

1 Wednesday, 26 June 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: We just have a few things before we
12 start this morning.

13 First of all, I want to remind everyone that on Monday,
14 July 1st, we will be starting at 10.00 a.m. rather than the usual
15 9.00. The rest of the schedule will be exactly the same, though.

16 This morning we're going to continue hearing the evidence of
17 Prosecution Witness W04474.

18 One thing before we begin. As to 447 -- who's tomorrow? What's
19 the number?

20 MR. HALLING: W04445, Your Honour.

21 PRESIDING JUDGE SMITH: 4445. I know we got a notice that we
22 could be notified by 2.00. That's not good enough. They have to get
23 somebody on a plane to be there for interview for -- for the process.
24 We have to know no later than the 11.00 break. So somebody please
25 make the decision because we have to know. There just isn't any

1 other excuse.

2 MR. HALLING: We heard, Your Honour.

3 PRESIDING JUDGE SMITH: Okay. All right.

4 And I believe everybody else -- is everybody else ready to go?
5 Any issues? All right.

6 So, Madam Court Usher, please call the witness in.

7 [Trial Panel and Legal Officer confers]

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: Good morning, Mr. Fondaj. Can you hear
10 me all right?

11 THE WITNESS: [Interpretation] Good morning, Your Honour. And,
12 yes, I can hear you very well.

13 PRESIDING JUDGE SMITH: Very good.

14 Witness, today we are going to continue your testimony. I
15 remind you to please try to answer the questions clearly with short
16 sentences. If you don't understand a question, feel free to ask
17 counsel to repeat the question or tell them you don't understand and
18 they will clarify.

19 Also, please remember to try to indicate the basis of your
20 knowledge of the facts and circumstances upon which you will be
21 questioned. I remind you that you are still under an obligation to
22 tell the truth as stated by you in your solemn declaration.

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

25 So we are ready to continue with the questions. Judge Mettraux

1 still has some questions for you, and then some other people will
2 have questions as well.

3 Yes, did you have a question?

4 THE WITNESS: [Interpretation] Yes, Your Honour. Yesterday
5 afternoon, I saw the recordings that were presented by the Court. I
6 saw them attentively, and in particular the interview by the Judge.
7 So that's what made me think that I should ask for a lawyer. I need
8 a support, legal support, because I am thinking that I have been
9 misused.

10 PRESIDING JUDGE SMITH: Have you attempted to get a lawyer on
11 your own?

12 THE WITNESS: [Interpretation] No, no, I have not, but I'm asking
13 that of the Court, of you, to provide for the help -- with the help
14 of a lawyer.

15 PRESIDING JUDGE SMITH: We will have to take a short break and
16 discuss this. [Microphone not activated].

17 [The witness stands down]

18 --- Break taken at 9.06 a.m.

19 --- On resuming at 9.18 a.m.

20 PRESIDING JUDGE SMITH: What I began to say is the only reason
21 I'm in here is to adjourn again. We are seeing to it that the
22 witness can meet with WPSO and the Registry's office, and then we'll
23 get a report back, and we'll decide on how to go further with --
24 based on what his particular concern is.

25 So we will adjourn until 10.00. We've been told that should be

1 enough time to find out at least what the plan should be. So we'll
2 have you back here at 10.00, and we'll be adjourned until that time.

3 --- Break taken at 9.19 a.m.

4 --- On resuming at 10.02 a.m.

5 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
6 in.

7 [The witness takes the stand]

8 PRESIDING JUDGE SMITH: Mr. Fondaj, we understand you have had
9 some discussion with the Registry's office, and you have expressed
10 what your concerns were, and we understand them.

11 I will try to answer your concerns somewhat. The reason that we
12 have for calling for an attorney for a witness is if the witness has
13 a reasonable grounds for fearing that he might incriminate himself;
14 in other words, might be pointing to himself as a perpetrator of a
15 crime. That has not happened in this case. No one has claimed
16 anything about you other than that you're an honourable person. No
17 one has claimed that you committed a crime, nor have you answered a
18 question that in any way would suggest that you committed a crime.

19 You also expressed a concern as to whether or not the Judges can
20 ask you questions. In our Court and under our rules, Judges may ask
21 a witness any question at any time during the proceedings.

22 So you are only here to tell the truth, to answer the questions
23 that you're given. Do the best that you can. We understand that it
24 is a stressful situation, and we appreciate you being here and doing
25 your best.

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17219

1 But we will continue, and there will be more questions.
2 Hopefully, we will be finished soon, though, and you can get on your
3 way. But your request for an attorney at this point has to be
4 denied.

5 Do you understand?

6 THE WITNESS: [Interpretation] Yes, I do.

7 PRESIDING JUDGE SMITH: Thank you.

8 THE WITNESS: [Interpretation] I do, Your Honour.

9 PRESIDING JUDGE SMITH: And thank you for your candour, and
10 thank you for answering the questions given to you in your meeting
11 with the Registry. They appreciated that.

12 So we will continue now at this time.

13 Judge Mettraux.

14 Judge Mettraux will finish his questions.

15 JUDGE METTRAUX: Thank you, Judge Smith.

16 WITNESS: KURTESH FONDAJ [Resumed]

17 [The witness answered through interpreter]

18 Questioned by the Trial Panel: [Continued]

19 JUDGE METTRAUX: And good morning, Mr. Fondaj.

20 A. Good morning, Your Honour.

21 JUDGE METTRAUX: I, indeed, only have a few more questions for
22 you, and I would be grateful if you could answer those as candidly
23 and as briefly as you did yesterday.

24 The first the thing I would like to look at with you is
25 Exhibit P1106, and I'll explain to you why.

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17220

1 Thank you. Could the Albanian version be scrolled down a little
2 bit for the witness, please. Thank you.

3 Mr. Fondaj, do you remember that I showed you this document
4 yesterday?

5 A. Yes, I do. I saw this yesterday.

6 JUDGE METTRAUX: And it was brought to our attention by counsel
7 for Mr. Thaci that there's a translation issue with the English
8 version, and we've had it checked, and we will ask in a second to
9 have it formally verified. But can you read the sentence that starts
10 with the words:

11 "Therefore, the Prosecution [is requested] ..."

12 Can you please read it aloud in Albanian so that it can be
13 translated to us.

14 A. "Therefore, the Prosecution is requested to order the execution
15 of investigations with regard to this criminal case."

16 JUDGE METTRAUX: Thank you. So that's -- and thank you,
17 Mr. Misetic, for bringing that to our attention.

18 Would you agree, sir, that this suggests that Mr. Limaj, the
19 author of this request, is asking the prosecution to order an
20 investigation? Do you --

21 MR. ELLIS: Your Honour, once again I rise to object to the
22 question because the question is put:

23 "This suggests that Mr. Limaj, the author of this request ..."

24 That misstates the evidence. You have a typed document,
25 somebody has typed the name Fatmir Limaj. That is all.

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17221

1 JUDGE METTRAUX: Well, Mr. Fondaj, I'll put it that way. Taking
2 the document for what it says, do you agree that the purported author
3 of this document, Mr. Limaj, on this document, is requesting an
4 investigation from the prosecution? Do you agree that's what the
5 document suggests?

6 A. Your Honour, I would kindly ask that I am spared of these
7 matters because, first of all, this document, as far as I am
8 concerned, is not valid and it does not carry the signature of the
9 person mentioned. So as far as I'm concerned, this is a suspect -- a
10 circumspect document.

11 JUDGE METTRAUX: I'm simply asking you whether that's what the
12 document suggests; yes or no?

13 A. I do not wish and cannot state any matters in relation to this
14 because I do not know what the legal basis is, and I do not know the
15 particular rules of procedure or regulation, which I have never had,
16 and I do not know whether it is written in line with that.

17 JUDGE METTRAUX: Very well. Then I'll ask you something else.
18 Would it be right to suggest that in late or mid-September and
19 October the Pashtrik zone was going through a process of
20 reorganisation? Do you agree with that?

21 A. Yes, I do.

22 JUDGE METTRAUX: And I'm going to suggest a few factors that
23 might have had a part in this process of reorganisation, and I'll ask
24 you whether, in your view, they are indeed what triggered this
25 reorganisation and if you think of other factors. I have four, and

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17222

1 I'm going to list them to you and ask you to comment on that.

2 The first one is, of course, one that you mentioned, which is
3 the Serbian or Yugoslav offensive in the area. The second, which
4 again you've mentioned, is the fact that a number of KLA members had
5 to retreat, some of them to Albania. The third one is the fact that
6 certain officers of the KLA, including Ismet Jashari, Kumanova, was
7 or were killed during the summer. And, finally, in mid-October 1998,
8 there was the Holbrooke and Milosevic agreement that was signed and
9 effectively froze the situation on the ground.

10 Do you agree that these are the principal or would you agree
11 that these were the principal factors that triggered the
12 restructuring of the Pashtrik zone at the time?

13 A. I would say, yes, in principle. But perhaps we need to add
14 another element, which is also important, and it is about the loss of
15 life, civilians, and the total destruction of goods of the civilian
16 population in the Suhareke commune.

17 JUDGE METTRAUX: And just on the loss of life, is it correct
18 that Ismet Jashari was killed on or about 25 August 1998? Would that
19 be correct?

20 A. It could be correct.

21 JUDGE METTRAUX: And at the time he was deputy commander of the
22 121 Brigade; right?

23 A. Yes.

24 JUDGE METTRAUX: And, again, tell me if that's a correct
25 understanding, he was replaced in that position, deputy of the

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17223

1 121 Brigade, by Haxhi Shala; is that right?

2 A. I do not know the details. I do not know the details of
3 121 Brigade.

4 JUDGE METTRAUX: Do you know that Haxhi Shala is a nephew of
5 Fatmir Limaj? Do you know that?

6 A. No, I do not know.

7 JUDGE METTRAUX: Do you know what position Haxhi Shala had
8 before he became deputy commander of the 121 Brigade?

9 A. I have first seen Haxhi Shala -- or, rather, we met in November
10 when we reported in the meetings that we had with the operational
11 directorate of the General Staff with Sali Veseli, but what functions
12 or positions he held before that and how he came to be in charge of
13 the command, if at all, I don't know.

14 JUDGE METTRAUX: Very well. Can we please see Exhibit P1332,
15 please. We've already seen this document, sir. You will recognise
16 it. It's one of yours. I just have two short follow-up on these.

17 Do you recognise the document, sir?

18 A. Your Honour, the document is indeed written by me, but the
19 source was not taken by me. In the prosecution, this document
20 arrived by other means. It didn't come from me. Nonetheless, the
21 document is mine.

22 JUDGE METTRAUX: I just have two follow-up questions on what
23 you've been asked about that document yesterday. And, again, if you
24 know, you know; if you don't know, of course say so.

25 The first thing is whether you recall receiving a response to

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17224

1 that request you made. So from the document it suggests that you
2 sent it, I believe it was on 10 November. Do you recall receiving a
3 response to your request?

4 A. I do not know.

5 JUDGE METTRAUX: Do you know if Drini did?

6 A. I do not know.

7 JUDGE METTRAUX: Now, the person who's mentioned on that
8 document, the person who came asking for a vehicle, his name is
9 Uke Gegaj. And I think you indicated yesterday that you understood
10 him to be a member of the military police; is that right?

11 A. Yes, it is right.

12 JUDGE METTRAUX: And would it be correct that he was, in fact, a
13 squad commander of the 1st Squad of the 121 Brigade military police?
14 Do you know that?

15 A. To my knowledge, he was the commander of military police in the
16 121st Brigade.

17 JUDGE METTRAUX: And just as a matter of clarification on that,
18 do you know the village of Bellanica or Bellanice? Do you know that
19 village?

20 A. Yes, I do.

21 JUDGE METTRAUX: And it's north of Suhareke; correct?

22 A. It is in north-east of Suhareke.

23 JUDGE METTRAUX: And if you need to see the map that you drew up
24 for us yesterday, I'll put it on the screen for you again. But am I
25 right to understand that Bellanica/Bellanice would have come within

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17225

1 the area of responsibility of the 121 Brigade; is that correct?

2 A. Yes, but if I might add one thing. I said in north-east but
3 actually it's north-west. Sorry.

4 JUDGE METTRAUX: Thank you.

5 I have one last set of questions for you here. Yesterday I
6 understood you to say, and again, correct me if that's a
7 misunderstanding, but that you indicated that the zones or the
8 brigades within the zones could seek, when necessary, professional
9 advice, that's the term I think that was used in English, from the
10 General Staff or members of the General Staff. Did I understand that
11 correctly?

12 A. If you could repeat the question, please. I didn't quite
13 understand it.

14 JUDGE METTRAUX: Yes, I can read what you said yesterday, and
15 maybe that will help you. But you are recorded in English as saying:

16 "I also said" --

17 And you are talking about Drini, Ekrem Rexha. And you said:

18 "I also said that he was in a position to communicate about
19 matters with the General Staff as well, because the General Staff
20 could also give professional advice."

21 Do you recall saying that?

22 A. I am so confused now that I swear I do not know whether I have
23 said this or not.

24 JUDGE METTRAUX: Well, I'll ask you the question differently
25 then. Were you at zone level or at brigade level permitted or able

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17226

1 when necessary to seek professional advice from the General Staff, on
2 logistical matters, on finance, on operational issues?

3 A. Yes, of course.

4 JUDGE METTRAUX: And would you do that or would it be done
5 generally in writing or would it be done orally or it would be done
6 in both manners?

7 A. These are not the details because I've never requested this
8 earlier orally or in writing.

9 JUDGE METTRAUX: But would, for example, Drini seek that sort of
10 assistance to your knowledge?

11 A. I do not know.

12 JUDGE METTRAUX: Thank you. Those were my questions.

13 PRESIDING JUDGE SMITH: All right. Judge Gaynor will have some
14 questions for you as well.

15 Judge Gaynor.

16 JUDGE GAYNOR: Thank you, Judge Smith.

17 Good morning, Witness.

18 A. Good morning, Your Honour.

19 JUDGE GAYNOR: I want to clarify your evidence, first of all,
20 about reporting structures in the military police both before and
21 after the zone command was established.

22 First of all, could you clarify when the Pashtrik zone command
23 was established?

24 A. The command of the Pashtrik zone was established at the
25 beginning of December 1998. Whereas its commander arrived after

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17227

1 14 December in his position as commander, and that is Ekrem Rexha.
2 When he arrived at the helm, the command structure of the zone was
3 simply put together.

4 JUDGE GAYNOR: So focusing on the period before the zone command
5 was established, I want you to explain to us, very simply, what the
6 reporting line was for military police within the brigade. How did
7 they report, first, to the military police brigade commander, or who
8 did they initially report to?

9 A. Assistant commanders at the brigade level reported to the
10 commander of the brigade. So I meant in particular at the time when
11 I was commander myself, so up until December 1998.

12 JUDGE GAYNOR: Now, when you said "the commander of the
13 brigade," are you referring to the brigade commander, which is
14 yourself, or the military police commander within the brigade
15 command?

16 A. The military police commander received his duties and were given
17 responsibilities by the brigade commander he worked in. So in this
18 case, it is about the 123rd Brigade, and for as long as I was there
19 as brigade commander, the military police commander received their
20 duties and reported to me about what was done.

21 JUDGE GAYNOR: And who did you report to in respect of
22 information that you received from the military police within
23 Brigade 123?

24 A. For certain matters, if there was a need at all, I would
25 communicate with the General Staff, the operational directorate. And

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17228

1 as was mentioned, there were a couple of meetings which were chaired
2 by Sali Veseli.

3 JUDGE GAYNOR: Would you typically report to Sali Veseli in
4 respect of information you received from military police within
5 Brigade 123?

6 A. There weren't any such particular details for which there was a
7 need for me to report on.

8 JUDGE GAYNOR: If the General Staff wished to issue an order to
9 military police units within Brigade 123, how would the order be
10 transmitted down from the General Staff to those units?

11 A. I can only refer to my time as brigade commander. So the order
12 should have been received by me, and then I would transmit it down to
13 the military police. But we never had such cases, neither the need
14 to do so. But should that have been the case, this should have been
15 the way it should have gone through.

16 JUDGE GAYNOR: When you were reporting matters to Sali Veseli,
17 how did you report them? Using what method of communication?

18 A. We had meetings, weekly meetings, and it was during those
19 meetings that we reported and we would inform in relation to any
20 problems or concern we had at brigade level. And particularly in
21 this case whether the military police was mentioned or not, I don't
22 think so. I think it was not the case.

23 JUDGE GAYNOR: I want to move now to the period after the
24 Pashtrik zone command was established.

25 Could you explain to us what the reporting line was from

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17229

1 military police units within the brigades up to the General Staff?
2 What were the steps in that reporting line?

3 A. There was a change and for which we, some in the military, have
4 given our remarks, and we believe that the communication should be
5 what was the case before December. But exactly what it was, when it
6 was, I do not know because I was not dealing with these specific
7 issues.

8 JUDGE GAYNOR: I think in your -- this is P1327.6, page 17. In
9 your interview with the SPO, you were discussing Halil Qadraku, and
10 the question was:

11 "Was he the head of ZKZ of OZ Pashtrik?

12 "A. Yes.

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

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

16 So here we're talking about the ZKZ, not the military police,
17 but could you clarify whether after the Pashtrik zone command was
18 established, were the military police expected to report in the first
19 instance to the brigade commander and subsequently to the Pashtrik
20 zone commander? Was that the position?

21 A. Your Honour, I do not know. To be honest, I do not remember
22 accurately all of these actions. I could just confuse the Court
23 instead. So I would kindly ask to be spared of these answers.

24 JUDGE GAYNOR: Well, let me put it this way. When you were the
25 chief of staff of the Pashtrik zone command, you were the

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17230

1 third-highest person within the Pashtrik zone command; is that right?

2 A. Yes.

3 JUDGE GAYNOR: And in that capacity, did you understand that one
4 of the zone command's jobs was to receive information from the
5 military police and to pass it up to the General Staff?

6 A. Whilst I was there in the zone, in the majority of meetings that
7 we had at the Pashtrik zone command level, the commander of the
8 military unit was also called to be there and he was present during
9 the meetings. But as far as I know, he reported regularly and
10 received his duties from Ekrem Rexha, the commander, and sometimes
11 for organisational purposes also from me as chief of staff.

12 JUDGE GAYNOR: And when you said in that answer "the commander
13 of the military unit," did you mean to say the commander of the
14 military police unit?

15 A. The commander of the military police company at the zone level.
16 In the zones there was a company of the military police.

17 JUDGE GAYNOR: Very well. Now, I want to turn back to the ZKZ,
18 and I want to focus once again on the period before the zone command
19 was established.

20 Could you explain very simply what the reporting line was for
21 ZKZ units within the brigade up to the General Staff? What was that
22 reporting line?

23 A. Both receiving tasks and reporting went through the brigade
24 commander.

25 JUDGE GAYNOR: Now, did you, within your brigade command, have a

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17231

1 ZKZ commander?

2 A. Yes. His duty was assistant commander or deputy commander for
3 specific matters. In this case, for intelligence and
4 counter-intelligence. And, obviously, he supported and assisted the
5 commander in relation to specifics related to the intelligence and
6 counter-intelligence activities.

7 JUDGE GAYNOR: And if you or he received intelligence or
8 counter-intelligence information of a significant nature, how would
9 you ensure that that was transmitted to the General Staff?

10 A. The reporting or transmission of the information went through
11 the brigade commander, and perhaps the document that was in your
12 hands regarding the reporting about the positions of the Serbian
13 forces in the municipality of Suhareke is precisely related to the
14 issue we are discussing. So it explains clearly that this reporting
15 was done by me and not directly by the person who reported to me the
16 information or intelligence about the forces.

17 So the assistant commander, the commander for intelligence and
18 counter-intelligence, would report to me, based on which I'd prepare
19 the report and passed it on to the operational directorate of the
20 General Staff.

21 JUDGE GAYNOR: And if we can look at the flow of information in
22 the other direction, if ZKZ at the General Staff level wanted to
23 transmit an order to ZKZ units within Brigade 123, how would they do
24 so?

25 A. I don't know.

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17232

1 JUDGE GAYNOR: What was your understanding of the command
2 structure for the ZKZ?

3 A. During my evidence yesterday and day before, I mentioned that
4 the brigade commander received instructions, orders from the chief of
5 staff of the General Staff until the zones were set up. After which,
6 the brigade commanders received their orders from the zone commanders
7 of the operational zone and not from any other structures for
8 intelligence or counter-intelligence or any other structures.

9 The communication went always through the commander.

10 JUDGE GAYNOR: So moving now to the period after the Pashtrik
11 zone command was established. I want to just clarify the reporting
12 of information from ZKZ units within the brigades up to the
13 General Staff. Are you saying that it went from the brigade
14 commander to the commander of the Pashtrik OZ who would then report
15 to the General Staff?

16 A. The brigade commanders reported to the operational directorate
17 of the operational zone. In this case, to the chief of staff. The
18 chief of staff would collect the data and then report to the zone
19 commander who would then in turn continue further in the direction of
20 the General Staff. The brigade commanders did not contact directly
21 the zone commander but the chief of staff at the zone level. So they
22 communicated with me and sometimes with the deputy commander of the
23 operational zone.

24 Then a report would be drafted as a result of those meetings.
25 It would be reported to Ekrem Rexha, Commander Drini. And if there

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17233

1 were specific things, he would report to the General Staff. But this
2 would not be done by me or the deputy commander.

3 JUDGE GAYNOR: Thank you. I just want you to clarify one other
4 issue and that concerns the General Staff special battalion. At the
5 start of your evidence, you marked on a couple of maps the location
6 of the General Staff special battalion, and you said:

7 "It was operating in Llanishte, stationed in Llanishte."

8 Do you remember saying that?

9 A. Llanishte and Greicec. The command was in Llanishte.

10 JUDGE GAYNOR: Could you describe more fully the mandate of that
11 unit and why it was named the General Staff special battalion?

12 A. With respect to their specific tasks and duties, I don't know
13 them. But I know, I am aware that it did exist. I know some of the
14 commanders and some other aspects of it because I happened to go
15 through that territory and communicate with the commander,
16 Jetullah Qarri on several occasions. As a result of this, I know
17 certain things. He did not report on his work nor did he receive his
18 duties or assignments from Pashtrik operational zone. He received
19 them directly from the General Staff. This is the reason why I'm
20 referring to it as the special battalion or a special unit that was
21 connected directly to the command of the General Staff.

22 JUDGE GAYNOR: Who within the General Staff was issuing commands
23 to that commander?

24 A. I am not able to say who, but if we follow the same principles,
25 it would be the same as for the brigades. There were -- who had a

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 17234

1 direct line of communication with the General Staff, it should have
2 been the same for the battalion. The zones initially reported to the
3 General Staff and similarly the battalion acted in the same matter,
4 despite the fact that the military formation was only a battalion.
5 So, in other words, it functioned as an independent unit.

6 JUDGE GAYNOR: And did that General Staff special battalion, was
7 it a military police unit?

8 A. No.

9 JUDGE GAYNOR: It was a unit of soldiers, was it?

10 A. Yes. It had a considerable number of soldiers, but no
11 policemen.

12 JUDGE GAYNOR: Do you know roughly how many soldiers it had?

13 A. Around 300, 350 soldiers.

14 JUDGE GAYNOR: And was its action limited to that area of
15 responsibility that you sketched on the map?

16 A. To my knowledge, I have said what I know about it and that's all
17 I know.

18 JUDGE GAYNOR: Very well. Thank you very much, Mr. Witness.
19 Thank you.

20 PRESIDING JUDGE SMITH: Any follow-up questions from the
21 Prosecution?

22 MR. HALLING: None, Your Honour.

23 PRESIDING JUDGE SMITH: Mr. Miseti, any follow-ups?

24 MR. MISETIC: Thank you, Mr. President. Very briefly.

25 Further Cross-examination by Mr. Miseti:

Witness: Kurtesh Fondaj (Resumed) (Open Session)

Page 17235

Further Cross-examination by Mr. Misetić

1 Q. Witness, I will be very brief. I only have a few small
2 questions, and it just relates to one point you made yesterday, which
3 was you were asked some questions by Judge Mettraux about the
4 criminal offence of desertion. Do you recall that?

5 A. Yes, I do.

6 Q. And I believe your answer was that you were not sure that
7 desertion was a criminal offence, correct, in the KLA?

8 A. This might have been a misunderstanding. Desertion is a
9 criminal offence, but I was a little bit confused yesterday and under
10 stress while I was testifying in front of the Panel.

11 Q. I understand. So that's exactly the point I wanted to clarify.
12 You were in the Yugoslav Army, and so I just wanted to put some
13 provisions of the 1976 Yugoslav Criminal Code to you and just see if
14 that's what you remember and that's why you now say that it is a
15 criminal offence.

16 Article 217, subsection 3 of the 1976 Criminal Code, I'll just
17 read it out to you. It says:

18 "A military person who has hidden himself in order to evade
19 compulsory military service, or who arbitrary abandons his unit or
20 service and fails to return on duty within 30 days, or fails to
21 return within the same time period from an authorised furlough from
22 the unit or service, shall be punished by imprisonment for a term
23 exceeding six months but not exceeding five years."

24 And then subsection 4 of Article 217 says:

25 "A military person who escapes abroad or remains abroad in order

1 to evade service in the armed forces shall be punished by
2 imprisonment for not less than one year."

3 Were you familiar with those provisions as a result of your
4 service in the Yugoslav Army?

5 A. Now, during my time in the army, I certainly knew this very well
6 because part of my education with the professional subjects we also
7 were taught about the military law. And the basis I'm using to
8 understand and connect some aspects, legal aspects, come from that
9 time. However, again, this is not my profession. I'm not a lawyer.
10 I have forgotten some of them. But I knew these things very well at
11 the time.

12 Q. And just one more provision of the 1976 Yugoslav code, which was
13 in effect in 1998 and 1999. It's Article 226, subsection 3, says if
14 you commit the offences that I just cited to you, which includes
15 leaving your unit or going abroad, in "a state of war or imminent war
16 danger, the offender shall be punished by imprisonment for not less
17 than five years or the death penalty."

18 Were you familiar at the time with the fact that if you abandon
19 your unit in a time of war, under Yugoslav law you could be subjected
20 to the death penalty?

21 A. Yes.

22 Q. So as a member of the KLA at the time, would you have expected
23 that in the KLA desertion would be a serious criminal offence that
24 could subject you to the harshest of penalties?

25 A. This is more or less also what comes out of the oath text.

Witness: Kurtesh Fondaj (Resumed) (Open Session)

Page 17237

Further Cross-examination by Mr. Ellis

1 Q. Thank you very much, Witness. I have no further questions.

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

3 Mr. Emmerson, anything.

4 MR. EMMERSON: [Microphone not activated].

5 PRESIDING JUDGE SMITH: Okay.

6 Anything?

7 MR. ROBERTS: Thank you, Your Honour. Nothing from me.

8 PRESIDING JUDGE SMITH: All right.

9 Mr. Ellis.

10 MR. ELLIS: Yes, thank you, Your Honour.

11 Could we call up, please, P1105. Thank you.

12 Further Cross-examination by Mr. Ellis:

13 Q. Witness, this is a document that I imagine you recall being
14 shown yesterday by Judge Mettraux. If I can confirm again, Witness,
15 you hadn't seen this document before, had you?

16 A. I don't know if this was shown to me by the Prosecutor, but I
17 had not seen this document before last week.

18 Q. I see. And yesterday you confirmed, in answer to my questions,
19 that you were in regular contact with Ekrem Rexha, and "so he
20 asserted that Blerim Kuqi and Nexhmedin Kastrati and Ekrem Rexha went
21 to the General Staff by invitation of Jakup Krasniqi for consultation
22 purposes." Do you recall giving that answer to me yesterday?

23 A. Yes, this stands. And this is the reason why this document with
24 the title "Ordinance" confuses me a little bit.

25 Q. Yes. And Ekrem Rexha didn't show you any document when he

1 passed that information on to you, did he?

2 A. No, he didn't show me any documents. He only told me, "We were
3 called -- we received an invitation for consultations and
4 coordination of work and actions at the Pashtrik operational zone
5 level." No other issues. However, the events unfolded in such a way
6 that Blerim was detained.

7 Q. Now, it was put to you by His Honour Judge Mettraux at T110 in
8 the provisional transcript that this document is signed by
9 Jakup Krasniqi as deputy commander. You hadn't seen this document
10 before, Witness, so you -- it follows you did not see Jakup Krasniqi
11 sign this document with your own eyes, did you?

12 A. No, I did not. I did not see the document. And because I was
13 asked to give my interpretation on several documents, I felt bad and
14 uncomfortable in this courtroom.

15 Q. Quite. And am I understanding correct you felt bad because you
16 were being asked to speculate about documents you had not seen
17 before; correct?

18 A. Precisely.

19 Q. If you bear with me a few minutes more, we will move through
20 this. You're not here as a handwriting expert. You can't verify
21 that this does bear the signature of Jakup Krasniqi, can you?

22 A. Sir, counsel, thank you for asking this question. You all here
23 are law experts and know how an expertise is conducted or performed.
24 If I had the abilities or skills to give an answer right now, I would
25 be the smartest person on Earth. I am just an ordinary man, a

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Further Cross-examination by Mr. Ellis

Page 17239

1 teacher in the municipality of Suhareke.

2 PRESIDING JUDGE SMITH: Witness, Witness.

3 A. Therefore this is the reason why I felt --

4 PRESIDING JUDGE SMITH: Witness, nobody is asking you to give an
5 expert opinion. If that's the reason you're saying this, then you
6 need to think about it.

7 And, Mr. Ellis, you might ask the question in a different manner
8 because you were leading him to that conclusion.

9 MR. ELLIS:

10 Q. Well, the question shortly is you are not in a position to
11 confirm whether this is Jakup Krasniqi's signature or not, are you?

12 A. I saw the signature for the first time, but I do not know his
13 signature.

14 Q. Quite.

15 A. I have seen his signatures in -- when he signed up -- signed the
16 laws, because he was the chairman of the Kosovo Assembly. Now, does
17 this signature match those signatures? I don't know.

18 Q. Quite. Now, you did say yesterday when you saw this document
19 that it does seem to be odd because there's no protocol number on
20 this document. And that wasn't followed up, but I just want to look
21 at what you mean by that.

22 In the top left corner, this document does not have a date or a
23 protocol number on it, does it?

24 A. Correct.

25 Q. So on the face of it, the document does not look complete, does

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Further Cross-examination by Mr. Ellis

Page 17240

1 it?

2 A. It is not complete.

3 Q. And you are not in a position to confirm if, in fact, this
4 document was received by the Pashtrik zone command, are you?

5 A. I am not -- I cannot confirm this because I don't know.

6 MR. ELLIS: Could we scroll down in the Albanian, please, so
7 that you can see the end of the document.

8 Q. I see that there are initials to the bottom left of the
9 document, Witness. Would you agree with me that usually on this type
10 of document the initials should reflect the people who drafted and
11 who typed the document?

12 A. Yes, that's how it is usually drafted. When I acted as a chief
13 of staff, I always prepared the documents and wrote on the right-hand
14 side "Commander Ekrem Rexha."

15 Q. Now, in January 1999, are you aware that there was a personnel
16 directorate in the General Staff?

17 A. I don't know.

18 Q. Very well. You told us yesterday that you went to Divjake on
19 occasions. Did you come across Mr. Adem Grabovci there?

20 A. I saw Adem Grabovci, but I don't know the -- I can't recall the
21 circumstances or the reasons we met.

22 Q. I see. Did you know that he was a member of the General Staff?

23 A. Yes.

24 Q. Is it possible that the initials we see on this document, AG,
25 refer to Adem Grabovci?

Witness: Kurtesh Fondaj (Resumed) (Open Session)

Page 17241

Further Cross-examination by Mr. Ellis

1 A. It is possible.

2 Q. And whilst you were in Divjake, did you meet another gentleman
3 called Ahmet Morina who worked as an administrator there?

4 A. I don't know. I don't know anyone by the name of Ahmet Morina,
5 Morina.

6 Q. I see. Do you know any other individuals around the
7 General Staff in Divjake with the initials AM?

8 A. No, I have never really thought about this. As I stand, I am
9 not in a position to remember anything about this at the time.

10 Q. Very well. Now, this document, taking it at face value, invites
11 Drini, the commander of Brigade 123, and Blerim Kuqi for a meeting.
12 And you've told us yesterday that you weren't at that meeting and
13 you're not aware at all, you said, about the conversation that they
14 had. Do you recall saying that yesterday?

15 A. Yes, I do recall.

16 Q. Now, Nexhmedin Kastrati has spoken about a meeting following an
17 invitation to Divjake with Drini and Blerim Kuqi, and I will read to
18 you from what he said. He was speaking about the idea of further
19 training for battalion commanders. He was asked:

20 "And this was also one of the topics that was discussed at the
21 meeting, Witness, was it?"

22 His answer was:

23 "Yes, it was. Yes, because the head of -- chief of staff and
24 the operational directorate, they decided that there should be a
25 training course to train the battalion leaders throughout Kosovo."

Witness: Kurtesh Fondaj (Resumed) (Open Session)

Page 17242

Further Cross-examination by Mr. Ellis

1 And he was asked:

2 "And there was nothing unusual about that meeting, was there, on
3 that day because after discussing after the meeting, you say you left
4 the meeting with Bislum and Drini to help Haxhi Shala with the 121
5 Brigade defences. Do you recall that?"

6 And he answered:

7 "Yes, that's true."

8 Now, of course, you wouldn't have been aware of that before
9 today, but it appears to be the case, doesn't it, that there was an
10 invitation to a meeting at the General Staff and a meeting takes
11 place at the General Staff about matters which included training.
12 That's what it appears, doesn't it?

13 A. I don't know. But the issue of training battalion commanders of
14 the KLA is also reflected at a later stage, and I've mentioned in my
15 evidence that during the month of February such trainings were held
16 for battalion commanders. Perhaps this conversation preceded those
17 matters.

18 Q. And that would be consistent, wouldn't it, with your answer at
19 10.48 this morning, that Ekrem Rexha only told you that "we received
20 an invitation for consultation and coordination of work and actions
21 at the Pashtrik operational zone level"? It's consistent with that
22 answer, isn't it?

23 A. Yes, it is. Ekrem told me, "We received an invitation." He
24 didn't say "ordinance." "An invitation for coordination of our
25 actions and work within the KLA."

1 Q. And this document on the screen, P1105, there is nothing on the
2 face of this document to suggest that it is connected to an arrest or
3 a detention, is there?

4 A. No, there isn't.

5 Q. There is an invitation to a meeting and a meeting took place.
6 That's as far as this takes us, isn't it?

7 A. And even if we read it as an ordinance, the meaning is the same
8 as an invitation. There is no indication in the text that this would
9 be followed by an arrest.

10 Q. Thank you.

11 MR. ELLIS: I see the time. Is that a convenient moment to
12 break?

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 Finish your questioning.

15 MR. ELLIS: Thank you. Just so I'm not misleading Your Honours,
16 there is a little bit to go.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. ELLIS: I would say 15 minutes.

19 PRESIDING JUDGE SMITH: I would just as soon you finish. Go
20 ahead.

21 MR. ELLIS: Thank you.

22 Could we take that document down and move to P1106, please. And
23 could we scroll down in the Albanian. Yes, thank you.

24 Q. Again, you were shown this document both yesterday and this
25 morning by His Honour Judge Mettraux. It was originally put to you

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Further Cross-examination by Mr. Ellis

Page 17244

1 that this was authored by Fatmir Limaj.

2 Apart from that somebody has typed the name "Fatmir Lima" at the
3 bottom of this document, you cannot confirm who wrote this document,
4 can you?

5 A. No, no. This document, it doesn't accurately say that it was
6 actually drafted by Fatmir Limaj. There's no protocol number, no
7 signature, nothing. So as far as I'm concerned, as I said, this is a
8 suspicious sort of document, because one cannot possibly know how it
9 came about, where it came from.

10 Q. And you told us before, I think, that you drafted documents and
11 would put the name Ekrem Rexha on them, is that right, in the course
12 of your work?

13 A. Yes, some hundreds of times.

14 Q. Yes. And I just want you to understand clearly what this
15 document -- where this document came from because I don't think it
16 was explained to you. This is a document which the Prosecution say
17 was found on a computer, on a workstation, which they have then
18 printed out for use in these proceedings. And I just want to explore
19 that with you, Witness, because you have never seen a signed copy of
20 this document, have you?

21 MR. HALLING: Objection, asked and answered.

22 PRESIDING JUDGE SMITH: Overruled. He can answer it this last
23 time. Go ahead.

24 THE WITNESS: [Interpretation] No, I do not know to have seen it
25 from the Prosecution. It was presented here in court, not from the

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Further Cross-examination by Mr. Ellis

Page 17245

1 Prosecution.

2 MR. ELLIS:

3 Q. Now, to the left of the name Fatmir Lima is a date 16 January
4 1999. Now, you don't know, do you, whether this document was printed
5 on or around 16 January 1999?

6 A. Well, all of the questions that are following, it seems as if
7 you mean to say that I know something had about this document when,
8 in fact, I don't. Because anything I say about this document would
9 be wrong. So, please.

10 Q. My fault. I'll --

11 A. Please do not oblige me to answer about this.

12 Q. I'll try to move more quickly then. You can't confirm that this
13 document was ever printed, signed or communicated to anyone, can you?

14 A. Correct.

15 Q. [Microphone not activated].

16 THE INTERPRETER: Microphone, please.

17 MR. ELLIS: I apologise. I'll go to the next document, P1174.
18 And if we could scroll down, please, in both. Thank you.

19 Q. Now, this is another document that you were shown yesterday
20 afternoon. And I think we can all see again that this document is
21 not signed. And you have not been shown a signed version of it, have
22 you?

23 A. Well, this document that's on the screen at the moment, we saw
24 it here. And again about this, I do not know whether it ever
25 existed, how or when, I cannot actually say, because it's about the

1 same matter in essence. This document is not clear to me.

2 Q. Exactly. And so your answer again would be that you cannot
3 confirm whether this document was ever printed, signed or
4 communicated to anybody, can you?

5 A. Correct.

6 Q. And you can't confirm whether it was authored by Fatmir Limaj or
7 not, can you?

8 A. Of course I cannot confirm.

9 Q. All right.

10 MR. ELLIS: The document can come down.

11 Q. Now, you were asked yesterday by His Honour Judge Mettraux if
12 you would have reason to dispute that Jakup Krasniqi communicated the
13 decision to arrest Blerim Kuqi to the MP or to Sokol Dobruna, to the
14 military police or Sokol Dobruna.

15 Before lunch yesterday, you confirmed in answer to my question
16 that you do not know who arrested Blerim Kuqi or who ordered that
17 arrest. Do you recall giving that answer yesterday?

18 A. Yes. Yes, I remember.

19 Q. Now, you were close to Ekrem Rexha and you spoke to him many
20 times, didn't you?

21 A. I was close to him because I was chief of staff. But also at a
22 later stage, he was the commander of the military educational centre
23 and I was his deputy. And at the time we were there, we discussed a
24 lot of matters with each other. So, yes, I was quite close to Ekrem.

25 Q. And you confirmed yesterday that you spoke to Bislim Zyrapi in

1 detail about the Blerim Kuqi case; yes?

2 A. Yes.

3 Q. And, indeed, you went to Divjake to give a statement in front of
4 Sokol Dobruna, Agron Berisha, and a note-taker. That's right, isn't
5 it?

6 A. Yes.

7 Q. And for the last 25 years, you have never said that anyone told
8 you that Jakup Krasniqi ordered the arrest of Blerim Kuqi? You've
9 never said that, have you?

10 A. Not only have I never said it, but it really seems absurd to
11 even think that Jakup Krasniqi would have ordered that.

12 Q. Now -- one moment. Now, you also discussed with Judge Mettraux
13 whether there were other reasons on why Mr. Kuqi was arrested. But
14 it's right, isn't it, that the documents that you have been shown,
15 whatever weight they carry - the handwritten notes from 29 December,
16 the indictment, the defence document - they all refer on their face
17 to desertion, don't they?

18 A. Mostly, yes. With that issue.

19 Q. And when you were questioned by Sokol Dobruna in Divjake, those
20 questions were about Blerim Kuqi leaving Kosovo and going to Albania,
21 weren't they?

22 A. Yes. Even though Sokol Dobruna's questions were superficial,
23 the insistence of Blerim Kuqi's defence was for me to speak about
24 various issues. But otherwise, it was clear that Sokol Dobruna
25 was -- intention was not really to obtain my true statement. But

1 with assistance of counsel, I provided a statement.

2 Q. And you provided a statement explaining, in your view, why
3 Blerim Kuqi went to Albania and that sequence of events; correct?

4 A. Yes. So, in other words, I explained how he travelled to
5 Albania, his mission, his task, which was to strengthen the Kosovo
6 Liberation Army rather than weaken it.

7 Q. Thank you. I'm going to move on to a different topic now,
8 Witness. You were asked yesterday by His Honour Judge Barthe on the
9 videolink about the military hierarchy. And at T96, line 19, you
10 said:

11 "In our military terminology, the chief of staff is the person
12 who's number three in the military hierarchy. Number one is the
13 commander, then the deputy commander, and then number three is the
14 chief of staff. In our organisation, if there was a different
15 structure, that would be a different matter."

16 Do you recall giving that answer yesterday?

17 A. Yes, I do.

18 Q. And no doubt you were basing that answer on your understanding
19 from your military education of the way that a military hierarchy
20 should function in principle; yes?

21 A. Of course. Of course. Because when we speak of the army, we
22 believe that there are other state institutions, such as, for
23 instance, the government or parliament, but back then we had neither,
24 and that is why the Kosovo Liberation Army had other specificities
25 which covered this domain.

1 Q. Quite. And so with the specificities of the Kosovo Liberation
2 Army, it didn't function in the way that a regular army would.
3 That's right, isn't it?

4 A. Well, of course, the operational part did, but there were other
5 additional bodies such as, for instance, the political directorate
6 which actually had an extraordinary function or any other resources
7 that were used. Then, of course, the reason was to make up for and
8 cover for those elements that another state institution should cover,
9 which we, of course, did not have back then.

10 Q. And you went on to say in answer, again, to a follow-up question
11 from Judge Barthe at T97, line 7:

12 "I do not know the exact way they conducted their work."

13 And that's right, isn't it? You were not a member of the
14 General Staff and you cannot say exactly how the hierarchy functioned
15 within the General Staff?

16 MR. HALLING: And, apologies, Your Honour, that question is
17 about two specific people, and that was phrased as a general
18 question. We'd ask that the question be provided with context.

19 MR. ELLIS: Well, may I simply put the question then?

20 PRESIDING JUDGE SMITH: Yes, you may put the question, but you
21 only have about one minute left.

22 MR. ELLIS: I'll put it quickly.

23 Q. You were not a member of the General Staff, and you do not know
24 how their internal hierarchy worked, do you?

25 A. Correct.

Witness: Kurtesh Fondaj (Resumed) (Open Session)
Procedural Matters

Page 17250

1 MR. ELLIS: I'm told the transcript has stopped, Your Honour.

2 PRESIDING JUDGE SMITH: All our transcripts are stopped.

3 [Trial Panel and Court Officer confers]

4 MR. ELLIS: Your Honour, I don't know if it saves time at this
5 point, but I think I am, in fact, finished. So thank you.

6 Q. And thank you, Witness, for bearing with me.

7 A. Thank you.

8 [Trial Panel and Court Officer confers]

9 PRESIDING JUDGE SMITH: While we're waiting, I'll ask the
10 Prosecution for the answer to the next -- the witness that is --

11 [Trial Panel and Court Officer confers]

12 MR. HALLING: The short answer is no, Your Honour, we're not in
13 a position to call that witness.

14 PRESIDING JUDGE SMITH: All right.

15 MR. ROBERTS: Your Honour, if I could just indicate, we'll file
16 our submissions in writing in relation to that witness now that we
17 know that they're not coming tomorrow.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. ROBERTS: Just to inform you. And then we'll do that
20 hopefully by tomorrow.

21 PRESIDING JUDGE SMITH: Thank you very much.

22 [Trial Panel and Court Officer confers]

23 PRESIDING JUDGE SMITH: I'll make a record here in the
24 old-fashioned way just using the court reporter. It's much simpler.

25 Witness, we are finished with your testimony. You will be

1 released now, and you have no further obligation to the Court. We
2 thank you for your attendance. We thank you for being with us for
3 the last three days and for your candour in answering our questions.
4 We wish you well in the future.

5 THE WITNESS: [Interpretation] Thank you, Your Honour. And I
6 wish you all the best.

7 [The witness withdrew]

8 PRESIDING JUDGE SMITH: [REDACTED] Pursuant to Post-Session
Redaction Order F02441., did you get it on the record that

9 Mr. Ellis was finished with his questions? All right. Fine.

10 So we will adjourn for -- until a quarter to 12.00 for a break,
11 and then we'll take up the rest of the time until the lunch break.

12 You'll be ready with your next witness then? Okay.

13 We're adjourned.

14 --- Recess taken at 11.21 a.m.

15 --- On resuming at 11.45 a.m.

16 PRESIDING JUDGE SMITH: So this -- oh, I'm sorry.

17 MS. ROWAN: Good afternoon, Your Honour. Perhaps before we
18 begin with this witness, if I could address Your Honour briefly in
19 private session, please.

20 PRESIDING JUDGE SMITH: Please, into private session.

21 [Private session

22 [Private session text removed]

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 [Open session]

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

2 PRESIDING JUDGE SMITH: Thank you.

3 Good morning, Witness.

4 THE WITNESS: [Interpretation] Good morning.

5 PRESIDING JUDGE SMITH: Are you hearing okay?

6 THE WITNESS: [Interpretation] Yes, I do.

7 PRESIDING JUDGE SMITH: Before we start with your testimony, I
8 note we received your request to be provided with pen and paper for
9 your testimony so that you can note down the questions during your
10 testimony. The Panel agrees to this request subject to certain
11 conditions: First, your note-taking should not detract from your
12 testimony or distract you when answering questions. You may not read
13 from your notes during your questioning. You may just make reference
14 to them prior to your question or after. The Panel will monitor this
15 and if your note-taking interferes with the testimony, I will ask
16 that it be removed.

17 Second, the paper and pen must remain in the courtroom after
18 your testimony.

19 Third, when you have finished your testimony, CMU, our Court
20 Management Unit, will be instructed to destroy your notes.

21 You understand all of those conditions and do you accept those
22 conditions?

23 THE WITNESS: [Interpretation] Yes, I do. Yes, I do. Thank you
24 very much.

25 PRESIDING JUDGE SMITH: Sure. If you will please stand -- if

1 you will please stand up. Okay. The Court Usher will now provide
2 you with the text of a solemn declaration which you are asked to take
3 pursuant to Rule 141(2) of the rules. Would you like me to read it
4 to you? You can --

5 THE WITNESS: [Interpretation] It's not important. I can also
6 read it or you can read it.

7 PRESIDING JUDGE SMITH: No, you go ahead. Read it out loud.

8 THE WITNESS: [Interpretation] Witness solemn declaration as per
9 Rule 141: Conscious of the significance of my testimony and my legal
10 responsibility, I solemnly declare that I will tell the truth, the
11 whole truth, and nothing but the truth, and that I shall not withhold
12 anything which has come to my knowledge, and I will seek the truth.

13 PRESIDING JUDGE SMITH: Please be seated.

14 WITNESS: W04846

15 [The witness answered through interpreter]

16 THE WITNESS: [Interpretation] Thank you.

17 PRESIDING JUDGE SMITH: Witness, today we will start your
18 testimony which is expected to last approximately this one day. As
19 you may know, the Prosecution will ask you questions first and then
20 the Defence has the right to ask questions of you. Members of the
21 Panel may also ask questions of you. The Panel is the Judges up
22 here.

23 The Prosecution estimate for your examination is two hours. The
24 Defence estimates that it will be between two and a two and a half
25 hours. As regards each estimate, we hope that counsel will be

1 judicious in the use of their time.

2 The Panel may allow redirect examination if conditions for it
3 are met.

4 Witness, please try to answer -- go ahead.

5 THE WITNESS: [Interpretation] Thank you.

6 PRESIDING JUDGE SMITH: Witness, please try to answer the
7 questions clearly with short sentences. Most of the questions will
8 call for a yes-or-no answer. If one of the attorneys or the Panel
9 needs more information, they will ask you to add that. If you don't
10 understand a question, feel free to ask counsel to repeat the
11 question or tell them you don't understand and they will clarify.

12 Also, please try to indicate the basis of your knowledge of
13 facts and circumstances that you will be asked about.

14 Speak into the microphones and speak slowly so that the
15 interpreters can catch up. And it is best if you would wait five
16 seconds after the question is asked to allow the interpreters to
17 finish their interpretation.

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

23 Please stop talking if I ask you to do so and also stop talking
24 if you see me raise my hand. These indications mean that I need to
25 give you an instruction. So keep an eye on the Bench. If we raise

Examination by Mr. Pace

1 our hand or say "stop," please stop immediately.

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

4 We begin now with the questions from the Prosecution. They are
5 seated to your left. Please give them your attention.

6 Mr. Pace, you have the floor.

7 THE WITNESS: Okay.

8 MR. PACE: Thank you, Your Honour.

9 Examination by Mr. Pace:

10 Q. And good morning, Witness. We have met before but I will
11 introduce myself again. I'm James Pace, a Prosecutor with the SPO.
12 And as the Judge said, I'll be asking you questions for the next
13 two hours or so. And we'll start with some questions to establish
14 your identity.

15 MR. PACE: And, Your Honour, in view of the witness's in-court
16 protective measures, that would mean we need to move into private
17 session, please.

18 PRESIDING JUDGE SMITH: Okay. My feed has stopped again. The
19 transcript has stopped.

20 MR. PACE: Mine is okay if that matters.

21 [Trial Panel and Court Officer confers]

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 [Private session]

24 [Private session text removed]

25

Witness: W04846 (Private Session)

Page 17259

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17260

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17261

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17262

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17263

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17264

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17265

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17266

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17267

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17268

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17269

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17270

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17271

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17272

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17273

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17274

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17275

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17276

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17277

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17278

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17279

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17280

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17281

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17282

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17283

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17284

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17285

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17286

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17287

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17288

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17289

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17290

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14 [Open session]

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

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 --- Luncheon recess taken at 1.05 p.m.

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

19 PRESIDING JUDGE SMITH: Mr. Pace, what's your time estimate?

20 MR. PACE: It could be around 15, maximum 30 more minutes, I
21 think.

22 PRESIDING JUDGE SMITH: It would be very good if we could finish
23 with this witness today, but we'll see.

24 I won't go through the Defence at this time. We haven't heard
25 enough from this.

Witness: W04846 (Private Session)

Page 17291

Examination by Mr. Pace

1 Madam Usher, you can bring the witness in.

2 You want to continue in private session?

3 Please take us into private session, Madam Court Officer.

4 [Private session]

5 [Private session text removed]

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17292

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17293

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17294

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17295

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17296

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17297

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17298

Examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17302

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17303

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17304

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17305

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17306

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17307

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17308

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17309

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17310

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17311

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17312

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17313

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17314

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17315

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17316

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17317

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17318

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17319

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17320

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17321

Cross-examination by Mr. Tully

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17322

Re-examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17323

Re-examination by Mr. Pace

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04846 (Private Session)

Page 17324

Procedural Matters

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Open session]

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

3 PRESIDING JUDGE SMITH: Anything else to come before the Court
4 today? Or this week, I guess. It looks like we have nobody for
5 tomorrow, so we will see you Monday. Thank you all for being here.

6 We are adjourned.

7 --- Whereupon the hearing adjourned at 3.31 p.m.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25