursuant to Rule 154. Yesterday, the Panel ordered the release of  
9 W02677 pending an application from the SPO pursuant to Rule 153.

10 Accordingly, the Panel directs the SPO to file the Rule 153  
11 application in relation to W02677 by Tuesday, 4 March 2025. It is  
12 the Panel's understanding that the Defence has no objection to such a  
13 request. Nevertheless, should the parties wish to file any responses  
14 or replies, they may do so following the standard briefing schedule  
15 pursuant to Rule 76.

16 This concludes the second oral order.

17 We will now continue hearing the evidence of Prosecution  
18 Witness W04745.

19 The Panel recalls that during yesterday's hearing W04745  
20 requested to be assigned Duty Counsel. The Panel notes that the  
21 Registry proceeded to appoint Duty Counsel for W04745.

22 You may call the witness and the Duty Counsel into the  
23 courtroom.

24 [The witness takes the stand]

25 WITNESS: ISMET TARA [Resumed]

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1 [The witness answered through interpreter]

2 PRESIDING JUDGE SMITH: Good morning, Duty Counsel. Could you  
3 please identify yourself for the record.

4 MR. VAN STRAALLEN: Good morning, Your Honours. Idriss van  
5 Straalen, Duty Counsel for the witness Mr. Ismet Tara.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. VAN STRAALLEN: Thank you.

8 PRESIDING JUDGE SMITH: We trust you have had ample time to be  
9 consulted with Mr. Tara?

10 MR. VAN STRAALLEN: We did, Your Honour. Thank you very much.

11 PRESIDING JUDGE SMITH: All right.

12 Good morning, Mr. Tara. Today we're going to continue your  
13 testimony. I remind you to please try to answer the questions  
14 clearly, with short sentences. If you don't understand a question,  
15 feel free to ask counsel to repeat the question or tell them you  
16 don't understand and they will clarify. Also, please remember to try  
17 to indicate the basis of your knowledge of the facts and  
18 circumstances upon which you will be questioned.

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

21 Please also remember to speak into the microphone and wait five  
22 seconds before answering a question, and then speak at a slow pace so  
23 the interpreters can catch up.

24 While you are giving evidence in this Court, you are not allowed  
25 to discuss with anyone outside this courtroom about the content of

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1 your testimony. If any person asks you questions outside the Court  
2 about your testimony, please let us know.

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

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

8 We will now continue with the cross-examination by the Defence,  
9 a tender of evidence having been made by the Prosecution at the close  
10 of their questioning.

11 MR. DIXON: Thank you, Your Honours. We would, on behalf of all  
12 four Defence teams, wish to make our submissions opposing the tender  
13 first because it's directly linked to whether there will be any  
14 questions thereafter. So we wish to make those submissions, and then  
15 we will proceed thereafter with the next step as explained yesterday.

16 PRESIDING JUDGE SMITH: All right. Then during that, we will  
17 excuse the witness while you make those submissions.

18 MR. DIXON: Yes. I'm happy for the witness to be here --

19 PRESIDING JUDGE SMITH: Yes.

20 MR. DIXON: -- but --

21 PRESIDING JUDGE SMITH: I'm sorry, Witness. We didn't know that  
22 this was going to be occurring, so you will have to step back out  
23 into the waiting room until the Defence has finished.

24 [The witness stands down]

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. DIXON: Thank you, Your Honours.

2 This submission is made based on what the witness said yesterday  
3 at the end of his testimony, which is that he was not prepared to  
4 answer any questions in these proceedings either for the Prosecution  
5 or the Defence. There's no indication that that position has  
6 changed. That is the basis of our submission, that he's not prepared  
7 to answer any further questions.

8 And that's why it's important that the issue of the tender is  
9 resolved first. And I do renew our request on behalf of all four  
10 Defence teams that a ruling is made on that because even if an  
11 attempt is made to question, then we need to know what we're going to  
12 question about. For example, if the UNMIK document is not admitted  
13 or the Prep Note 2 of 26 pages is not admitted, then, obviously,  
14 we're not going to have any questions on that matter. It might take  
15 some time to go through all those matters in court if it were to be  
16 admitted.

17 The other follow-up point from that, Your Honours, is if there  
18 is a sudden change now, with Duty Counsel having been assigned, and  
19 the witness is now prepared to answer questions, then our submission  
20 would be that it can't suddenly start here. It has to go back to  
21 square one with the witness being asked examination-in-chief  
22 questions first before we cross-examine. The witness was meant to be  
23 a live witness. If he now is agreeing to continue being a live  
24 witness, then that would be the procedure to follow.

25 Our submission in relation to the tender of the three documents,

1 Your Honour, is that all should be rejected and that a ruling should  
2 be made on that before we proceed any further. Our submission is  
3 based on the clear text of the rules, in particular Rule 143, which  
4 Your Honours may have noted the SPO made no effort to rigorously go  
5 through the rule and identify which documents under which part of the  
6 rule should be admitted for that purpose. It was brushed over.

7 And we say really what is happening here is were the witness not  
8 giving evidence live, an application is being made for the admission  
9 of their statements through the back door through 153 to 155, which  
10 are the proper rules for admitting such evidence. The Prosecution  
11 knows there is no proper basis to do it under 143 and, hence, have  
12 not gone into any detail as to what the basis for that is.

13 Your Honours will know, obviously, that these rules are dealt  
14 with under the heading "Testimony, Statements and Other Evidence."  
15 That's Subsection (2) of the Rules. And to state the obvious, but an  
16 important point, Rule 143 is headed "Examination of Witnesses." It's  
17 got nothing to do with admissibility of witness testimony. That  
18 comes under 153 to 154, 155, with the heading "Admission of [Witness]  
19 Statements and Transcripts." So there's a clear distinction in the  
20 rules, and our submission is the drafters would have never intended  
21 143 to apply in this fashion, which we say is a highly unorthodox way  
22 of getting in witness testimony and transcripts.

23 Rather, 143 was there for the distinct and narrow purpose of if  
24 there is an inconsistent statement as is set out in (2)(c), that  
25 statement could be admitted as has happened before in some limited



1 circumstances. But we're not in that realm here.

2 In this situation, what happened was that the witness started  
3 testifying, then there was something of a dispute with the  
4 Prosecution about the preparation note, and then stopped. And that  
5 matter wasn't fully resolved. The witness was never asked what is  
6 the document. The nature of the document was never clarified.

7 Plus, Your Honours, as you know, we have said further steps  
8 could have been taken to compel the witness to answer. It's  
9 speculative to say that he wouldn't change his mind. And unless he's  
10 placed in that situation, one is simply unable to say what the  
11 position will be.

12 But in relation to the each of the categories --

13 PRESIDING JUDGE SMITH: Are you saying that we have an  
14 obligation to do something further?

15 MR. DIXON: We say --

16 PRESIDING JUDGE SMITH: Because I think the Statute and the  
17 Rules both use the word "may."

18 MR. DIXON: Absolutely, Your Honours. It's --

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. DIXON: Yes, Your Honours, our submission is rather that the  
21 reason given, which is that he wouldn't change his mind, is a  
22 speculative one. We don't know until he is ordered to answer the  
23 question and fined and placed in prison. That's our submission. Not  
24 that Your Honours don't have that discretion. But we say in  
25 circumstances where that step hasn't been taken, we don't know what

1 the outcome could be.

2 And, therefore, we shouldn't look to in an unorthodox way apply  
3 the rules simply to take the line of least resistance to get to the  
4 point where all the evidence comes in and we just move on and it's  
5 all quickly dealt with. We say there should be much more forensic  
6 rigor applying the rules systematically to the situation.

7 And in that regard, we say in relation to the transcript, first  
8 of all, there is no inconsistency. The SPO hasn't pointed to any  
9 inconsistency. They have to rely on (b), which is that the witness  
10 is not making a genuine attempt to give evidence. And we say we're  
11 not squarely in that bracket. He's said he will testify if this  
12 matter could be resolved. Steps could be taken to resolve that.  
13 Plus, there could be the contempt proceedings brought.

14 So we're not in a situation where inconsistency applies. And,  
15 in any event, the Rule 143(2)(b) doesn't allow Your Honours to  
16 introduce transcripts through that rule. You can only do it through  
17 153 to 155, an application that is not being made by the Prosecution.

18 With regard to the UNMIK statements --

19 PRESIDING JUDGE SMITH: That very argument has been presented at  
20 the Court of Appeals in the past.

21 MR. DIXON: Yes, I --

22 PRESIDING JUDGE SMITH: And it was unsuccessful.

23 MR. DIXON: I understand that, Your Honours. But we are  
24 relying --

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 MR. DIXON: Yes. We're relying on the point in particular that  
2 we're not in a situation where he's not giving genuine evidence. He  
3 is wanting to testify.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 How do you know he's wanting to testify?

6 MR. DIXON: Well, he's said it himself: "I'm ready to testify  
7 if this matter can be resolved."

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. DIXON: And the Prosecution have caused this situation by --  
10 this bust-up with the witness, where he's not prepared now to answer.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 You can argue you will you wish, but the Prosecution did not set  
13 up this. They did not create this situation.

14 MR. DIXON: I never said that, Your Honour.

15 PRESIDING JUDGE SMITH: You just did.

16 MR. DIXON: What I said was this is something which is being  
17 caused by the questions that were asked and not resolved by the  
18 Prosecution. It's their responsibility to resolve it with the  
19 witness. And we can't be in a situation where a witness, after him  
20 saying repeatedly, "If you show me this document, I'll testify," that  
21 that's an end of the matter. Which document are we talking about?  
22 Why was the witness not asked about that? All he --

23 PRESIDING JUDGE SMITH: Finish your objection.

24 MR. DIXON: Okay. So he -- Your Honour, it's very important  
25 that you apply your minds to what does it mean to not genuinely

1 attempt to give evidence. We say that test hasn't been met here.

2 We also say that in relation to the UNMIK statement, yes, there  
3 (2) (c) would appear to apply directly because there is a prior  
4 inconsistent statement. However, Rule 143 never envisaged that there  
5 would be no cross-examination in relation to that statement.

6 The previous decision that Your Honours made in relation to the  
7 case of Witness W3780, that's in your decision of F02580, in that  
8 case, there had been extensive examination by the Prosecution of the  
9 witness regarding the documents concerned. Likewise, there had been  
10 cross-examination by the Defence extensively on the matter. And it  
11 was on that basis that Your Honours then had to decide whether to  
12 admit the statement.

13 That's clearly distinguishable from the current situation where  
14 there hasn't been that cross-examination. And, frankly,  
15 Your Honours, there hasn't been that examination of the document  
16 itself in any great detail. It was only put in the context of trying  
17 to resolve this issue of was this the document or not. So it wasn't  
18 examined in any great detail.

19 And I would invite Your Honours, therefore, to look very closely  
20 at that decision. It can be distinguished from the present situation  
21 we are in. And there would be great prejudice if we were not able to  
22 cross-examine on this document. That was never intended with regard  
23 to 143. Of course, it could be intended in relation to the other  
24 rules, but then the other safeguards are there. We don't have the  
25 same safeguards in Rule 143.

1 And then finally, Your Honours, in relation to the prep note,  
2 two very important points. This is a combination prep note of both  
3 corrections to the transcript and then new evidence. Your Honours  
4 have never, ever, ever admitted a Prep Note 2 of new evidence before.  
5 You have consistently said, Your Honours, that that evidence must be  
6 led live precisely because there is no new statement. It's really a  
7 summary of what the Prosecution has said about what happened. The  
8 witness, yes, adopts it at the end, but Your Honours have never said  
9 that that can come in without live evidence. So that would be a  
10 complete break from practice and we say one that shouldn't taken.

11 And, secondly, in this case, in relation to the Prep Note 1  
12 parts where he did the corrections, and, in fact, 2 as well, the  
13 witness never ever confirmed that he had made those particular  
14 comments. As always occurs with Prep Note 1, the witness has to  
15 confirm that those are the corrections he wishes to make.

16 So we're in a situation here where we would say that prep note  
17 should not come in. And it's precisely because it should not come in  
18 that it affects other documents as well because its corrects the  
19 transcript. So if it can't come in, then how can the transcript come  
20 in with corrections?

21 And, secondly, it gives the fuller context as well to the UNMIK  
22 document. If the prep note can't come in, the transcript can't can  
23 come in, and then the UNMIK document can't come in either.  
24 Particularly if this is an end of the matter today and we're not able  
25 to cross-examine any further.

1           So we would invite Your Honours not to take the line of least  
2     resistance, apply the rules rigorously, and exclude, firstly, the  
3     prep note, and then, as a result of that, the domino effect must be  
4     that all of the other documents cannot be admitted either. And we'd  
5     ask that there's a ruling made on that because that will affect our  
6     cross-examination.

7           Thank you, Your Honours.

8           PRESIDING JUDGE SMITH: Anybody else wish to join or add?

9           MS. TAVAKOLI: Your Honour, I'd like to preserve our position  
10    for the record in line with previous objections made by Mr. Misetic  
11    on similar matters. Specifically, it's the Thaci Defence position  
12    that the Trial Panel has an obligation to ensure a fair trial for the  
13    accused, which includes the rights of the accused to examine the  
14    witnesses against them.

15          The Trial Panel must counter attempts by witnesses to obstruct  
16    these proceedings, as this witness has done, and the rights of the  
17    accused by taking all measures that are reasonably open to it to  
18    compel witnesses to answer questions from both the SPO and the  
19    Defence.

20          Where the Trial Panel admits the prior testimony of witnesses  
21    who are refusing to testify and refusing to submit to  
22    cross-examination by the accused without the Trial Panel first having  
23    taken every option reasonably open to it to compel the witness to  
24    testify, the Trial Panel violates the fair trial rights of the  
25    accused and commits discernible error.

1 I understand Your Honours' position that it is within your  
2 discretion to sanction and hold this witness in contempt. I'd simply  
3 draw your attention, as I understand Mr. Misetić has done before, to  
4 paragraph 35 of the July 2010 Haradinaj Appeals Chamber judgment  
5 where they held that a trial court has an obligation to ensure a fair  
6 trial, which includes an obligation to "provide every practicable  
7 facility it is capable of granting under the Rules and Statute when  
8 faced with a request by a party with assistance in presenting its  
9 case."

10 In this case, you have warned the witness that he can be held in  
11 contempt. You've specifically warned him that he can be fined. And  
12 yet, you have refused to -- effectively refused to exercise your  
13 discretion in this regard.

14 The Defence submit it would be helpful to understand the reasons  
15 why you have refused to exercise your discretion in the face of what  
16 is a clear attempt by this witness to obstruct the proceedings in  
17 this Court.

18 And so, ultimately, we would say that Your Honours cannot admit  
19 his prior statements until you have taken every step that is open to  
20 you.

21 An additional point I'd just like to point out is in the  
22 preparation note, paragraph 6, the witness is asked if he's reviewed  
23 his prior statements and he confirms that he did. He indicated that  
24 he only marked a few changes or clarifications to his statement.  
25 It's then recorded as him saying:

1 "There were, however, some sentences in the statement that he  
2 did not fully understand, which he did not mark during his review.  
3 [He] added that" --

4 THE INTERPRETER: Interpreter's note: Could the speakers kindly  
5 slow down for the purposes of interpretation. Thank you.

6 MS. TAVAKOLI: -- "he did not correct [those] parts, because in  
7 his opinion they were not important" --

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. TAVAKOLI: Sorry.

10 "... were not important and did not require clarification."

11 So contrary to the Prosecutor's submissions yesterday, I don't  
12 believe we are in a situation where this witness has, in fact,  
13 adopted the prior statements that he made in their entirety to the  
14 extent that paragraph 6 makes it clear that there is some ambiguity  
15 in this regard. And that is another reason that the Defence say  
16 militates against submission.

17 If Your Honours are not with us and you proceed to approve the  
18 tender, as you know, yesterday I agreed with my learned friend, the  
19 Prosecutor, that we agreed that she would not include in the tender  
20 the three items: The meetings at Sylejman Selimi's house,  
21 Driton Lajci, and the interaction with the ambassador. And the  
22 Prosecutor has provided to us what she intends to tender.

23 There is one aspect of that tender that the Thaci Defence  
24 submits should also be redacted. I've discussed with my learned  
25 friend. We're not in agreement. If we get to that position, perhaps



1 I could address Your Honours on that point. Thank you.

2 MR. MAIR: Good morning, Your Honours. I join and support the  
3 objections made by my colleagues. The basis for the admission of  
4 these documents has not been established.

5 I rise to make one further objection specifically to the UNMIK  
6 document itself, and this objection is based on the words of the SPO  
7 itself during the interview with this witness. And I would direct  
8 Your Honours' attention to Part 10 of the interview, page 28, lines 2  
9 to 14. I'll read out. It's a short passage. These are the words of  
10 an Associate Prosecutor:

11 "So, Mr. Tara, just so you know, we know that some of the things  
12 in this document are not correct ... we know some [of the] things  
13 about this document are not correct. You've been interested in the  
14 documents that relate to you. It's our job to ask questions about  
15 this document and try to find out which parts are true and which  
16 parts are false.

17 "I would like to continue to go through the document and you  
18 tell us what's true and what's false, but as we've said, and I'll  
19 repeat again, you have an absolute right to silence and we don't have  
20 to do that. But that's why I'd like to go through this document.  
21 There are a number of things we know are false in this document. We  
22 want to find out from you which things are false and which things are  
23 true."

24 So, Your Honours, the SPO is conceding from the outset that this  
25 document that they're now tendering contains falsehoods. However,

1 they've tendered the document without setting forth or distinguishing  
2 what they perceive to be falsehoods and they've done so through the  
3 only witness who can actually speak to the document.

4 In the absence of making an offer specific to the document, in  
5 light of the SPO's own comments to this witness, we say that the  
6 document fails to meet even the most basic standards for  
7 admissibility. This is not a matter of weight. We submit that there  
8 can be no probative value at all given to a document in these  
9 circumstances. And so we would ask that you reject the document on  
10 those grounds. And also on that point, that's why we ask that there  
11 be a decision made immediately on the admissibility of this document  
12 before we go forward. Thank you.

13 PRESIDING JUDGE SMITH: Thank you.

14 MR. ELLIS: Your Honours, we join the submissions previously  
15 made. I have a couple of further observations which I'll make  
16 briefly in relation to the 2001 UNMIK document.

17 First of all, we don't accept that it's established that this is  
18 a statement of the witness. Your Honours have previously defined a  
19 statement as a record in any form of what the witness has said. For  
20 example, in filing 2580.

21 We would say what distinguishes this case from previous examples  
22 is that we have a witness who's clearly saying to the Panel that he  
23 didn't say this. He said that yesterday at transcript 25519, lines 8  
24 to 9:

25 "No. It was somebody else who said that."

1 He said much the same thing in his 2019 interview, in which at  
2 Part 10 on various occasions he said things like, page 23, line 25:

3 "I've never been interviewed by anybody regarding this. This is  
4 only the imagination of Anna Vannozzi and others ..."

5 And, of course, Your Honours will read Part 8 -- Part 10, will  
6 have read Part 10, and will take a view on his comments as a whole.  
7 But in our submission, a fair reading of that is that the witness has  
8 consistently denied that this is a statement of his. There is no  
9 evidence before you of any steps taken to verify that statement, for  
10 example, through contacting Anna Vannozzi or any of the three other  
11 people who appear named on that document. And in those  
12 circumstances, we would say it doesn't get over the first hurdle to  
13 be admitted as a statement.

14 If you're against me on that, Your Honours, the next question  
15 would be one of authenticity. I'll be very brief. It's not signed  
16 by this witness. It's a document that he has said contains  
17 fabrications. There is no tape recording of any such meeting, no  
18 contemporaneous record in Albanian, no record of questions asked or  
19 verbatim record of answers, no evidence of any readback process. A  
20 meeting said to have taken place in a restaurant, but we don't know  
21 how long it lasted, what formalities, if any, were observed. We  
22 would say it falls on that also.

23 And then if it makes it to the final stage at which the Panel  
24 balances probative value against prejudicial effect, first of all,  
25 the probative value is extremely low for all the reasons already

1 outlined and outlined by Mr. Mair.

2 Secondly, we would say there are obvious mistakes in the  
3 document. The witness has explained some of those in Part 10 of his  
4 SPO interview. One example is that it indicates that he was the  
5 brigade commander from the end of May 1998 until the end of the war  
6 in June 1999. But the Prosecution have also tendered the SPO  
7 interview in which this witness said that he joined the KLA towards  
8 the end of May 1998 and was the chief of logistics and finance in the  
9 Arti unit, not a brigade, and he was not the commander. And he only  
10 actually became the brigade commander towards the end of June 1999.

11 So there are, by my count, three mistakes in that short section  
12 alone, and others are identified in the course of the document -- in  
13 the course of the interview.

14 Now, we would say very limited probative value set against the  
15 prejudicial effect of admitting in writing a statement which the  
16 witness denies making which goes to a core JCE allegation in  
17 circumstances where what is being admitted is in the core statement  
18 about the policy -- alleged policy is vague and non-specific. No  
19 details of who, when, where, or even of basis of knowledge.

20 So we would say putting it all together with the submissions  
21 already made this is a statement which should not be admitted, a  
22 document which should not be admitted.

23 JUDGE METTRAUX: Mr. Ellis, while you're on your feet, and,  
24 Mr. Mair, if you wish, you both indicated that you are joining the  
25 submissions that preceded you. Which one are you joining? Because

1 Mr. Dixon is telling us that the witness is willing to testify, and  
2 Ms. Tavakoli is telling us that the witness is being obstructive, to  
3 use her term.

4 So which one of the two submissions, which appears to me to be  
5 contradictory, are you joining?

6 MR. ELLIS: Your Honour, I was joining in particular the  
7 submissions that were made as to admissibility by Mr. Dixon.

8 JUDGE METTRAUX: So you're not taking a position on whether he  
9 is willing to testify or he's being obstructive?

10 MS. TAVAKOLI: Can I just clarify, sorry? My submission may  
11 have been slightly unclear. I am with Mr. Dixon that he said that if  
12 he's provided this document, he will testify. But in reality, he  
13 hasn't been provided with a document and therefore he's being  
14 obstructive. I agree with Mr. Dixon that should he be provided with  
15 it, he's indicated he is willing to testify.

16 So my position is slightly more nuanced than I stated, and I  
17 apologise for that.

18 MR. ELLIS: And that's the nuance I would agree with,  
19 Your Honour.

20 JUDGE METTRAUX: Thank you for the nuance.

21 MR. MAIR: And same for us, Your Honour. I believe the Defence  
22 are on the same page here.

23 PRESIDING JUDGE SMITH: Does the Prosecution wish to reply?

24 MS. IODICE: Yes, Your Honour. Thank you.

25 First of all, I would just like first to clarify two points.

1 The witness was ordered to answer the questions. Also the witness  
2 was provided with the document he asked for. It was clear all steps  
3 were taken that were in our -- that we could take to ensure that he  
4 was shown the document. We showed him his description of the  
5 document. We showed what he said about it in the preparation note.  
6 He agreed that that's what the document -- that those comments were  
7 made in relation to the document he wanted. We showed him what he  
8 had called the reference code of that document. We showed him the  
9 reference code on the document. He still denied that that's the  
10 document. And that goes to the core of Rule 143, where it states  
11 that the witness is not making a genuine attempt to testify. That's  
12 what was happening in court.

13 We have shown the witness the document he wanted. He has  
14 decided to no longer recognise that document.

15 Further, the witness also indicated overnight by Facebook posts  
16 that he intends to answer all of the questions that will be put to  
17 him by the Defence counsel. So that also goes to the point that  
18 questions he did not want to answer were the Prosecution questions,  
19 not the Defence questions.

20 Further, regarding the differentiation between Prep Note 1 and  
21 Prep Note 2. This differentiation does not exist at this point.  
22 It's one preparation note which was read out to the witness in full.  
23 You can also see that in many parts we had him -- and specifically  
24 because he had mentioned that he didn't note all of the -- or there  
25 were parts that were unclear to him, we read to -- we made him read

1 to -- we allowed him to read together with us extensive portions of  
2 the transcript and recorded whether he agreed to it or whether there  
3 were further corrections, and that's all recorded in the preparation  
4 note.

5 Further, regarding the UNMIK statement and the submissions made  
6 by my colleagues, those submissions go to weight. They do not go to  
7 admissibility. The UNMIK statement is a statement taken within the  
8 context of a criminal investigation. It contains all the indicia of  
9 reliability that are required for its admissibility. Also, the core  
10 of that statement was put to the witness yesterday in court, the  
11 allegation that he has made regarding killings was put to him  
12 directly in court, and he did not -- he stated that that was not his  
13 statement. That is a prior inconsistent statement.

14 Now, turning on to the witness's refusal to answer.  
15 Rule 143(2)(c) should be read together with Rule 143(2)(b), and the  
16 clear intent is that where a witness is not making a genuine attempt  
17 to give evidence on a matter he may reasonably be supposed to have  
18 knowledge about, and he gave a prior statement on such matter, that  
19 prior statement is admissible including for truth of its contents.  
20 And, indeed, the witness has previously given a statement, which  
21 yesterday he also noted on the transcript that he stood by, on those  
22 same matters relevant to this case, and his position is now  
23 inconsistent because he's now refusing to answer questions.

24 The statement is therefore admissible so long as it satisfies  
25 the general admissibility criteria in Rule 138 of relevance -- or

1 relevance, authenticity and probative value.

2 This is also consistent with paragraph 107 of the Order on  
3 Conduct of Proceedings, which considers Rule 143(2)(a), (c) together  
4 and permits the admission of a prior inconsistent statement. This is  
5 consistent also with the Panel authority under Article 40 and Rules  
6 137, 138.

7 Further, the witness was afforded a fair opportunity to answer  
8 questions. The questions he refused to answer were basic questions  
9 about his role and duties and in no way inculpatory. Obviously,  
10 these rules need to be applied on a case-by-case basis, and there  
11 would have been absolutely no point in wasting court time continuing  
12 to ask questions to the witness who clearly had stated that he did  
13 not want to answer. He even said: You can kill me, but I will not  
14 answer.

15 This reading of the rule is consistent with the Panel's decision  
16 F1821, paragraph 49, in which the Panel observed that:

17 "... accepting the Defence position would, in effect, render the  
18 prior statements of witnesses who refused to engage with in-court  
19 questioning inadmissible. This would reward a failure to perform  
20 one's civic duty, interfere with victims' rights to have access to  
21 justice, and undermine the Panel's responsibility to contribute to  
22 the determination of the truth."

23 And in our submission, this is exactly the situation we are in  
24 now.

25 As to the alleged prejudice, even if the witness refuses to



1 answer the Defence's questions, which he has now indicated overnight  
2 a change of heart compared to yesterday, the Defence would,  
3 nevertheless, be able to present evidence and make submissions  
4 concerning the credibility of the witness and his prior statements.  
5 In this respect, the Defence can tender any document that they  
6 intended to put to the witness in cross-examination and call any  
7 witness it considers necessary during the Defence phase.

8 And one final point. I would also refer the Court to F01821,  
9 paragraph 30, in which the Panel found that:

10 "... the inability of the Defence to cross-examine a witness  
11 does not, without more, render the evidence or prior statement of  
12 such a witness inadmissible."

13 Thank you.

14 JUDGE METTRAUX: Ms. Iodice, I have a quick question on  
15 submissions made by the Selimi Defence. What do you say to the  
16 suggestion that you yourself have acknowledged the presence of  
17 falsehoods in a statement? How would that affect our decision to  
18 admit or not to admit, in your submission?

19 MS. IODICE: Yes, Your Honour. Those discrepancies were  
20 discussed in the SPO transcript that we are tendering, and they are  
21 focused on the date, the timeframe of Mr. Tara's role with the  
22 124 Brigade. We also, in our submission, did not -- which also, in  
23 our submission, did not start in May 1998. And to the lack of  
24 hierarchy within the KLA. Those are the parts that we believe to be  
25 incorrect in that statement.

1 JUDGE METTRAUX: Thank you.

2 PRESIDING JUDGE SMITH: Mr. Dixon, you had a response.

3 MR. DIXON: Just briefly two points. One on the Facebook posts.  
4 We really should be litigating this case in court, not on Facebook.  
5 What the witness said yesterday on the record is what we based our  
6 submissions on. And, in fact, in many jurisdictions, what the  
7 witness has just done on Facebook would be another contempt in and of  
8 itself. And it just shows that when the witness thinks that he's  
9 able to do whatever he wants, this is what happens. He's on social  
10 media sensationalising as he's wont to do. And I think we're in a  
11 very dangerous position if we rely on what he's been saying on social  
12 media to decide whether documents should be admitted.

13 So my submission and all of our submissions are based on what's  
14 on the record yesterday. He said he was not going to testify unless  
15 this document was given to him, and no one has asked -- we are unable  
16 to do so, but no one has asked him what the document is. Get him to  
17 identify it so that that matter can be clarified.

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. DIXON: Thank you, Your Honours.

20 PRESIDING JUDGE SMITH: It had been our intention, and my  
21 announced intention, that we would await ruling on this until the  
22 close of cross-examination and any redirect. But since you've all  
23 asked together that we make a ruling, we will rule on admitting these  
24 documents as submitted under 143(2)(b) and(c), 138, and the rules on  
25 conduct of proceedings.

1 We'll file a reasoned decision later on. We can't do this right  
2 now.

3 Please bring the witness in.

4 MS. IODICE: Your Honour, if I may, there was one additional  
5 line that I agreed to redact with --

6 PRESIDING JUDGE SMITH: You do agree to it?

7 MS. IODICE: There is one additional line, yes, that was  
8 proposed by my colleagues from the Thaci Defence and we agreed to.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 Can you identify it, please, for the record?

11 MS. IODICE: Yes. We agreed to redact from Part 4, page 14,  
12 lines 17, 18, from -- one sentence essentially.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MS. TAVAKOLI: Pardon? Sorry, I didn't hear.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Is that your understanding?

17 MS. TAVAKOLI: Yeah. Yes, that's my understanding that that's  
18 what the Prosecutor's agreed to amend, her tender that she sent in  
19 writing. We disagree. I'll just put that on the record.

20 We also invited the Prosecution to remove page 22, line 23, to  
21 page 23, line 2. The Prosecutor has refused to do that. We say that  
22 it's about the phone numbers of Mr. Thaci, Kadri Veseli, and  
23 Haradinaj. We say they are clearly linked to the conversation with  
24 Driton Lajci, and that's the context in which they were asked, about  
25 whether or not this witness was communicating or trying to

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1     communicate with Mr. Thaci through Mr. Lajci. And we say therefore  
2     they form part and parcel of the interactions with Mr. Lajci, and,  
3     therefore, to be consistent with the agreement with the Prosecution,  
4     they should also come out.

5             The Prosecutor's position, as I understand it, is that they go  
6     to this witness's ability to contact those individuals in 1999, which  
7     may be the case, but that was not the context in which they were  
8     asked, and it makes no sense to leave that sentence in as it stands.

9             MS. IODICE: Yes, Your Honour. In our position, that specific  
10    sentence relates to his role in 1999 and whom he could communicate  
11    with in 1999, and it's unrelated to the rest of his evidence.

12            PRESIDING JUDGE SMITH: If it's not agreed upon, it's admitted  
13    as I already admitted it. So that's all. We'll proceed with the  
14    witness.

15            Please bring the witness in.

16            [Microphone not activated] ... in the regular order?

17                         [The witness takes the stand]

18            PRESIDING JUDGE SMITH: You're first? All right.

19            We're sorry for the delay, Mr. Tara, and counsel. We have  
20    completed what we had to do, so we will proceed now. We will have  
21    cross-examination, beginning with Mr. Dixon.

22            Please put your hand down. Mr. Dixon will ask you some  
23    questions.

24            THE WITNESS: [Interpretation] My lawyer has a request on my  
25    behalf.

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1           PRESIDING JUDGE SMITH: All right.

2           MR. VAN STRAALLEN: If you allow, Your Honour.

3           I'm fully aware of the repetitional character of my request as  
4 it was discussed yesterday and denied by your Panel. But my client  
5 has asked me to renew the request for your reconsideration to grant  
6 him ten minutes to address a certain document which was shown to him  
7 during preparation by the Specialist Prosecutor. He feels it's  
8 necessary for him to address this document for his safety prior to  
9 giving a statement.

10          PRESIDING JUDGE SMITH: It's not relevant to our discussion  
11 today. I understand your request. We appreciate that you're making  
12 it. We will not go into that at this time. We will start with  
13 Mr. Dixon's cross-examination.

14          MR. VAN STRAALLEN: Thank you, Your Honour.

15          PRESIDING JUDGE SMITH: Mr. Dixon, you have the floor.

16          MR. DIXON: Thank you, Your Honours.

17                       Cross-examination by Mr. Dixon:

18          Q. Mr. Tara, my name is Rodney Dixon. I act for Mr. Kadri Veseli.

19               I want to start by checking one matter with you. You said  
20 yesterday to the Court that you are not prepared to answer any  
21 questions of the Defence; is that correct?

22          A. I did not answer because of my suspicions in relation to a  
23 document in which I was described in my interviews in 2019, an  
24 interview which took 32 hours. That descriptive document was never  
25 shown to me. It was only shown to me for the first time during the

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1 preparation session with the Prosecution. That's a source of grave  
2 concern to me. That document, that is.

3 Your Honour, even if you did not allow me the opportunity to  
4 express my concern that I asked for earlier, I will, however, answer  
5 to all the questions put to me by the Defence.

6 Q. So just so I can understand --

7 PRESIDING JUDGE SMITH: Just a moment. Just a moment.

8 Bear in mind also that you will also then be questioned again by  
9 the Prosecution, and you will have the same obligation to answer  
10 those questions if you answer these questions. Do you understand  
11 that?

12 THE WITNESS: [Interpretation] I will only answer to the Defence  
13 questions.

14 MR. DIXON:

15 Q. Just so I can understand, trying to follow this, are you saying  
16 that you will not answer Defence questions until your concern is  
17 addressed? I just need to know, yes or no, Witness.

18 A. I will answer to the questions of the Defence, but I will not  
19 answer to the questions put by the Prosecutor who concealed, hid my  
20 document.

21 PRESIDING JUDGE SMITH: Mr. Counsel, have you explained the  
22 obligations of your client who appears as a witness?

23 MR. VAN STRAALLEN: I have, Your Honour.

24 PRESIDING JUDGE SMITH: He understands the risk?

25 MR. VAN STRAALLEN: He does. And if need be, I could request

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1 another brief intermission to re-address this subject if it arises.

2 PRESIDING JUDGE SMITH: It has arisen.

3 MR. VAN STRAALLEN: Well, if it pleases the Court, I can address  
4 my client once more right now, or we can wait until after the  
5 questions by the Defence. And if it arises then, then I can do it at  
6 that moment.

7 [Trial Panel confers]

8 PRESIDING JUDGE SMITH: We'll ask you to step aside and give an  
9 explanation to your client to -- just a second. [Microphone not  
10 activated].

11 MR. VAN STRAALLEN: So sorry.

12 PRESIDING JUDGE SMITH: [Microphone not activated] ... make sure  
13 that he understands the obligation that he undertakes when he answers  
14 these questions, that he will then have to answer redirect questions.  
15 It's considered by the Court as essential.

16 MR. VAN STRAALLEN: I understand.

17 PRESIDING JUDGE SMITH: We will step aside for ten minutes or  
18 so.

19 MR. DIXON: Your Honour, should we take the break at this point?

20 PRESIDING JUDGE SMITH: Yeah, we can.

21 MR. DIXON: Then that can be used for --

22 PRESIDING JUDGE SMITH: We're taking a ten-minute break at this  
23 point anyway.

24 MR. DIXON: Yes.

25 PRESIDING JUDGE SMITH: So that's fine.

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1           So go ahead. You may leave the courtroom now.

2                               [The witness stands down]

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

4                               --- Break taken at 9.55 a.m.

5                               --- On resuming at 10.06 a.m.

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

7           We'll finally get to your cross-examination.

8                               [The witness takes the stand]

9           PRESIDING JUDGE SMITH: All right. Go ahead, Mr. Dixon.

10          MR. DIXON: Thank you, Your Honours.

11          Q. Mr. Tara, can I just clarify what exactly the position is now  
12          that you've had an opportunity to consult with your counsel. Are you  
13          saying that you are prepared to answer questions and whose questions?

14          MS. IODICE: Asked and answered.

15          PRESIDING JUDGE SMITH: Overruled.

16          Go ahead. You may answer.

17          THE WITNESS: [Interpretation] After consulting my attorney, I am  
18          saying that I will answer all the questions posed to me by both  
19          sides. In order to help the Defence, I will answer also the  
20          questions asked of me from the Prosecutor whom I have my doubts  
21          about.

22          PRESIDING JUDGE SMITH: Go ahead, Mr. Dixon.

23          MR. DIXON:

24          Q. Yes. So just to be clear, you will now answer questions from  
25          the Prosecution. Is that what you're saying?



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1 A. Yes, provided that she ask me the same questions about the same  
2 topics that you will ask me.

3 Q. Look, Mr. Tara, you don't get to set the rules in this Court.  
4 I'm asking a straightforward question: Will you answer any questions  
5 that are put by the Prosecution?

6 A. If they are supplementary questions to the questions you will  
7 ask me, I will answer her too. But if she asks me about things that  
8 do not fall within the same scope of your questions, I won't.

9 Q. Well, Mr. Tara, you'll find out that'll be for the Judges to  
10 decide, not you.

11 Can I ask you, then, why yesterday you refused to answer  
12 questions from the Prosecution? You said there was a document that  
13 you wanted to see. What is this document?

14 A. This document that has been -- that has disappeared, and I blame  
15 the Prosecutor. It's a document that was prepared by the Prosecutors  
16 and those who asked me about -- questions in an interview that lasted  
17 32 hours. The document was not shown to me, was not given to me ever  
18 to read, and I never signed it, and I had no knowledge about that  
19 document for all these years.

20 Only on Wednesday when I was having this preparation session I  
21 was shown that document for the first time. That document describes  
22 Tara based on the description given by my interviewers, Prosecutors,  
23 as if I had said that I have information about many crimes committed  
24 by the KLA, about killing civilians, burning homes, committing  
25 crimes, inhumane crimes as they were described. They are two pages

1     which I have never signed, were never shown to me. I never saw that,  
2     they were never given to me, and I was shown them for the first time  
3     by the Prosecutor who -- that document -- who disappeared that  
4     document.

5             She was there with two associates who were present. There was  
6     also an Albanian interpreter. And the four of them were familiar  
7     with that document which I didn't know anything about.

8     Q.     So just to be clear, is this a document prepared by the  
9     Prosecution, written by the Prosecution that was shown to you for the  
10    first time in your preparation session? Is that your evidence?

11    A.     No, sir. No. That document was prepared, as I was told, by  
12    the -- was prepared by the interviewing staff during the interview  
13    that lasted 32 hours in 2019. But as I said, I never saw that  
14    document, it was not written in my presence, it was not discussed  
15    with me, it was not given to me to read it and was not signed by me.

16             But it's a general description, I was told, about the way they  
17    saw my interview. It's their notes --

18             THE INTERPRETER: Microphone, please.

19             MR. DIXON:

20    Q.     Sorry. Just wait. Okay, carry on.

21    A.     [In English] It's okay?

22    Q.     Yes, continue.

23             PRESIDING JUDGE SMITH: Just take this pause and just ask  
24    another question. He's saying the same thing over a second time.

25             MR. DIXON: Your Honour, I don't think he is. I'll clarify it

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1 with the witness.

2 Q. I think he's talking here - Mr. Tara, you can answer this -  
3 about a note prepared by the persons who interviewed you about your  
4 evidence. They were assessing your evidence. There was an internal  
5 note. That's the note that was shown to you for the first time; is  
6 that right?

7 A. [Interpretation] I don't know how to explain it. The Prosecutor  
8 told me that this document was prepared on the basis of the interview  
9 done to me in 2019, and I was not -- and that I had not signed it.  
10 She asked me whether we had discussed it and whether I had signed it.  
11 After reading it, I started to cry, to cry, to shout. I read one  
12 page of it. When I saw how I was described in it, I was so sad and I  
13 lost control of myself, and I started to be afraid. I feel afraid  
14 even now in relation to that document if that document is not made  
15 public and not said that this is a description that does not describe  
16 really who I am. After my interpreter read it out to me --

17 Q. Right. I have now - thank you - a description finally of the  
18 document. We will make inquiries about that document, and we may  
19 well come back to you with some further questions about it. But for  
20 now, I'm going to move on to some other questions. You understand?

21 A. Yes, please.

22 Q. I want to ask you some questions about the units that you were  
23 in, first of all. You have given evidence that you were in the Arti  
24 unit, then you were working at the Pashtrik zone level, and then you  
25 moved to the 124 Brigade. That's an overview of the units that

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1     you've been involved in. That's right, isn't it?

2     A.    Sir, initially I went to provide aid --

3     Q.    Witness, I don't want to go through an entire background and  
4     description. Just answer my question. That's a correct description  
5     of the different units you were involved in. If there's another  
6     unit, tell me, but don't go here into an entire background which is  
7     not what I've asked you to do.

8     A.    Yes, I was as you described it in those three points. In  
9     addition to that, I helped the Likoc staff. I provided assistance  
10    there gathered from the population there. I provided whatever I  
11    could, foodstuffs, medicaments, whatever they needed, in Likoc,  
12    Rezalle, and Plluzhine. The same thing I did also in Drenoc.

13    Q.    Yes.

14    A.    But for the first time as soldiers I enrolled in Arti staff of  
15    Rahovec. What you put is correct. Then I was transferred to the  
16    zone command. And after the war, 15 or 20 days afterwards, I was  
17    given the official task of commander of this Brigade 124 of Rahovec  
18    in the Pashtrik zone after the war.

19    Q.    Yes. Thank you, Witness. You've done exactly what I said you  
20    shouldn't do, which is given a whole description. So if you could  
21    try and keep your answers just limited to the questions I ask. I  
22    will go into some of these, for example, the 124 Brigade, in a bit  
23    more detail. But if you could be led by my questions only, we'll get  
24    through this a lot more efficiently, please. You understand?

25    A.    I will try to do that.

1 Q. Thank you. Now, you said in your SPO interview, this is 2019, I  
2 am going to just quote for you so that you hear it and then you can  
3 tell me if you confirm that, and I will ask you some questions about  
4 it.

5 MR. DIXON: For those following, this is 083217, Part 2, page 3.

6 Q. You said in relation to the KLA that:

7 "... we were all volunteer fighters to defend the population and  
8 for the liberation of Kosovo. Never did we have a regular army. Not  
9 even today or up until today. Primarily, it was composed of citizens  
10 who were disgruntled with the Serbian government, people who had  
11 difficulties with the former authorities, Serbian authorities, who in  
12 one way or another had been mistreated by the Serbian authorities.  
13 Particularly, the simple soldiers belonged to this category of  
14 people."

15 Now, do you remember saying that and is that correct?

16 A. I said that, and it is completely true.

17 Q. Thank you. And you said, and this is at page 15 now of the same  
18 part, that there were "rumours that were spread among the people to  
19 give the impression that we had a regular army. As I've already  
20 said, again I say to you that we never had a regular army."

21 Do you remember saying that? Is that correct?

22 A. I don't remember saying that, but if I did, in that sense, yes,  
23 but I don't recall to have said that. You have to look at the  
24 English translation, because I found many mistakes during my  
25 preparation with the Prosecutors.

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1 Q. Yes.

2 A. You have to translate it from the English into Albanian. Is it  
3 in English?

4 Q. Can I just ask you this, and that's why I said was it correct,  
5 is it right that rumours were spread amongst people in the population  
6 to give the impression that you had a regular army?

7 A. Probably yes. Such words circulated.

8 Q. And were these rumours concerning the fact that you had many  
9 troops, that they were well trained, and that they were able to repel  
10 the Serb forces? Was it rumours like that?

11 A. We never ever had a regular army. Never.

12 Q. Yes. But could you just answer the question that I've asked  
13 you. What were the rumours, if you know?

14 A. There were rumours to that effect, that soldiers of the KLA are  
15 getting together to liberate Kosovo.

16 Q. Yes, thank you. Now, you've also said - and this is at page 15  
17 again further down - that when you were forming brigades, and this is  
18 in the context of after the Serbian offensive in the summer, that:

19 "... they didn't have more than 150, 160 ... in them."

20 This is "units brigades," you say.

21 "It was political. It was a political attempt to make the  
22 public acquainted or have the impression of an army within Kosovo.  
23 That's my knowledge."

24 Is that right what you've said there?

25 A. In that interview I said that until my return from Albania after

1 20 September, I never heard that there are brigades of the KLA.  
2 Until that time, I had never heard that there are such brigades.  
3 Only I knew of the local staffs, in towns, in villages, all over  
4 Kosovo.

5 Q. And it's also right, isn't it, that both before you went to  
6 Albania and then when you came back, that there was a lack of  
7 hierarchy in the KLA? In other words, a lack of a clear chain of  
8 command between the units going upwards. Is that a fair assessment?

9 A. After 20 September, people said that we need to organise in  
10 brigades. But until the end of the war, the brigades never had more  
11 than 400, 500 soldiers. But there were rumours about the  
12 organisation of brigades. This happened after the appearance of the  
13 Pashtrik staff.

14 Q. Yes. So there were rumours about the organisation of the KLA.  
15 You've said that. Was the impression also being attempted to create  
16 this idea that there was a hierarchy when, in fact, there wasn't  
17 anything like that in place properly at that time?

18 JUDGE GAYNOR: Sorry, Mr. Dixon. Could you clarify the  
19 timeframe.

20 And also, Mr. Witness, when you refer to 20 September, could you  
21 clarify what year you're talking about. Thank you.

22 MR. DIXON: Yes, thank you, Your Honour.

23 Q. I had understood that we were talking about 20 September 1998.  
24 Is that correct, Witness?

25 A. Yes. After 20 September 1998, when in Kosovo there were no more

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1       than 3 or 400 soldiers for the KLA.

2       Q.     Yes. And that was the time period I was asking about, that you  
3       were also at that time spreading rumours about there being a regular  
4       army with a hierarchy when, in fact, that wasn't the case in reality.  
5       That's what I'm putting to you. Is that a correct assessment of the  
6       situation at that time?

7       A.     No. They spoke about that just to encourage the young soldiers.  
8       Because after the September assault, the KLA almost was disbanded,  
9       was routed by the Serb forces.

10      Q.     Yes, that's why I'm asking about that time period. So in that  
11     time period, if I've understood your answer correct, there was a lot  
12     of talking about a structure but, in fact, that didn't exist because  
13     it had been heavily damaged by the Serb offensives; is that right?

14      A.     There were not even soldiers let alone brigades when we  
15     returned. So we started preparations for recruiting new soldiers and  
16     ensuring that old soldiers returned, those who went to Albania.

17             So organisation of brigades started without having the necessary  
18     number of soldiers, not even for smaller units, not to speak about  
19     brigades.

20      Q.     Yes. And when you say the organisation of that started, can you  
21     assist us with how did you go about that? What steps did you take?

22      A.     I was at that time still responsible for the finance for the  
23     Arti unit of Rahovec and responsible for logistics, having  
24     Xhelal Hajda and Xheladin Abazi [as interpreted], Mici, as  
25     commanders, and I continued to perform that duty after I returned.



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1           In Krushe e Madhe, we -- out of 170 soldiers we were before,  
2       there were only seven or eight of us that returned. The rest  
3       remained in Albania, knowing that they were facing a very high danger  
4       if they returned.

5       Q.    Yes. Yes, understood. Now, going back for a moment to the  
6       time -- this is before you left to go to Albania. At that time,  
7       there was no hierarchical structure in the KLA either, was there?

8       A.    No, there wasn't. Never.

9       Q.    With regard to the different units that you've described at that  
10      time now - I'll come on to the later period, but at that time - were  
11      you able to know always who was within your units or was it quite  
12      random, people would join, people would leave?

13      A.    That happened, of course. But enrollment of the soldiers who  
14      came to the Arti unit was done by Professor Sabahajdin Cena. He kept  
15      regular notes. He described the dates when they came there, when  
16      they were born, very detailed information about the soldiers who  
17      joined. Even though I personally didn't know all the soldiers  
18      because, as I said, I was responsible for finance and logistics. I  
19      had nothing to do with the soldiers, actually.

20      Q.    But to your knowledge, in your unit and other units, did people  
21      sometimes join without you knowing or associate themselves with your  
22      unit without you knowing?

23           MS. IODICE: Asked and answered.

24           MR. DIXON: He has --

25           PRESIDING JUDGE SMITH: Overruled.

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1           Go ahead. [Microphone not activated]. You may answer.

2           THE WITNESS: [Interpretation] It may have been that -- like  
3           that, but I was not informed. I already said that I was chief of  
4           finance and logistics, and that I had nothing to do with soldiers.  
5           This is from what I know in general, but I don't have specific  
6           information about soldiers in other points or even in the Arti unit  
7           where I am one of the co-founders together with my three commanders.

8           MR. DIXON:

9           Q.    So it's right that at that time you didn't know what was  
10           happening outside essentially of your units or what was happening in  
11           other zones?

12          A.    No.

13          Q.    Going then to the period now when you come back from Albania, so  
14           this is September onwards, your role, as you've said, was in the zone  
15           at that stage. That's right, isn't it?

16          A.    No. My role in the zone was after the killing of Commander Toni  
17           and Mici, and we performed that role for a while after the murder of  
18           Toni and Mici in November 1998. It was then that we started the role  
19           to collect the soldiers that were spread out in villages and some who  
20           had not gone to Albania or soldier -- we were waiting for soldiers to  
21           come and join us as Arti unit, not as a brigade, as a battalion, as  
22           we were as the Arti unit until the death of Toni and Mici that was on  
23           6 November.

24          Q.    Yes. So it was at that stage, that's what I was wishing to  
25           clarify, that you were then appointed by Commander Drini to work

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1 within the Pashtrik zone structure; is that correct?

2 A. This happened after the New Year of 1998; that is, in 1999, on  
3 1 January, I went to the Drini command in the Pashtrik zone.

4 Q. Yes. And it was Commander Drini, at the beginning of 1999, is  
5 that your evidence, who appointed you into that position to work on  
6 finances and logistics at the zone level?

7 A. Commander Drini was there, but there I was only responsible for  
8 the finance, not for logistics anymore. I was a member of the  
9 command of Pashtrik zone responsible only for finances.

10 Q. Yes. And that assignment was given to you by Commander Drini.  
11 That is right, is it?

12 A. Yes. Yes.

13 Q. You weren't appointed into that position with the General Staff  
14 of the KLA being involved in any way, were you?

15 A. No, never. They never met me or discussed with me. Nobody.  
16 But Commander Drini himself came, we celebrated New Year together in  
17 Reti where we were stationed with all the soldiers. And after the  
18 New Year, on 1 January 1999, together with Drini, we travelled to the  
19 zone staff, Pashtrik zone.

20 Q. Yes. And then moving on, just so we have the full picture, you  
21 were appointed at the end of June 1999 to be the commander of the  
22 124 Brigade; is that right?

23 A. I have pointed this out, but I am not absolutely certain about  
24 the dates, because at the time when I returned to town, I came back  
25 as a chief of finances for the Pashtrik zone, and I was answerable to

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1 Commander Drini.

2 On 24 March, the first NATO bombing, I left Drini and joined the  
3 soldiers of the brigade that had been set up after 6 November and the  
4 killing of Commander Mici, Brigade 124 Gani Paqarizi. So I came  
5 back, joined that group of soldiers, around 200 of them, and until  
6 the end of the war, when I came to Rahovec in the night between the  
7 12th and 13th June. On 13 June. After two weeks --

8 Q. Okay. No, Witness, I'm going to --

9 A. -- following this, I was appointed commander.

10 Q. Okay. I understand. Sorry to interrupt here. I just wanted to  
11 confirm that you were appointed around that time, and there was no  
12 need to go, if I may say so, into the background. If you could just  
13 focus on --

14 A. More or less.

15 Q. -- the particular --

16 A. More or less.

17 Q. -- questions that I am asking you. Now, you have said - and  
18 this is in preparation note, paragraph 97 - that you were appointed  
19 into this position by Sylejman Selimi. Do you remember saying that?

20 A. Yes, the decision was issued by Sylejman Selimi.

21 Q. And you say this was a decision that was issued in writing?

22 A. Yes.

23 Q. You don't have that document any longer, do you?

24 A. I don't.

25 Q. Did you know at that point that Sylejman Selimi was no longer in

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1 the General Staff of the KLA? He had moved at that point, the end of  
2 June 1999?

3 A. I did not know that. But I received my appointment from  
4 Sylejman Selimi as a commander of Brigade 124 after my arrival in my  
5 town, Rahovec. This document was issued in the name of Commander  
6 Sylejman Selimi. Again, I am not certain about the dates, but I know  
7 this happened sometime after my arrival in Rahovec because, at that  
8 time, the official commander of Brigade 124 was Skender Hoxha.

9 Q. Yes, we know that you replaced him. But what I'm trying to  
10 clarify is, was that replacement not done by your zone commander at  
11 the time, Pashtrik zone commander?

12 A. No. The decision to appoint me commander of Brigade 124 came  
13 from -- I received it from Commander Sylejman Selimi.

14 Q. But did you speak to your zone commander about this appointment  
15 at that time?

16 A. No, I did not. I did not discuss this with the zone commander  
17 at all. This was before meeting with the zone commander. I was  
18 appointed commander of the brigade by Commander Sylejman Selimi  
19 before I met with the zone commander.

20 Q. And who was the zone commander that you then met with,  
21 Mr. Sinani or Commander Drini?

22 A. I don't know when the replacements were made; Tahir Sinani with  
23 Commander Drini, that is. But I met them after my appointment when  
24 we had the weekly meetings with the zone command in Prizren. And I  
25 was informed that Commander Drini had been replaced by Tahir Sinani.

1 I don't know when this happened. I was not -- starting from 24 March  
2 and the beginning of the NATO bombing in Kosovo until the liberation  
3 of Rahovec, I was not present and I did not meet with  
4 Commander Drini.

5 Q. Yes. There has been evidence in this case from Bislim Zyrapi  
6 and others that those at the brigade level were appointed by the  
7 commanders of the zone, not by those higher up. Could it -- let me  
8 just finish the question. Could it be that you are incorrect here?  
9 That, in fact, what happened was that you were appointed by your zone  
10 commander with the confirmation thereafter of Selimi?

11 A. Maybe. If the zone commander submitted their request to  
12 Sylejman Selimi, it could be the case. I don't know about that.  
13 However, I received my appointment from Sylejman Selimi. But I am  
14 not able to know whether he submitted this request to him.

15 Q. So you don't know the process that went into your appointment;  
16 is that right?

17 A. Correct.

18 Q. Now, in this time period, this is -- we are talking about June  
19 now 1999 and beyond that, is it correct that you were not aware at  
20 that time of all the soldiers who were in your brigade? You knew  
21 some of them, but you didn't know many of them?

22 A. When? In November 1999? Is this before or after the death of  
23 Commander Toni?

24 Q. I am talking about June, July 1999 when you took over as  
25 commander. It's right, isn't it, that you didn't know who many of

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1 the soldiers were in your brigade?

2 A. You mean after the war?

3 Q. Yes. Well, I'm talking about the period June, July. If you  
4 could just focus on that, please.

5 A. After I received my functions as brigade commander?

6 Q. Yes.

7 A. I knew very few of the members of the brigade because over a  
8 thousand soldiers came in the area who had fought in the Pashtrik  
9 battles and other battles, and soldiers who had crossed over from  
10 Albania to Kosovo.

11 Q. Yes. So many soldiers came back from Albania, also many armed  
12 people who you didn't know, and they joined your brigade without you  
13 knowing who they were; is that right?

14 A. Correct. I did not know them. They would have a sort of  
15 attestation given to them by their commanders certifying that they  
16 had fought in a specific battle or if they had come from Albania. So  
17 they -- and people who came also from the Rahovec area and the  
18 surrounding villages, they registered as members of my brigade  
19 without me knowing them.

20 Q. And is it also right that many people came and just weren't part  
21 of any brigade? There were armed gangs, there were irregular  
22 fighters that were operating in your area.

23 A. No, because no soldier outside the territory of Rahovec could  
24 register or could be enrolled by Ismet Tara or the commander of  
25 Brigade 124. That person would be directed to the zone, the village,

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1 or the town he belonged to.

2 Q. Yeah, I'm not talking about registration, Mr. Tara. I'm saying  
3 it's correct, isn't it, that there were many irregular fighters that  
4 came back or were operating at that time that you didn't have control  
5 over?

6 MS. IODICE: Objection, asked and answered.

7 PRESIDING JUDGE SMITH: Sustained.

8 MR. DIXON: Your Honour, I didn't ask him about whether he had  
9 command over particular soldiers. He's talked about his soldiers.  
10 I'm asking if there were soldiers he didn't have control over that  
11 were there.

12 PRESIDING JUDGE SMITH: Then rephrase your question.

13 MR. DIXON: Okay. Thank you, Your Honours.

14 Q. Mr. Tara, you've heard the exchange. What I'm wanting to ask  
15 you about is whether there were armed persons that you didn't have  
16 control over who were operating in your area.

17 A. After the return of the Albanian civilians from Albania after  
18 the liberation, all of them were frustrated, in shock. They didn't  
19 know where they were going, they didn't know if the areas where they  
20 were going to were all liberated or not. And most of the family  
21 members came back armed. I know that not only them but many ordinary  
22 people, citizens who came back from, Albania came with their personal  
23 weapons because they were not sure whether Serbian forces were still  
24 in Kosovo. I do not know the details about specific persons, but  
25 there were such people, yes.



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1 Q. Thank you. And it's right that many of those persons were also  
2 very angry about what they saw when they came back, the destruction  
3 by the Serbian forces. Many of them wanted to take revenge. Is that  
4 how you remember it?

5 A. Most probably that when they came to their houses, their homes,  
6 their families, they found out the relatives had been killed,  
7 disappeared, burned. So it is normal that they were frustrated, and  
8 they could have done anything.

9 Q. Yes. And there were, in fact, instances, weren't there, that  
10 you recall of people taking the law into their own hands and taking  
11 revenge for what had happened?

12 A. No, I am not aware of this.

13 Q. Well, we'll go through some incidents in due course which might  
14 jog your memory. But would you agree with this: That at this time  
15 it was a chaotic period, many armed people in the area, and it was  
16 difficult to control the situation? Is that a fair assessment of  
17 that time?

18 A. Let's make this clear, Your Honour. At the time when I came  
19 there as a commander in the town of Rahovec, I was not in charge of  
20 the safety or security or anyone. This responsibility was taken over  
21 by KFOR and UNMIK. I was cooperating with KFOR and UNMIK regarding  
22 any problems that could occur. This was not an obligation I had or  
23 that was given to me by any commander from the upper echelons or  
24 lower levels, because immediately after taking -- assuming my  
25 functions as a brigade commander, I met with representatives of

1 UNMIK, OSCE, and it was made clear to me that I could not perform  
2 those functions.

3 I did not even know where my soldiers were, those soldiers that  
4 were mine. The whole brigade consisted of 200, 250 soldiers. We did  
5 not have barracks to place them in. When I went for the first time  
6 at the former police station, there was only enough room for 50, 60  
7 people to sleep. We could not have soldiers placed in barracks  
8 because we did not have the premises, so they would go to their  
9 homes.

10 But, again, this was not an obligation I had.

11 Q. Mr. Tara, I understand what you're saying, that, you know, you  
12 were trying to do your best with the limited resources that you had.  
13 But it's right, isn't it - and this is something that KFOR and UNMIK  
14 identified as well - that the situation was chaotic and difficult at  
15 the time because there were a lot of armed and angry people in the  
16 area? That's a fair assessment, isn't it?

17 A. Yes, that's correct. But it was neither the duty nor the  
18 possibility for Commander Tara to do anything. It was not allowed by  
19 KFOR or UNMIK for me to interfere. I dealt only with my tasks and  
20 soldiers until we disarmed in September and transformed into KPC.

21 We had no orders, as a matter of fact. We were just told to  
22 stay put. Our weapons were seized by KFOR, and we were left at the  
23 command with three or four handguns for which we needed permission by  
24 KFOR. Until the KLA transformed into the KPC, we stayed there. We  
25 were allowed by KFOR to stay there for a month or a month and a half,

1 and then the order came to disarm, and only four, five, six people at  
2 the command level were authorised to carry these small handguns.

3 Q. Yes, Mr. Tara, again, you had answered my question very shortly  
4 at the beginning and then went into a long explanation. It's not  
5 necessary unless I ask further questions, so let's try and keep it  
6 just to the questions I ask. I emphasise that again, please. Thank  
7 you.

8 Now, can I ask -- you've said here that you were dealing with  
9 KFOR and UNMIK. It's right that at that time, and going into the  
10 following year, 2000 and 2001, that you had many meetings with UNMIK  
11 on exactly these subjects that you've discussed; is that right?

12 A. No, that's not right.

13 Q. Okay.

14 A. That's not correct. Before New Year's 1999 and onwards, I did  
15 not have any other meetings. I can talk about my problems and what I  
16 did, but I did not have any discussions or consultations with them at  
17 all after I was removed from my functions, or I resigned, because I  
18 was not replaced. I resigned after the Russian forces left the  
19 Rahovec area. Following this event, I resigned, and I had no  
20 interest in interacting with the internationals or dealing with KLA  
21 matters.

22 But it is also possible that I received TV crews or journalists  
23 for an interview or something. I was visited by people. That is  
24 possible. But I did not have regular meetings with anyone.

25 Q. Yes. We'll come on to the TV crews and journalists in due

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1 course, but what I'm just trying to clarify is up until what point  
2 were you interacting with UNMIK? What was the date, please?

3 A. Officially, we met with UNMIK and KFOR or the OSCE every day  
4 regularly as long as I was brigade commander. These were daily  
5 meetings or even two or three times a day if I could help them in  
6 solving a specific problem. Once I was no longer commander, that's a  
7 different matter.

8 Q. Okay. So up --

9 A. I didn't have to do this. I didn't have to have meetings with  
10 them. It was my choice to receive a person in a meeting or a  
11 consultation.

12 Q. Yes. I'm just trying to establish the time period. So it was  
13 up until you left being the commander of the 124 Brigade that you  
14 that you had regular meetings with UNMIK and KFOR; is that right?

15 A. Yes. Yes. No, not regular anymore.

16 Q. And then afterwards it wasn't regular?

17 A. No.

18 Q. Mr. Tara, I just need to understand this. So you say you had  
19 constant interaction with UNMIK and KFOR up until the time you left  
20 being commander of the 124 Brigade; is that right?

21 A. That's correct. And it was my duty. I had to. I would  
22 approach them and offer them my help to solve any problem in my town.  
23 And it was also my duty as a commander. But once I left this  
24 position, I had no further obligations. Why would they have asked  
25 for a meeting with Ismet Tara after this?

1           Now, if I wanted to meet with a person whom I had known during  
2   that period of time, I might have done so. But when it comes to  
3   official meetings regarding information or other issues, no, there  
4   were no such meetings after I left my position because I didn't even  
5   have the right or the authority to do so. I was not a commander any  
6   longer. I was not accountable or in charge or responsible for those  
7   matters any longer.

8   Q.   Yes, that's clear now. Thank you. During the time when you  
9   were the commander of the 124 Brigade, it's right, isn't it, that a  
10   lot of people came to you asking about missing persons, trying to  
11   find where their missing relatives were?

12   A.   Not that many. Those who had problems and had some connection  
13   with me, yes, they did, but not many people. I know there are some  
14   matters that are -- for which there is a connection or related to me,  
15   they did approach me. But others, no. Ismet Tara was not there  
16   during the war, he was in Reti, he was in Pashtrik, so he can't  
17   possibly know about events that occurred in Rahovec.

18   Q.   Yes. Well, let's look at some of the persons who did approach  
19   you. I said I would come to some examples. In your preparation note  
20   - that's at page 19, paragraph 106 onwards - you talk about the Dedic  
21   family. Do you recall that?

22   A.   Yes.

23   Q.   After Boban Delic's disappearance, you met his parents four to  
24   five times, you say, both at the police station and on the street  
25   nearby, until the meeting with KFOR; is that right?

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1 A. This is my responsibility, counsel. But I need to start at the  
2 beginning of this --

3 Q. No. I'm just asking --

4 A. -- incident because it is my responsibility.

5 Q. I'm just asking whether you recall this particular incident.

6 A. Yes, of course I do, because the -- I was involved in the  
7 incident. It is my responsibility if I am -- if I'm alleged to have  
8 been involved or committed something in there, because no other  
9 soldier is involved in that. I was involved in that incident. I  
10 have described the incident in my interviews in detail, and I've  
11 given all the information as to how the events unfolded.

12 And I'm telling you the absolute truth, 1.000 per cent truth,  
13 because I know because this -- I was involved in this.

14 PRESIDING JUDGE SMITH: Try to just answer the questions that  
15 Mr. Dixon gives to you, and he'll ask you if he needs more  
16 information.

17 MR. DIXON: Yes, thank you, Your Honour. That may be an  
18 appropriate time to break if that's convenient --

19 THE WITNESS: Okay.

20 MR. DIXON: -- for the Court.

21 PRESIDING JUDGE SMITH: Fine. Thank you.

22 We'll take a half-hour break at this time. Mr. van Straalen, we  
23 break regularly at this time from 11.00 to 11.30.

24 You may both leave the courtroom now.

25 [The witness stands down]

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

2                       --- Recess taken at 11.00 a.m.

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

4           PRESIDING JUDGE SMITH: Please bring the witness in.

5           MR. DIXON: Your Honour, can I just inform Your Honours --

6           PRESIDING JUDGE SMITH: Hold on a sec.

7           MR. DIXON: -- while that is happening.

8           PRESIDING JUDGE SMITH: Okay. Go ahead.

9           MR. DIXON: While that is happening, I just wanted to put the  
10   SPO on notice that we will be requesting the particular document that  
11   the witness referred to in his evidence. He gave quite a detailed  
12   description of what the document was, an internal SPO document that  
13   was recorded at the time of his interview which he saw for the first  
14   time in his preparation session. So we are going to be making a  
15   request for the SPO to provide that document as soon as possible.

16           If it's some kind of internal document that they can't provide,  
17   then we need a reason for that.

18           PRESIDING JUDGE SMITH: Well, the answer may be there is no such  
19   document too, you know.

20           MR. DIXON: The witness gave a fairly detailed explanation of  
21   it.

22           PRESIDING JUDGE SMITH: I understand that. I understand that.  
23   I'm just saying that there are many possible answers to that. But,  
24   yes, go ahead.

25           MR. DIXON: Yes. So that request will be made and we would

1 request a response as soon as possible while cross-examination is  
2 going on.

3 PRESIDING JUDGE SMITH: Is this the request or are you filing a  
4 written request?

5 MR. DIXON: It'll be an e-mail sent to the SPO --

6 PRESIDING JUDGE SMITH: Fine.

7 MR. DIXON: -- and I'm just raising it now so they can start  
8 inquiring immediately and save time that way.

9 PRESIDING JUDGE SMITH: Perhaps they can respond immediately,  
10 right now. I don't know.

11 MR. DIXON: Well, if they have searched.

12 PRESIDING JUDGE SMITH: You don't have to. I'm just giving you  
13 the option.

14 MS. IODICE: I can answer right now, Your Honour. There is no  
15 such document. The document the witness is referring to is the 2001  
16 UNMIK statement. And I can read the ERN again if that's necessary.

17 MR. DIXON: He said that it's not that statement. He's  
18 described a different document.

19 PRESIDING JUDGE SMITH: We're not arguing about what he said.  
20 We're saying the question is whether or not there is such a document.

21 MR. DIXON: Yes. Well, we'll make the request, including  
22 requesting an undertaking in that regard. It might be one of the  
23 summaries that was produced of the evidence. It might be an  
24 assessment. It may be the summary that was going to be read to the  
25 Court --



1           PRESIDING JUDGE SMITH: Well, you go ahead and file what you  
2    want to file.

3 MR. DIXON: Yes, we'll do that now.

4           PRESIDING JUDGE SMITH: I would suggest you do it in a filing,  
5    though, not in an e-mail because it might be something that might  
6    need to be --

7 MR. DIXON: Yes --

8           PRESIDING JUDGE SMITH:  -- filed in that manner.  You can use  
9    your own judgment.  It's your request.  Do it the way you want.

10 MR. DIXON: We'll start with a request. And it would be a  
11 normal request in any proceedings if a witness said that to ask the  
12 Prosecution if there is such a document.

13           PRESIDING JUDGE SMITH: [Microphone not activated]. I'm not  
14       arguing a bit about the request. You can certainly make the request.  
15       I'm just saying that there might be some problems with whatever  
16       answer comes back. You still may not have a document. I don't know  
17       that.

18           So go ahead, bring the witness in.

19 MR. DIXON: Thank you, Your Honours.

20 [The witness takes the stand]

21           PRESIDING JUDGE SMITH: All right. Mr. Tara, can you hear me  
22    okay?

23 THE WITNESS: [Interpretation] Yes, I can.

24           PRESIDING JUDGE SMITH: Mr. Dixon has some more questions for  
25   you.

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Cross-examination by Mr. Dixon

1 Go ahead, Mr. Dixon.

2 MR. DIXON: Thank you, Your Honours.

3 Q. Mr. Tara, we were asking about Mr. Dedic before we took the  
4 break. At paragraph 110 of your preparation note, you said this, and  
5 I'll go through it and then you can tell me if it's correct or not,  
6 that you:

7 "... warned the Dedic family not to leave the Serb  
8 neighbourhood, and later, Dzana and Pedi admitted that their son had  
9 gone into town. [You] explained to KFOR that he was the one who had  
10 released the family," that's you who had released the family,  
11 "accompanied them, and warned them not to leave the Serb  
12 neighbourhood. As Boban had gone into town, it was not possible for  
13 [you] to help, as [you were] unable to check half the population and  
14 all the villages."

15 Do you remember saying that to the SPO and is that accurate?

16 A. Yes, sir.

17 Q. And, Witness, when you said here you were "unable to check half  
18 the population and all the villages," do you mean that it simply was  
19 impossible for you at that time to check up on everything that was  
20 happening in your area? It's not a criticism I'm making in my  
21 question. I'm just asking what factually you were able to do at the  
22 time.

23 A. It was not my obligation or duty, but it was not -- I was not  
24 even able to check on the entire population of my city and villages.  
25 It was not my responsibility to do that, but I was unable to.

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Cross-examination by Mr. Dixon

1 Q. Yes, thank you. Mr. Tara, I now want to ask you about another  
2 person, Mr. Marko Jelic. You were asked about him as well in your  
3 SPO interview. It's right, isn't it, that his mother reported the  
4 alleged arrest of her son Marko to you? She came to you to report  
5 that matter?

6 A. Not that she came to me. It was an official whom I don't know  
7 to this day. He asked me five or six times when I was commander  
8 about this person, that is, Marko.

9 Q. Yes. And you inquired into this matter yourself and you sought  
10 to assist the family; is that right?

11 A. Yes, counsel.

12 Q. Now, what I want to check with you is this matter of Mr. Dedic  
13 and then also the one of Mr. Jelic. Did you ever mention those  
14 incidents later to anyone, in 2000, in 2001? This was after you left  
15 as the brigade commander at the end of 1999. Did you ever mention  
16 these incidents again?

17 A. Never. Never did I mention them.

18 Q. Might it be that you were asked by people about it later on,  
19 journalists potentially, and that you discussed how you'd sought to  
20 help them?

21 A. No.

22 Q. Very well.

23 MR. DIXON: I want to now bring up on screen, and I'll just ask  
24 the assistance of the Court Officer to be able to do that,  
25 SPOE00144632 in English on the right side. And then I want to bring

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Cross-examination by Mr. Dixon

1 up on the left side, which will be in Albanian, 083094 to 083196, and  
2 the starting page is 083110. That last number is the one to be on  
3 the left side in Albanian.

4 Q. And just while it's coming up, Mr. Tara, just so you know, this  
5 is a document purportedly from UNMIK, it's in English, from 2001.  
6 And then there is the Albanian on the left side with a number of  
7 crosses on it you'll see. And I want to ask you some questions about  
8 those two documents alongside each other, please.

9 A. Can you scroll it down, please?

10 Q. Yes. We'll be able to, Mr. Tara, move these documents however  
11 you want, so don't be perturbed by that. Just listen to my questions  
12 and we'll go through it step by step.

13 First of all, the document on the left. This was shown to you  
14 in your SPO interview in 2019, and it's right, isn't it, that you put  
15 these crosses on it to show those parts of the statement that is  
16 here, the document that is here, that you don't agree with? We can  
17 go through all of the pages. It's a few pages altogether.

18 A. [In English] Okay. [Interpretation] This document does not  
19 belong to me. I never met Anna Vannozzi. Never.

20 Q. Yes, Mr. Tara. I understand your evidence on this. I'm  
21 entitled to ask you some questions about it, so I'm going to just go  
22 through some questions on it. So if you can just listen to what I  
23 want to ask you. The first question I just want to clarify is that  
24 this document on the left is one that was shown to you and the  
25 crosses are yours. You put those crosses on there to show that those

1 parts of the document were not yours, they were not correct; is that  
2 right?

3 A. It's not at all right. I'm telling you that this document was  
4 drafted by somebody I don't know, who never met me. Never.  
5 Otherwise it would contain my signature. I don't issue any document  
6 that is not signed by me. And at this time, I was not Ismet Tara to  
7 whom she would turn to. It's a fabrication just like the document  
8 that the Prosecutor has lost. It's a similar document.

9 I was informed of this document in 2019. And when they put  
10 me -- you know, asked me about Anna Vannozzi, I said I never met her.  
11 And there is nothing to discuss here because it's a document drafted  
12 according to the desire of Anna Vannozzi. I have contested this  
13 document. This document is not valid. It represents nothing for me.  
14 I don't know who has fabricated it.

15 Q. Mr. Tara, I've said a few times in your evidence today can you  
16 just answer the question that I'm putting to you. We all understand  
17 very clearly what your evidence is on this document. What I just  
18 want you to clarify is that the document that we see on the left, it  
19 was shown to you by the SPO --

20 A. Yes.

21 Q. -- and you put these crosses on it. Not that it becomes your  
22 document, but you put the crosses on. That's right, isn't it?

23 A. They tried many times for me to admit that it was a document  
24 that I was involved in. They said, "Is it possible what it says  
25 here? Is it possible that it's like this?" And I said, "No," and I

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1     crossed out all these parts, because I'm not related to it. I know  
2     nothing about it. It's a document -- it's the same document as the  
3     one that the Prosecutor lost.

4             So I didn't give any evidence then related to Anna Vannozzi.  
5     What else can I say? I have contested it.

6             PRESIDING JUDGE SMITH: I believe, Mr. Dixon, that he did answer  
7     your question.

8             MR. DIXON: Yes. In amongst it all, the answer was there.

9     Q.     Thank you, Mr. Tara. I just wanted you to confirm you'd put the  
10    crosses on it, because that was shown to you. Now, can I ask you  
11    some questions about the document.

12    A.     Yes. Yes. You can ask me any question.

13    Q.     Now, this is a document that claims there was a meeting with you  
14    in a restaurant.

15             MR. DIXON: And, Your Honours, the further redacted version of  
16    this may need to be supplemented if this is admitted.

17    Q.     Which took place on the road to Bellacerke, approximately  
18    1 kilometre before your workshop. So this is what it says, that  
19    there was a meeting at this restaurant. Do you know the restaurant,  
20    Mr. Tara?

21    A.     I don't know where such a restaurant is and what -- I don't know  
22    what restaurant they are speaking about here.

23    Q.     Now, it claims that it took place on 24 January 2001. This is  
24    when you were no longer a brigade commander. And it says that there  
25    were three people there: Ms. Vannozzi, that you've mentioned;

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1 Investigator Grubisic; and a language assistant, Peci. Now, does  
2 that jog your memory at all that you may have met these people then,  
3 in January 2001, at this restaurant on the road to Bellacerke?

4 A. No. No, no.

5 Q. You said earlier on in your testimony yesterday that this was a  
6 statement that could have come from journalist. Do you remember  
7 saying that?

8 A. Yes, I said that. And to this day, I think that it must have  
9 been some journalist who went to Serbian neighbourhoods and inquired  
10 there, asked them, and they have said to her what she says here. But  
11 she never had any meeting with me. Not she, not anyone else. If  
12 those who have prepared the document know, let them bring before me  
13 that person, and let her testify to the fact that I was there with  
14 them.

15 Q. Yes, that's a separate matter. We haven't heard from her. But  
16 what I'm exploring to you, and this is important that you apply your  
17 mind to this, you are under oath, is it possible that you met with  
18 journalists around this time, without knowing that it was UNMIK, but  
19 you thought that you were speaking to journalists?

20 MS. IODICE: Objection, speculation.

21 PRESIDING JUDGE SMITH: Sustained.

22 MR. DIXON: Well, Your Honour, I'm asking him if he met with  
23 journalists --

24 PRESIDING JUDGE SMITH: That's a possible. Anything is  
25 possible. Ask him -- focus your question.

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1 MR. DIXON: Well, I'm putting to him that --

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. DIXON: I'm putting to him that he met with journalists at  
4 this time, that that's a possibility, and whether he can remember  
5 that.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. DIXON:

8 Q. Mr. Tara, you've heard the exchange. Just wait for my question.  
9 What I'm putting to you is that you speak to journalists, you met  
10 with journalists at the time --

11 PRESIDING JUDGE SMITH: No, that's not a question. Ask him if  
12 he met with journalists first. You have to establish that he  
13 actually did before you can ask the next question.

14 MR. DIXON: Well, I wasn't allowed to ask the question.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Did you meet with any journalists at that time?

17 THE WITNESS: [Interpretation] No, Your Honour.

18 MR. DIXON: Right.

19 Q. If I may continue to then explore what is recorded here. You  
20 understand, I'm looking at what is recorded here. Because there is a  
21 record, Mr. Tara, whether you like it or not, there is a record of  
22 this meeting, and I am looking at what is recorded in it.

23 A. It's not a problem for me.

24 Q. It says here - and we can look at it in both the English and the  
25 Albanian - that you were "the 124 UCK Brigade commander from the end



1 of May 1998 until the end of the war, June 1999."

2 Now, that is wrong, isn't it? I mean, you were only appointed  
3 as the brigade commander in June 1999. You didn't leave at that  
4 point.

5 A. I'm telling you that she has no information what she claims  
6 here. No, I didn't meet anyone there. For the first time, I was a  
7 commander, brigade commander, after the liberation of Kosovo.

8 Q. Yes. Mr. Tara, I have to emphasise again, I'm not going back to  
9 whether or not a meeting took place. You've answered that. What I'm  
10 asking you is to focus on what is said in this document and say  
11 whether it is right or not based on your knowledge. We're going to  
12 go through a number of those points to clarify whether it is correct  
13 or not based on what you knew at the time.

14 Now, it's wrong, isn't it, just answer this question, that you  
15 were the brigade commander from May 1998 until June 1999? That's  
16 blatantly wrong, isn't it?

17 A. Not wrong, but it's a lie. It's another thing to be wrong, but  
18 it's another thing to be a lie. That's a lie. I wasn't.

19 Q. Yes. I mean, I would ask you not to make comments on my  
20 questions. Just to answer what I've asked. Secondly, it is said  
21 here that you were in charge of 280 soldiers, and that was until the  
22 first offensive in July 1998. That's wrong as well, isn't it? You  
23 were not in charge of 280 soldiers.

24 A. It's wrong. It's a lie.

25 Q. And it then says that you had total control of your men. That's

1 not right either, is it? You weren't able to always control everyone  
2 in your units, were you?

3 A. Never.

4 Q. Now, it continues to go through various allegations, including  
5 that an agreement was signed with Serbs under the OSCE supervision.

6 "He said that according to this agreement, UCK had also some  
7 areas where they could move freely. Later the situation went out of  
8 control. He said that Walter Fleisher (OSCE) was informed about the  
9 agreement."

10 Is that right?

11 A. Not exactly right. Fleisher organised that meeting. He  
12 organised that meeting. Walter Fleisher organised the meeting.

13 Q. Yes. So some of this is correct; is that your evidence?

14 A. Yes, that he organised the meeting and the meeting was held in  
15 the OSCE offices. There is evidence for that.

16 Q. Yes. Now, over the page, I just have to see where it is in  
17 relation to the Albanian. It says here that you were asked to  
18 remember some names of incidents of persons who were killed. And it  
19 goes on to say that you could only remember *[REDACTED] Pursuant to In  
Court Redaction Order F2963RED.*

20 *[REDACTED] Pursuant to In Court Redaction Order F2963RED.*

21 MR. DIXON: It should be the next page on the left, I'm  
22 informed, so that you can follow.

23 THE WITNESS: [Interpretation] I don't see the names here.

24 MR. DIXON:

25 Q. The second paragraph from the top. Did you know about these

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1 persons who went missing?

2 A. No, never.

3 Q. It does mention then further down about the case that we were  
4 looking at earlier, that of Mr. Dedic. Do you see that? It's at the  
5 end of the page in Albanian:

6 "Tara also remembered the day that he helped the Dedic family."

7 Do you see that?

8 A. Yes, yes. Yes, I see that. Do I have to read it?

9 Q. No, no, you don't have to read it out loud --

10 A. [In English] Okay.

11 Q. -- but just read it there in the document. Is that a correct  
12 description of what happened in respect of Mr. Dedic?

13 A. [Interpretation] It's not accurate, because she says here  
14 "Boban's wife." She has not clearly described it.

15 Q. Yes. But some of it is right, isn't it, that you remember the  
16 day that you helped the Dedic family; is that correct?

17 A. Yes, the event is correct, it happened, but not the way she has  
18 described it, because she was not well informed.

19 Q. And then moving back up, now that I've dealt with the particular  
20 cases, it's said here that:

21 "Tara said that after NATO entered, in Orahovac there was a  
22 terrible chaos. Those who fled returned home and a lot of crimes  
23 have been committed for revenge. It was almost impossible to have  
24 the situation under control especially for KFOR, which didn't have  
25 enough knowledge about the place."

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1 Is that correct?

2 A. It's not correct. I didn't say that.

3 Q. I'm not asking if you said it, Mr. Tara. I've explained this a  
4 few times. I'm not asking if you said it. But is what's recorded  
5 there an accurate assessment?

6 A. No, because such crimes as are described here did not happen.

7 Q. I'm once again not asking about the crimes. I'm asking is it  
8 correct that when people returned home, a lot of crimes have been  
9 committed for revenge? I'm not asking about the specific crimes but  
10 whether there were crimes committed for revenge. Is that right?

11 A. No.

12 Q. You said early on that there was chaos in your area at this  
13 time. Is it right that there was "terrible chaos" as is described  
14 here in this document?

15 A. Chaos means something else. The return of citizens is something  
16 else. The return of citizens to their homes, the return of villagers  
17 to Rahovec is something else. There was no chaos. Chaos is a  
18 situation when everybody may kill everybody else or do something  
19 wrong. No, we are not talking about chaos here. It's the return of  
20 my population to my town and the return of many villagers to my town  
21 because they could not return to their homes which were destroyed, so  
22 they had to come to Rahovec and live there. If you call that chaos,  
23 I don't know how to describe chaos.

24 A chaos is a situation when extraordinary things happen, when  
25 dangerous things happen, but not the return of population as the case

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1 was then. Some went to the houses of the Serbs and lived there,  
2 when -- houses that were vacated by the departing Serbs. I don't  
3 consider that chaos.

4 Q. Yes. Now, you agreed with me earlier, Mr. Tara, that when  
5 people returned, they were frustrated and anything could have  
6 happened. That's right, isn't it?

7 A. It could have happened, but there was no chaos. There was no  
8 chaos. KFOR was there. UNMIK was there. Ismet Tara was there.  
9 That would have been noticed. It would have alarmed everybody.  
10 Reinforcements would have been sought to solve the problem. But it  
11 did not happen; that is, the description in that document, her  
12 description or whoever prepared that. So I am not able to give you  
13 accurate answers on that.

14 You're asking me "is it possible that." Now, I cannot  
15 anticipate or say whether that was possible or not. I am saying that  
16 there was no chaos. KFOR, UNMIK were in charge. And had there be  
17 chaos, they would have probably involved us and called on our support  
18 as well.

19 However, it is true that there was a large crowd of people, more  
20 than the town was able to welcome. Chaos is something out of the  
21 ordinary. We are talking about people who returned, went into houses  
22 of relatives, their houses if they were not damaged, houses and  
23 properties belonging to Serbs, and so on, but that's not chaos.

24 Q. I don't want to argue with you over the meaning of chaos. What  
25 I am suggesting to you is that, at that time, with so many people

1     returning who were frustrated, there was the real danger that there  
2     would be revenge attacks. That's right, isn't it?

3     A.    Was there a danger? Yes, there was one. Now, had it  
4     materialised, we would have been informed by KFOR, by UNMIK, OSCE.

5     Q.    Yes. And KFOR and UNMIK were there - we've heard from persons  
6     giving evidence about this - to look to prevent revenge attacks.  
7     That's why they were there; isn't that right?

8     A.    They were there to prevent that, but there were no such cases  
9     taking place. I myself indicated to KFOR authorities where to  
10    position their checkpoints in various neighbourhoods, locations where  
11    I thought was reasonable to have a checkpoint, which is points  
12    dividing, let's say, a Serbian neighbourhood from an Albanian  
13    neighbourhood. We had hundreds of meetings with them. Every problem  
14    was discussed.

15    Q.    Yeah, I'll --

16    A.    Now, was there a possibility for this? Yes, there was a  
17    possibility.

18    Q.    Well, it was more than a possibility. I mean, we've discussed  
19    the cases of Mr. Dedic and Mr. Jelic where there were problems that  
20    had arisen. Now, you say you sought to assist. I appreciate that.  
21    But there were problems. You can't make out that this was a calm  
22    environment, surely?

23           MS. IODICE: Objection, asked and answered.

24           PRESIDING JUDGE SMITH: He's asked and answered. You're arguing  
25    with him now.

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Cross-examination by Mr. Dixon

1 MR. DIXON: Well, he's saying that there were no problems. I'm  
2 saying that there were problems. There were some problems that had  
3 to be addressed?

4 Q. That's right, isn't it?

5 PRESIDING JUDGE SMITH: He said that there was no chaos.

6 THE WITNESS: [Interpretation] I wish to answer that question,  
7 with your permission.

8 PRESIDING JUDGE SMITH: Yes, go ahead and answer, but shortly.

9 THE WITNESS: [Interpretation] Including the excesses you're  
10 referring to, KFOR and UNMIK and OSCE were informed. This was  
11 reported to them. There were problems in relation to which people  
12 approached me, but they were informed. And had a problem occurred  
13 somewhere else, KFOR, UNMIK, OSCE would have come to me and discussed  
14 this with me, but they didn't. Meaning, had this occurred, they  
15 would have certainly discussed this with me. I would have been  
16 informed about that. But they never did. Because we communicated.  
17 They communicated with me even for minor issues, much smaller  
18 problems. And I, on my side, informed KFOR, UNMIK, OSCE about other  
19 things.

20 So had such problems occurred, I would have informed them, or  
21 they would have, meaning KFOR, OSCE would have approached me and  
22 asked: Do you had any information on this, about this and that?  
23 Now, you can ask questions as much as you want, but I think this  
24 is -- I don't understand the purpose of all these questions, and I'll  
25 answer all of them, but I don't see the purpose of this, and I think

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1 it's a waste of time.

2 Important events were discussed between ourselves - me, KFOR,  
3 UNMIK, OSCE. Now, with respect to a document containing things  
4 thrown in there, I don't know.

5 MR. DIXON:

6 Q. Yes. Mr. Tara, what I am exploring with you is that in this  
7 document there are things that are recorded which you don't disagree  
8 with. They are correct as they happened. Not that you were  
9 interviewed but the document includes some correct allegations,  
10 doesn't it?

11 A. No. The correct allegations are only those which you mentioned  
12 by name, not those that were possible. Again, had these things  
13 happened, I would have been informed by KFOR, by UNMIK, and by the  
14 OSCE. They would have asked for my support, my assistance, to be  
15 involved in solving that problem, but I'm not aware that such things  
16 happened. But, again, I don't know that -- I am not able to say that  
17 it did not happen. What I'm saying is I was not informed by KFOR,  
18 UNMIK or the OSCE, knowing that I was cooperating with them.

19 Q. Yes, you've explained that. What I wanted to explore, and I'll  
20 give another example, is that this document says -- and once again,  
21 I'm not saying that you were there at an interview, but I'm just  
22 saying this document says that you believe that persons who are  
23 responsible for crimes against the civilian population should be  
24 punished. And that's right, you do believe that, don't you?

25 A. I did not say that, and I don't want to -- wish to answer that.



1 Now, do I believe or don't, I am not able to ascertain that. I am  
2 not able to say anything for certain. Am I clear enough? Because  
3 these are not my words. This is a document of an unknown person who  
4 doesn't -- who is an enemy of my people, who is a collaborator of  
5 Serbia. I've never discussed this document.

6 Now you're asking was it possible, could it have been the case,  
7 and you want me to guess whether that was a possibility. I can't do  
8 that. I can give you an approximate answer to -- as to what I think,  
9 but I would have been informed in concert with KFOR, UNMIK, and OSCE  
10 if such a thing happened. Now you're again asking could it have  
11 happened or was it possible.

12 Q. No. No, Mr. Tara, I'm not.

13 A. I'm giving my answers.

14 Q. Mr. Tara, listen to my question. It is your view, is it not,  
15 that those responsible for crimes against the civilian population  
16 should be punished? That's your view, isn't it?

17 A. Certainly, yes. Every crime must be punished.

18 Q. Yes.

19 A. I would have spoken about this very easily. I am talking about  
20 the incident I was involved in very openly, but I do not wish to  
21 speak hypothetically. Whether something happened or did not happen,  
22 I don't know what you're trying to get at. These are not my notes.  
23 I am willing to answer, and I will answer, but my answers are only my  
24 opinions, my free opinions, what I think. Because you're asking me  
25 is it possible that this and that happened.

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1 Q. Mr. --

2 A. I can say you again that had it happened, I would have been  
3 informed in the framework of the cooperation I had with the mentioned  
4 institutions.

5 Q. Yes. Mr. Tara, you answered my question, which was a simple  
6 one, yes, you do believe there should be accountability.

7 Now, could I ask just to answer a few other questions like that,  
8 just what your evidence is. Nothing further. I am not trying to  
9 suggest anything. I will tell you if I am trying to suggest  
10 anything. I just want you to answer my questions, please.

11 A. I will give my opinion, but they cannot be relied on as accurate  
12 information if you're talking about specific cases, which I have no  
13 knowledge about.

14 Q. Okay. Do you have any knowledge about the disappearance of five  
15 Serbs in the Rahovec area around this time, June, July 1999? Just  
16 yes or no. Do you have knowledge of a disappearance of five Serbs?

17 A. No. No.

18 Q. And in respect of persons coming to you to talk to you about  
19 their missing relatives, how often would you say that happened? How  
20 many times do you recall it happening?

21 A. I told you, and I'm repeating it, with the exception of the  
22 family Dedic which contacted me on five, six times, and the UNMIK  
23 one, whom at the end brought his mother Ajshe at the command where we  
24 discussed this in detail, no one else came to me.

25 Counsel, maybe the majority of them did not want to come to the

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1 KLA. Perhaps they went and gave information or statements to UNMIK,  
2 KFOR, to the OSCE --

3 Q. I was just asking how many came to you.

4 A. -- because it was not that easy for them to come to us. I dealt  
5 only with the cases I mentioned and which I was involved, no other  
6 cases.

7 Q. And this name that's mentioned in the document, Tasim Halimi, do  
8 you see that there at the top, is he somebody who you knew? This is  
9 on page 1.

10 A. No. I don't need to read. The name makes it clear that I've  
11 never met that person.

12 Q. Yes, okay. And then just going further down from the top of the  
13 page, you've said here, and I think this is on page 1 of the  
14 Albanian:

15 "After the Serbs regained" --

16 Sorry, not you've said here. It is said here, I want that to be  
17 clear so that you don't --

18 A. Then don't ask me, counsel. We are wasting time.

19 Q. Mr. Tara -- Mr. Tara --

20 A. Without --

21 Q. -- I need to --

22 A. And we're getting nowhere.

23 Q. I need to ask you a few more questions.

24 A. I'm listening.

25 Q. And I need you to answer them. You understand? It says here --

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1 it says here --

2 A. Yes, if I know.

3 Q. And I just want you to read this. I'll go through it:

4 "After the Serbs regained some strategic positions" --

5 A. I can't -- I can't --

6 PRESIDING JUDGE SMITH: I've turned your microphone off because  
7 you're interrupting the -- I turned your microphone off because  
8 you're interrupting the lawyer. He has to ask you a question, then  
9 you respond.

10 MR. DIXON: Right.

11 Q. It says, and this is at the end of the page on the left:

12 "After the Serbs" --

13 A. The one I've put crosses on?

14 PRESIDING JUDGE SMITH: Witness, you're interrupting him again.  
15 Please wait until the question is finished.

16 MR. DIXON:

17 Q. [Microphone not activated]. Sorry.

18 "After the Serbs regained some strategic positions, UCK had to  
19 recruit civilians who already fled away. In every village there were  
20 regular UCK positions but a lot of civilians, without training,  
21 started to wear the UCK uniform and joined the local units. With a  
22 great number of irregular soldiers it was impossible to control the  
23 situation. UCK was not so well organised as everybody think. There  
24 wasn't a real hierarchy like a regular army."

25 Do you see that there?

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1 A. Yes.

2 Q. Just to be absolutely clear, I'm not saying that you said this,  
3 but is it what's written there an accurate description of the  
4 situation on the ground after the Serbs regained some strategic  
5 positions?

6 A. It doesn't specify where, which positions, which time period.  
7 It's just a description. You're asking me a question and saying,  
8 "Let's ask Ismet Tara about this." Please specify the question:  
9 Which time, which location. It doesn't specify anything here. It  
10 just says: "After the KLA lost its positions," which, in fact, is  
11 true throughout the time period of the war, because we always lost  
12 our positions. We were never able to hold on to our positions. So  
13 which time and location are you referring to?

14 Q. So I'm asking, as you've said here, throughout the wartime, is  
15 --

16 A. No, I'm not responsible for this. I was not in charge of that.  
17 I told you I was in charge of finances, logistics. Only during the  
18 last months, I was a commander for five or six months. Now you  
19 expect me from Rahovec to have knowledge about all points in general?

20 Q. No.

21 A. Don't ask me. You had the chief of staff here, Bislim Zyrapi.  
22 You can ask him this question.

23 PRESIDING JUDGE SMITH: Witness, it's not up to you what  
24 questions you're asked. The lawyer has the right to ask you  
25 questions. Your job is to answer questions, not correct him on

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1       whether or not he should ask it.

2               MR. DIXON:

3       Q.     Let's break it down into time periods. I'm just asking you, if  
4       you could just listen carefully to my question, whether after the  
5       Serb offensive - so this is in the summer of 1998, first of all -  
6       it's a correct assessment what's written here, that there were a  
7       great number of irregular soldiers, it was impossible to control the  
8       situation, it wasn't as organised as everyone thought, it wasn't a  
9       hierarchy.

10            You've given evidence before about this. I'm just wanting to  
11       confirm that that is an accurate assessment of the situation, is it  
12       not?

13       A.     There were never regular soldiers in the KLA in the sense of  
14       responsibilities. We never had properly trained soldiers in  
15       barracks, and so on and so forth. The KLA from the beginning to the  
16       end was made of volunteers. It was not possible and we were not in a  
17       position to force anyone to join the KLA.

18            The Serbs had deployed 55.000 troops, 25.000 of those were  
19       stationed in barracks. And in addition to that, they sent in  
20       reinforcements which exceeded 55.000 in total. So even the chief of  
21       staff wouldn't have been able to describe it exactly. But there were  
22       no rules, no military rules, and no soldier had responsibility for  
23       another soldier or a commander for soldiers. The soldiers had the  
24       possibility to leave, to desert, to just disappear, leave and never  
25       come back, go to the Western countries, leave the country, go back to

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1     their homes, and they wouldn't give any explanation or -- to any of  
2     the commanders or anybody.

3             Now I don't understand what's the purpose of your question.

4     Q.     Well, the purpose was to get your answer to my question, which  
5     you've given. So thank you for that. What I wanted to ask you is  
6     when you said here that "there were never regular soldiers in the KLA  
7     in the sense of responsibilities," what did you mean by that, please?

8     A.     I did not say this in this document. This document reads so.

9     Q.     No, I'm so sorry, Mr. Tara. I --

10    A.     It was not me.

11    Q.     Just so I cut through. You've just said in your evidence now --  
12    so forget the document. You've just said in your evidence now, there  
13    were never --

14    A.     I'm looking at the document.

15    Q.     Okay. But just listen to my question, please.

16    A.     But it is correct what I explained in more detail in the last  
17    part of my answer.

18    Q.     Yes. And I'm just asking you a follow-up question about that  
19    answer. You said:

20             "There were never regular soldiers in the KLA in the sense of  
21    responsibilities."

22             That's what you said now. Forget the document. What did you  
23    mean by "in the sense of responsibilities"?

24    A.     Please remove this document from the screen. Yes, I said that,  
25    but can you just remove this document?

1 Q. I need to ask you some more questions about it. It can be  
2 switched off for you. But can you just answer the question I've just  
3 put to you? What did you mean when you gave that evidence now?

4 A. I was about to explain this. For example, the Arti staff in  
5 Rahovec. I am not aware of any order received by the Rahovec Arti  
6 staff from anyone, any other staff, which would have said to act in a  
7 way or in another way, or not to act, or do this in this way or  
8 another way. I have never been shown by any of my commanders any  
9 order received from anyone.

10 We all did our best in the interest of our people. I am not  
11 aware of any other staff being responsible for what happened in  
12 Rahovec or in Krushe or in Drenoc. This -- at that time, during the  
13 time I was there until I returned after New Year's when we started  
14 organising brigades, up until that moment nobody was accountable or  
15 reported to anyone, and they had no power or authority over other  
16 people.

17 In the KLA, everyone was responsible for their own actions,  
18 unless they were in a position to produce an order given by somebody  
19 else. So there is either an order or something specific happened to  
20 the person. In other words, there was no responsibility in the KLA  
21 in the relation between a commander and a soldier or a soldier to a  
22 commander.

23 Q. Yes, I understand that. Thank you for your evidence. What I  
24 wanted to ask you about was a further part of this document which  
25 relates to collaborators, but you don't have to look at the document.



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1           Was there any policy in your units that you worked for how for  
2   to deal with collaborators, specifically that they should be arrested  
3   and killed? Is that a correct assessment or not?

4   A.   No. No, there was never any such thing.

5   Q.   And was the position that if persons were suspected that they  
6   should be detained and questioned? Was that how you understood it?

7   A.   How I understood it? Are you referring to my staff?

8   Q.   Yes.

9   A.   Or in general?

10   Q.   I'm only referring to you and your units, as I said.

11   A.   Even if we wanted to take somebody in, we didn't dare do that  
12   because we didn't have sufficient numbers of soldiers to go in town  
13   and take somebody. The Serb forces present in town were much larger  
14   than our forces, so even if we wanted to do that, we were not able to  
15   do that. We were not trained to do that. We wouldn't have known  
16   what to do with them. But besides, we did not want to do that.

17   Q.   And it's right, is it not, that you were never given any orders  
18   from above, from the zone or from the General Staff, about arresting  
19   collaborators and killing them? That's right, isn't it?

20   A.   Correct. Never. Never.

21   Q.   So it's right, isn't it, that you would have never --

22   A.   Not only true but 100 per cent true.

23   Q.   So it's correct, isn't it, that you would have never told UNMIK,  
24   you, yourself, would have never told them in very specific terms that  
25   the KLA kidnapped collaborators, undressed them, and killed them on

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1 the spot, sometimes burning their bodies or leaving them to the  
2 animals? You would have never said that, would have you?

3 A. Never. Never. I was not even asked this question, let alone  
4 saying this.

5 Q. And you wouldn't have said that the KLA killed all prisoners  
6 that they took in, would you?

7 A. No, because I don't know. I don't know that they killed all of  
8 them or they killed one of them. I don't know.

9 Q. Well, in this document to UNMIK it's claimed that you said the  
10 KLA killed all - all - prisoners. That's not right, is it?

11 A. I'm telling you this is not my document. You're exhausting me  
12 with this. Never. Then bring the UNMIK officials who will testify  
13 that I gave this statement. Or you're doing the same thing that my  
14 former interviewers did with me, claiming that I said certain things.  
15 I never met with them to give such a statement. If I gave a  
16 statement, I gave a statement. If I gave a statement, I gave a  
17 statement to Walter Fleisher and Ton van Loon during the time I was a  
18 commander. That's all.

19 Q. Yes. What is I am clarifying with you is what is right and what  
20 is wrong in the statement. It says here you --

21 A. [Overlapping speakers] ...

22 Q. Just wait, Mr. Tara. It says:

23 "UCK killed all the prisoners for the same reason he already  
24 explained."

25 Now, that's not true, is it?

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1 A. Do you understand that this is not true? Ismet Tara is not able  
2 to know what is true or not in here. What he said, I cannot -- Ismet  
3 Tara has no knowledge about this. Ismet Tara has absolutely no  
4 evidence that somebody was killed or went through this or that.  
5 Ismet Tara never happened to know this or give a false -- give false  
6 evidence about this.

7 Please remove this document. I can't stand seeing anymore. You  
8 can go on asking questions. But you keep referring to this document.  
9 I'm saying I did not meet with them, I did not give this statement,  
10 and you keep asking is it possible that it is as is described here.  
11 I apologise, but you should ask them this question.

12 Q. Yes.

13 PRESIDING JUDGE SMITH: Just answer the questions that are asked  
14 of you and we'll get through this. But giving a long speech instead  
15 of answering the question just prolongs this. So answer the question  
16 as it's asked.

17 Go ahead, Mr. Dixon.

18 MR. DIXON:

19 Q. It's just a simple question.

20 MR. DIXON: Thank you, Your Honours.

21 Q. It states here:

22 "UCK killed all the prisoners ..."

23 You didn't say that, did you?

24 A. Never ever.

25 Q. You've asked for this document to be taken off. I want to ask

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1     you a final few questions about it and then we will finish, so if you  
2     could please bear with me.

3     A.    You can ask the questions.

4     Q.    Thank you, Mr. Tara.  These statements that are made here about  
5     kidnapped civilians being undressed and left on the spot and  
6     executed, burnt, and all of that, when you read this, it's correct,  
7     isn't it, that you saw these as highly exaggerated claims?

8     A.    Not highly exaggerated but completely untrue, lies.  That's how  
9     I saw them.

10    Q.    And massive generalisations, isn't that right, referring to "all  
11    prisoners"?  That's correct, isn't it?  They're massive  
12    generalisations?

13    A.    Can you repeat the question or ask me another question because I  
14    don't understand what you are putting to me.  Ask me a more simple  
15    question so that I can give an accurate answer.

16    Q.    Yes.  It may be my fault.  I apologise, Mr. Tara.  I am saying  
17    that these are massive generalisations to claim that all prisoners  
18    were killed.  That's correct, isn't it?

19    A.    It is beyond horrible.  You are asking me to pronounce myself  
20    about things I have no idea about.  It is really unjust.

21    Q.    Yes.  Thank you.

22           MR. DIXON:  Your Honours, that can now be taken down.  I would  
23    ask, though, that the document on the left, the Albanian one with the  
24    crosses on, which the witness has identified, is also admitted into  
25    evidence if the UNMIK document is admitted, I don't know if it

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1       therefore needs to be marked MFI, so we have what the witness also  
2       marked on the document in evidence, if it does go in.

3               PRESIDING JUDGE SMITH: First of all, is there an ERN number for  
4       that?

5               MR. DIXON: Yes, it's the one that I called up at the beginning.  
6       I'll just have to get it again. It's E --

7               PRESIDING JUDGE SMITH: [Microphone not activated].

8               MR. DIXON: Yes. It's ERN 083094 to 083196. Oh, and the  
9       specific pages, just so we have those, are 083110 to 083114.

10              PRESIDING JUDGE SMITH: Any objection to that inclusion?

11              MS. IODICE: No, Your Honour.

12              PRESIDING JUDGE SMITH: That document will be admitted.

13              MR. DIXON: Well, if it could be marked for identification. Is  
14       it not subject to Your Honours' ruling in relation to the UNMIK  
15       document? Because if that is admitted, then we want this one. If  
16       not, then, of course, we don't want it admitted. So that's why I was  
17       asking it only to be marked for identification at this point.

18              PRESIDING JUDGE SMITH: [Microphone not activated].

19              We'll mark it for identification. I've already admitted the  
20       other documents.

21              MR. DIXON: And were those given exhibit numbers? I thought  
22       they were still to be considered.

23              PRESIDING JUDGE SMITH: Yes, he's putting a number on them, so  
24       you will have them, but that was the first thing we did.

25              MR. DIXON: Yes.

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1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           MR. DIXON: I did think there was going to be a period of  
3 consideration and consultation. But if that's final, I just didn't  
4 have the numbers, then I certainly do want this in.

5           PRESIDING JUDGE SMITH: All I said was it's admitted and we will  
6 later file a reasoned explanation.

7           MR. DIXON: Yes.

8           PRESIDING JUDGE SMITH: All right?

9           MR. DIXON: Your Honour, then I certainly do want this document  
10 admitted --

11          PRESIDING JUDGE SMITH: Yes.

12          MR. DIXON: -- as part of the package.

13          PRESIDING JUDGE SMITH: So do we. It's admitted.

14          THE COURT OFFICER: Thank you, Your Honours. In that case, the  
15 ERN 083110 to 083114 will be admitted as 2D0045. Classified as  
16 confidential. Thank you, Your Honours.

17          MR. DIXON: Thank you, Your Honour. I was just checking the  
18 numbers. We do have the correct ones.

19 Q. Mr. Tara, you'll be pleased to know that that document is now  
20 off the screen. I only have a few more questions for you. And the  
21 first of --

22 A. It's not something that makes me happy or not, but I'm looking  
23 at a document I know nothing about.

24 Q. Yes, Mr. Tara, we have your evidence on that. I would just ask  
25 you to focus on my questions so we can get this finished in the time

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1       that I have. I have limited time.

2             It's paragraph 119, Mr. Tara, of your preparation note, where  
3       you say that:

4             "The document" - this is the one we've been looking at -  
5       "'describes me as a traitor of my nation, a traitor of the martyrs  
6       and heroes of the KLA,' as well as a 'traitor of the murdered  
7       civilians and their families'. [You plead] that there be no leak of  
8       this document."

9             Do you remember saying that to the SPO? If you can just confirm  
10       that you recall saying that to them.

11       A.    You mean the Prosecutor that is here present --

12       Q.    Yes.

13       A.    -- in the courtroom? Yes.

14       Q.    Now, what I wanted to clarify in respect of this, is it right  
15       that you were saying that you did not want this made public because  
16       it is a document that, as you've said now, is a massive lie?

17       A.    You mean the document we discussed --

18       Q.    Yes.

19       A.    -- so far or the one I'm asking for? The one I'm asking for?

20       Q.    No. The document that we've been discussing that's been on your  
21       screen, that is now no longer on your screen. Just that document,  
22       please.

23       A.    Make it public. I don't care. It's not my document. These are  
24       lies. These are not my meetings.

25       Q.    Yes. And you said here that it describes you as a traitor of

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1 the nation, and that if it was made public, it would be dangerous for  
2 you and that you would be killed by someone in your community.

3 Is what you're saying now that you don't mind this document  
4 being public and for everyone to know? You have no fears; is that  
5 right?

6 A. I demand the document that is lost, that is hidden, that is --  
7 that is the document I am asking for, because it's a document  
8 prepared by my interviewers, not this one. I am talking about the  
9 document that I had with the Prosecutor. I don't care about other  
10 documents.

11 PRESIDING JUDGE SMITH: Please answer his question.

12 Please repeat it, Mr. Dixon.

13 MR. DIXON: Yes.

14 Q. Please listen to my question, Mr. Tara. The document that was  
15 on the screen, the one that we've been looking at, that document, you  
16 have no problem with that document being public? You have no fears  
17 about what might happen to you if that document is public; is that  
18 right?

19 A. It's another document. That may go public. I don't care about  
20 that.

21 Q. Okay. I need to clarify this. We know there's another document  
22 you say is there. We've asked the Prosecution for that. We'll see  
23 what comes and we'll take this matter further if we can. But,  
24 Mr. Tara, I'm just focusing on the document that I've been discussing  
25 with you now that was on your screen. You know, the one that there



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1     were the crosses on? That document that you say is a complete  
2     fabrication. You have no problem with that document being public;  
3     that's right, isn't it?

4     A. I don't have any problem at all. Do what you like with it.  
5     Whatever the Court decides, you, the Prosecution office, do what you  
6     want. I have no problem with that document. Whether you make it  
7     public or not, let the whole world know, I don't care.

8             PRESIDING JUDGE SMITH: Thank you, Witness.

9             MR. DIXON:

10    Q. And you have no fears about being harmed if that is public;  
11    that's correct? You have no fears?

12    A. No, no. Because in my view, this is a document drafted by my  
13    enemies. I have never given evidence to that. But the document that  
14    I gave evidence for 32 hours with the interviewers, Prosecutors, in  
15    that document that I was described the way I was described, that is a  
16    problem for me. It's about 6 or 700 pages that you may have.

17            So after all what I said, to describe Ismet Tara as a traitor to  
18    the nation, who has betrayed his own army, himself, all the heroes  
19    and martyrs to the nation, his co-fighters, and all the bloodshed in  
20    Kosovo by its citizens, that's the Ismet Tara that is in danger if  
21    you don't prove who did that. Then if you find the document and  
22    discuss about it and make it public, then things will become clear.

23            About the other documents, I am not interested at all. Do what  
24    you want. Accuse me, do anything, I don't care.

25    Q. Thank you, Mr. Tara. We had your answer "no" there in the first

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1 line.

2 MR. DIXON: And these are my questions. Thank you,

3 Your Honours.

4 Q. Thank you, Mr. Tara.

5 PRESIDING JUDGE SMITH: Thank you, Mr. Dixon.

6 Mr. Ellis.

7 MR. ELLIS: Thank you, Your Honour.

8 Cross-examination by Mr. Ellis:

9 Q. Good afternoon, Mr. Tara. My name is Aidan Ellis, and I  
10 represent Mr. Krasniqi. I have, I think, two questions for you only.  
11 The first question relates to -- again to the document that you've  
12 seen on screen, the 2001 UNMIK document. You were shown that in your  
13 interview with the Prosecution in 2019. I just want to read to you  
14 part of what you said in 2019. And it's from Part 10 of your  
15 interview, page 23 in the English, beginning at line 23. You said:

16 "I was never interviewed about these things. I've never been  
17 interviewed by anybody regarding this. This is only the imagination  
18 of Anna Vannozzi and others who may have been with her. And that's  
19 what I have to say regarding this. I may have met Anna Vannozzi  
20 without knowing who she was, but I never said these things."

21 And my question is: You were clear to the Prosecution in 2019  
22 when you were interviewed that you did not say these things. That's  
23 right, isn't it?

24 A. That is right. I never met Anna Vannozzi to discuss such  
25 things. If she met me, we greeted each other, this is something

1     else, but we never discussed these things. She may know me, but I  
2     don't know I have met her, that she is a worker, someone who works  
3     for UNMIK, but we never discussed these issues.

4     Q.   Quite. And my question is: That's what you said to the  
5     Prosecution in 2019 and it's what you're saying again today. That's  
6     right, isn't it?

7     A.   Yes, we discussed for long hours. You have my answers there.

8     Q.   And then in your preparation session last week, were you shown  
9     any document by the Prosecution -- any other document by the  
10    Prosecution to confirm that they had been back to Anna Vannozzi or  
11    anyone else at UNMIK to verify the 2001 document? Were you shown any  
12    such document in your preparation session, sir?

13    A.   I was shown the same document we are talking about, but I  
14    already said to the Prosecutor that this is a document I know nothing  
15    about, that I never met Anna Vannozzi, and that this is something she  
16    has written as she has liked. And I don't know whether she worked  
17    for UNMIK. Maybe the UNMIK has also described our army the way they  
18    liked. Now, I start to have my suspicions about such descriptions  
19    like the ones with my 32-hour interview, the way the interviewers  
20    liked to describe it. Maybe UNMIK has done the same without meeting  
21    us, without talking with us. Because many things have happened in my  
22    Kosovo. Even to this day our -- things are not decided upon by our  
23    government.

24           They can imprison us. They can do anything, UNMIK, EULEX. They  
25    can raid our homes like Serbia did in the past. The same is

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1       happening today with us even though we are an independent state.

2       Q.     Does --

3       A.     We are still under the control of UNMIK and KFOR only with the  
4       difference being that we are not being killed.

5           PRESIDING JUDGE SMITH:   Witness, that's enough.   That's not the  
6       question.

7           MR. ELLIS:   Those were my questions.   Thank you, Your Honour.

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

9           Mr. Mair.

10          MR. MAIR:   Your Honour, based on the questions asked by my  
11       colleagues this morning, I have no questions for this witness.   Thank  
12       you.

13          PRESIDING JUDGE SMITH:   Thank you very much.

14          Ms. Tavakoli.

15          MS. TAVAKOLI:   No questions.   Thank you.

16          PRESIDING JUDGE SMITH:   Any redirect?

17          MS. IODICE:   Yes, Your Honour, briefly.   Just --

18          PRESIDING JUDGE SMITH:   Go ahead.

19          MS. IODICE:   -- one second.   Thank you for your patience,  
20       Your Honour.

21                       Re-examination by Ms. Iodice:

22       Q.     Mr. Tara, I just have a few more questions for you.   So, you  
23       told us several times today that you never met with Anna Vannozzi.

24           MS. IODICE:   Could we please have ERN SPOE00144634 on the  
25       screen.   No.   Apologies.   144634.

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Re-examination by Ms. Iodice

1 Q. Mr. Tara, this is -- I'll read out for you what this is. This  
2 is a note that an investigator made about a meeting they had with you  
3 on 24 January -- sorry, on 22 January to arrange a meeting with you  
4 on 24 January, and it says:

5 "On [22 January 2001] the [reporting investigator] along with  
6 Investigator Grubisic and language assistant ... went to Orahovac and  
7 had a short meeting with Ismet Tara, former ... UCK Brigade  
8 Commander."

9 And then it says:

10 "We met Mr. Tara in a coffee bar. Other people were present so  
11 we planned to meet him next Wednesday [24 January], at 9.30 a.m."

12 MS. IODICE: And if we could please zoom out so that the lower  
13 part is also visible.

14 Q. And this is also written by Anna Vannozzi.

15 Do you recall meeting with her on 22 January to set up the  
16 meeting on 24 January?

17 A. Why don't you give me the document I'm asking for?

18 Q. Mr. Tara, earlier today you agreed you'd answer my questions.  
19 My question for you is --

20 A. Yes.

21 Q. -- do you recall that this meeting took place on 22 January to  
22 arrange a meeting with you on 24 January 2001? Do you recall that?

23 A. This meeting never happened, Ms. Prosecutor.

24 Q. Thank you. Now I'd like to show you another document.

25 MS. IODICE: Can we please have SPOE00144629 to 00144630.

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Re-examination by Ms. Iodice

1 Q. And this is another note dated 31 January 2001 from the same  
2 investigator, Anna Vannozzi, who summarised what you told her during  
3 your meeting on 24 January.

4 MS. IODICE: And if we can please go to the next page, second  
5 paragraph. Thank you.

6 Q. Here it states:

7 "[Mr.] Tara admitted that UCK kidnapped people suspected to be  
8 Serbs collaborators; it was necessary to save their goal. Tara said  
9 that all those people have been killed. He also said that it is  
10 almost impossible to find the bodies; they've been burnt or left on  
11 the spot of the execution. Animals and time contributed to destroy  
12 the evidences."

13 MS. IODICE: And I note the date discrepancy for the Court.

14 Q. And then it continues:

15 "Tara is an excellent source to describe the UCK activity  
16 before, prior and during the war. In spite of the position he was in  
17 charge, he stated about the crimes committed by UCK and admitted the  
18 victims of kidnappings have been killed.

19 "Tara seems to be credible and reliable."

20 So this is another record that Anna Vannozzi made of that  
21 meeting that you had with her. Do you remember now that that meeting  
22 did, in fact, take place?

23 A. Never. If the meeting happened with my investigators about the  
24 lost document, then I may say that this happened. It is the same  
25 here. It may have been.

1 Q. Thank you. Now, I have one last question for you about the  
2 document we had before, and that's SPOE00144632. And this is the  
3 document that was shown by my colleagues from the Veseli Defence.

4 And you were already read out this part where it was put to you  
5 that during that interview --

6 MS. IODICE: If we can go to the next page, please, in both  
7 languages. Thank you. Yes.

8 Q. And I'm talking about the second paragraph, starting "I asked  
9 Tara ..." And I'd like you to focus on that, Mr. Tara. There, you  
10 were asked about -- there you are reported saying that you could only  
11 remember two members of two families, one from Brestovac and one from  
12 Bela Crkva, as victims.

13 Mr. Tara, the evidence shows that at that time of the meeting in  
14 2001, it was not public knowledge that members of those families were  
15 dead as their remains were only identified much later.

16 MS. IODICE: And I'd like to refer the Court to P1147, page 6,  
17 and P95.4, pages 23 to 24.

18 Q. How do you explain telling UNMIK about these victims in 2001?

19 A. I cannot explain anything because I didn't have a meeting with  
20 them. I am telling you that I had no such meeting. Those who have  
21 described it in this way, let them come here and testify to my  
22 presence in the meeting with them, as the case is with the lost  
23 document. Let them testify and bring evidence, not descriptions  
24 written in the offices about Tara commander.

25 Q. Thank you. You have -- thank you.

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Re-examination by Ms. Iodice

1 A. So it appears the same charge prepared by UNMIK, the one that  
2 was put to me by my investigators.

3 Q. Thank you, Mr. Tara, for your answer.

4 MS. IODICE: Your Honour, I do not have further questions, but I  
5 would like to tender the two documents that I used into evidence.  
6 These are SPOE144634 and SPOE144629 to 630. These are relevant to  
7 show -- these are relevant to the meeting taking place and the fact  
8 that a proper record was made of it and that the statement was  
9 recorded [Overlapping speakers] ...

10 PRESIDING JUDGE SMITH: Any objection?

11 MR. DIXON: Your Honour, these documents have been known to the  
12 Prosecution for some time. And for them to be used for the first  
13 time in re-examination does put us at something of a disadvantage.

14 First, I would ask that the Prosecution, if they are admitted,  
15 consider whether or not there would be the possibility to let the  
16 Defence ask further questions arising, and I would make that request  
17 subject to reviewing the documents. But our primary submission is  
18 that the documents should not be admitted as the witness wasn't able  
19 to identify them. They have to come through an UNMIK witness. But  
20 if they are, then I would ask for consideration to be given to our  
21 second request.

22 PRESIDING JUDGE SMITH: Anybody else? No other objection.

23 We will admit the two documents.

24 THE COURT OFFICER: Thank you, Your Honours. And with your  
25 permission, we can add these two documents to the list that we are



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1 preparing to send out. Will that be acceptable?

2 PRESIDING JUDGE SMITH: Yes.

3 THE COURT OFFICER: Thank you, Your Honours.

4 PRESIDING JUDGE SMITH: Judge Barthe.

5 I'm sorry. [Microphone not activated].

6 The documents are relevant and they meet the *prima facie*  
7 standard of Rule 138.

8 Go ahead.

9 JUDGE GAYNOR: Sorry, Mr. Dixon. Am I right in understanding  
10 you're applying for re-cross-examination at this point; is that  
11 correct?

12 MR. DIXON: Your Honours, that was my request, to have an  
13 opportunity to consider these documents, because my submission was  
14 that they could have and should have been brought as part of the  
15 Prosecution case, not in this fashion.

16 PRESIDING JUDGE SMITH: Well, they certainly were previously  
17 disclosed to you.

18 MR. DIXON: Yeah, absolutely. But they weren't -- they weren't  
19 relied upon, and it wasn't part of the tender.

20 PRESIDING JUDGE SMITH: And they're in their preparation note --  
21 or not the preparation note, preparation queue?

22 MS. IODICE: They were. They were also notified with the  
23 notification filing, and we actually at the time made the argument  
24 that they were relevant to the meeting taking place when we had asked  
25 them.

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1           PRESIDING JUDGE SMITH: And the witness has denied that they are  
2 his documents.

3           MR. DIXON: Yes.

4           PRESIDING JUDGE SMITH: So there is no reason to go on beyond  
5 that.

6           MR. DIXON: So they weren't part of their tender, and that would  
7 be the application that I'm making, to be able to ask questions about  
8 them having considered the matter. And it might be that it arises  
9 off the Judges' questions, but I wanted to flag that they had been  
10 used with the witness for the first time after we'd finished our  
11 cross-examination.

12          PRESIDING JUDGE SMITH: Well, they won't come up with the  
13 Judges' questions, but we will deny your request for a re-cross.  
14 Go ahead.

15          JUDGE BARTHE: Thank you.

16                               Questioned by the Trial Panel:

17          JUDGE BARTHE: Good afternoon, Mr. Tara. Very briefly. I have  
18 some additional questions about what you told us about the Dedic  
19 family and the disappearance of Boban Dedic.

20          According to paragraph 110 of the SPO's preparation note, you  
21 said the following in your preparation session, and I quote:

22               "W04745 had warned the Dedic family not to leave the Serb  
23 neighbourhood, and later, Dzana and Pedi admitted that their son had  
24 gone into town. W04745 explained to KFOR that he was the one who had  
25 released the family, accompanied them, and warned them not to leave

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1 the Serb neighbourhood. As Boban had gone into town, it was not  
2 possible for the W04745 to help, as he was unable to check half the  
3 population and all the villages."

4 Mr. Tara, you confirmed this during your cross-examination  
5 earlier today on pages 57, 58 of our realtime transcript, where you  
6 said you were not even able to check on the entire population of your  
7 city. You also said, I quote:

8 "It was not my responsibility to do that, but I was not -- I was  
9 unable to."

10 And, Mr. Tara, I would like to know from you first, did you  
11 actually try to do anything to help the Dedic family? If so, tell us  
12 what you did exactly.

13 A. Regarding the Dedic family, I was the first on the said date to  
14 go and pay a visit when I was informed by some soldiers that a family  
15 has weapons in their family and they want to leave. I took five or  
16 six of my soldiers and went to that family which were located very  
17 close to the police station where we were stationed at the time.

18 When I went to the scene, there were two vehicles, Albanian  
19 cars, who had gone there to transport them until the Serbian  
20 neighbourhood.

21 JUDGE BARTHE: Let me interrupt you.

22 A. I asked them who they were, and I was told this was a Serb  
23 family --

24 JUDGE BARTHE: Witness, I'm very sorry. Maybe my question was  
25 not specific enough. I will rephrase. After the disappearance of

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1 Boban Dedic, did you talk to anyone, for example, one of your  
2 subordinates or other people, whether they know anything about the  
3 whereabouts of Boban Dedic? Did you do that?

4 A. No, Your Honour.

5 JUDGE BARTHE: Why didn't you do that?

6 A. Because Dzana and Pedi Dedic came themselves and contacted me on  
7 three or four occasions after I -- the assistance I gave them and  
8 released them to the neighbourhood, the Serb neighbourhood close to  
9 their father, and telling them that they shouldn't go out in Rahovec  
10 because the situation was tense, because if anything were to happen  
11 nobody would be able to help them. But during the meeting, I  
12 thought, I had doubts that they had sent him to Serbia and wanted to  
13 accuse or -- Ismet Tara about this. Then after two or three  
14 additional meetings, I started to understand that that incident had  
15 actually occurred. This is what I thought and what I understood.

16 Then they went to KFOR and reported that Boban had been  
17 kidnapped by the KLA. Not that he was missing, but that he had been  
18 kidnapped by the KLA. Then the persons in charge of the point  
19 between the Serbian and Albanian neighbourhood came to me and  
20 informed me about the case. I told them that, "I am willing to come  
21 there and confront the family so that they can tell you what I've  
22 done for them." I took with me a personal interpreter in German, a  
23 soldier, and went to the checkpoint manned by five, six German  
24 soldiers -- German and Dutch soldiers. We started a conversation.  
25 The two persons in charge there informed me, saying that she is

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1     accusing, claiming that Boban was kidnapped by KLA soldiers, to which  
2     I replied, "This is not true," because this was never told to me.

3           Then I explained how I released them, how I warned them, and I  
4     also told them about three or four other cases before meeting with  
5     the soldiers at this checkpoint. I told them that they had told me  
6     that Boban had gone out in town and then went missing. I told them  
7     to inquire and double-check and see whether what I was saying was  
8     true. They recognised and admitted in front of them that what I was  
9     saying was true, to the point that a German soldier almost grabbed  
10    them by the throat, saying, "Where did you send him," implying that  
11    they had probably sent the father to Serbia and wanted to blame the  
12    KLA for that. Walter Fleisher was informed about the case, but I was  
13    not solicited any further about this. Nor did I have any  
14    responsibility or authority to conduct any inquiries or  
15    investigations. Even if I wanted to do that, this was not allowed or  
16    authorised by KFOR, UNMIK, or the OSCE. This is what happened.

17           And I saw in the interviews here his father. Although, in 2019,  
18    during my interview, I've spoken in great lengths about this, for  
19    four, five hours. But he accused my fellow countrymen.

20           JUDGE BARTHE: Thank you.

21    A.    When he saw that he could not accuse --

22           JUDGE BARTHE: Witness, I think --

23    A.    -- Ismet Tara of this, then they accused my fellow countrymen.

24           JUDGE BARTHE: You have answered at least part of my question.

25    I was not talking about a formal investigation. I was only asking

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1     you whether you asked your subordinates whether they knew anything  
2     about the disappearance or the fate, the whereabouts of Mr. Boban  
3     Dedic. That was my question. And your answer was no; right?

4     A.     Correct.

5           JUDGE BARTHE: And - and this is my final question - did you  
6     during the meetings or encounters you had with the Dedic family, did  
7     you tell them, the Dedic family, that paramilitary took Boban and  
8     that you don't know where Boban is; is that right? Did you say that?

9     A.     No, never. Never.

10          JUDGE BARTHE: Thank you very much. No further questions.

11          THE WITNESS: [Interpretation] One more clarification in this  
12     regard. An additional --

13          PRESIDING JUDGE SMITH: [Microphone not activated].

14          THE WITNESS: [Interpretation] -- explanation.

15          PRESIDING JUDGE SMITH: Your microphone is off.

16          THE WITNESS: Okay. Okay.

17          PRESIDING JUDGE SMITH: Follow-up questions from the  
18     Prosecution?

19          MS. IODICE: No, Your Honour. Thank you.

20          MR. DIXON: Nothing arising from that, Your Honours.

21          PRESIDING JUDGE SMITH: Mr. Ellis, any back-up -- or follow-up?

22          MR. ELLIS: No, thank you.

23          PRESIDING JUDGE SMITH: Mr. Mair?

24          MR. MAIR: No, Your Honour.

25          PRESIDING JUDGE SMITH: Ms. Tavakoli?

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1           Mr. Witness, your time here is finished. You may leave the  
2           courtroom in the company of the Court Usher. Thank you for being  
3           with us.

4           Mr. van Straalen, thank you very much for your assistance. We  
5           appreciate you being here and giving us your time.

6           MR. VAN STRAALLEN: [Microphone not activated].

7           THE WITNESS: [Interpretation] Is this over or do I need to come  
8           back?

9           PRESIDING JUDGE SMITH: No [Microphone not activated].

10          THE WITNESS: [Interpretation] Then you promised, Your Honour,  
11          those ten minutes. It wouldn't be reasonable. You publicly told me  
12          that I would have my ten minutes in relation to that document.

13          PRESIDING JUDGE SMITH: [Microphone not activated].

14          THE WITNESS: [Interpretation] Before I start, I would need --

15          PRESIDING JUDGE SMITH: [Microphone not activated].

16          THE WITNESS: [Interpretation] -- to have access to my notebook  
17          where I've written down everything about my meetings with the  
18          Prosecutor. Can I have access to my notes so that I convince you I  
19          can --

20          PRESIDING JUDGE SMITH: [Microphone not activated].

21          THE WITNESS: [Interpretation] I can prove the daily meetings I  
22          had with --

23          PRESIDING JUDGE SMITH: [Microphone not activated].

24          THE WITNESS: [Interpretation] About -- the document is in my  
25          room.

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1           PRESIDING JUDGE SMITH: Witness, you go with him -- go with her.

2                           [The witness stands down]

3                           [The witness takes the stand]

4           PRESIDING JUDGE SMITH: You can have them.

5           Mr. Tara, you have five minutes. At the end of five minutes, I  
6 will tell you you're finished, so keep track of the time. I will  
7 warn you when we're getting close to five minutes.

8           THE WITNESS: [Interpretation] Here is the description of all my  
9 days during the interview or the preparation session with the  
10 Prosecution. I took notes of every meeting.

11           Meeting with the -- my presence in court in The Hague was  
12 done -- took place on 14 February 2025. I met with the Prosecutor.  
13 I was informed about my rights and my obligations and the conditions  
14 of my evidence in open session. Then we continued reading the  
15 interview I gave in 2019, and this took several hours.

16           On 15 February, Saturday, 16th was Sunday, I was given the  
17 transcript of my interviews in -- given in 2019 so that I would be  
18 able to read them.

19           On the next day, on the 17th, we continued the preparation  
20 session with the Prosecution team in view of my open testimony in  
21 court. The procedure went fine. Nothing to report.

22           The same went on on Tuesday, 18th February 2025, until late in  
23 the afternoon. Did not encounter any problems.

24           However, on 19 February 2025, Wednesday, we continued up to  
25 midday without encountering any problem, at which time the



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1 Prosecution showed me a document from 2019 related to my interview  
2 with the interviewers at the time. When I started to read that  
3 document, I was in shock and in fear based on what I was reading. I  
4 thought to scream in the presence of those people and say, "Who are  
5 these people? What are they putting us through? Who are these  
6 criminals?" Until the Prosecutor calmed me down, saying that, "These  
7 are their words and not your words."

8 I was not able to read any further when I saw that the document  
9 had been signed by the interviewers, people who had interviewed me,  
10 and I was not able to read any longer. My interpreter read the  
11 remainder of the document. I started crying, and I changed  
12 completely my opinion about the investigators and those who had  
13 interviewed me, thinking that they were now my enemies, enemies of  
14 the KLA, and enemies of my people.

15 Then repeatedly and for a long time I asked for explanations and  
16 clarifications while crying, and saying them how could they endanger  
17 my life, that of my family, make me a traitor to my nation, to the  
18 KLA, to the people who had been slaughtered and murdered. And then I  
19 was given a long break, maybe three or four hours, after which I  
20 remember that I was again invited in and we continued for a short  
21 while, because there was still a lot left to go through, but we had  
22 to stop.

23 Then they told me that on the next day that we would meet again.  
24 I was scared and in great fear as to what could potentially happen to  
25 my family if this information was to be made public to my entire

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1 people, because this is about the sacred war of my people, of the  
2 KLA. How could they do this?

3 On 19 February, we again started reviewing this. I was gravely  
4 concerned about this document, and I asked for a copy of this  
5 document or the entire range of the number that this document bore.  
6 However, I was told that this document would be held by the  
7 Prosecution who would show it in the courtroom. This only increased  
8 my fear and my panic.

9 I remember from this document only the horrible terms in which I  
10 was described in there, as an enemy, as a traitor to my people. This  
11 is how the preparation session ended with the Prosecutor without  
12 reviewing a great number of pages from my interview in 2019.

13 I then expressed my concern to the security team and asked for a  
14 meeting with the officers. The meeting with my security team took  
15 place in relation to a document emerging from my interview in 2019  
16 and prepared by the interviewers or the investigators. The meeting  
17 took place on 21 February, and we discussed the document in question  
18 which was never given to me. I informed the security personnel that  
19 I had become aware of this document only two days before that  
20 meeting.

21 PRESIDING JUDGE SMITH: Thank you, Mr. Tara.

22 THE WITNESS: [Interpretation] I would have gladly accepted 100  
23 years of prison term in exchange of making this document available.

24 PRESIDING JUDGE SMITH: Thank you, Mr. Tara. You are excused.  
25 This proceeding is over for you.

1 [The witness withdrew]

2 PRESIDING JUDGE SMITH: We'll see you in about two weeks.

3 We are adjourned.

4 --- Whereupon the hearing adjourned at 1.19 p.m.

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