

1 Thursday, 28 March 2024

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 10.00 a.m.

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

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

10 PRESIDING JUDGE SMITH: Before we start, one question and
11 comment for planning purposes.

12 Regarding the need of a reserve witness for next week, I note
13 that next week is a three-day hearing week, and that the time
14 estimates for the next Witness 4739 currently is about 14 hours in
15 total, which seems like it might be a bit excessive. And we'd like
16 to finish that witness within the week, if possible, because we're
17 following it with a two-week break, which makes it rather
18 inconvenient for the witness, if nothing else.

19 So I would like you to at least reconsider the estimates --
20 well, first of all, is that still the estimate? Have any of you had
21 any change in your thoughts on the time needed for your
22 cross-examination or for the direct examination?

23 We'll start over here. Mr. Ferdinandusse, it probably is not
24 your witness, so --

25 MR. FERDINANDUSSE: It is not.

1 PRESIDING JUDGE SMITH: -- maybe I caught you unawares, but you
2 can at least discuss it and come back and report later.

3 But anybody else?

4 MR. EMMERSON: At the moment, I'm still expecting four hours.
5 Well, because I'm the first to cross-examine --

6 PRESIDING JUDGE SMITH: Yes, I understand that.

7 MR. EMMERSON: -- on behalf of all teams. It may be that we can
8 do some coordination over the break to reduce the collective time
9 estimate.

10 PRESIDING JUDGE SMITH: That's what I'm suggesting.

11 MR. EMMERSON: And with that in mind, again, it's a planning
12 question. I'm not sure whether it's intended to begin the witness's
13 evidence today. But if it is --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 That's a bit of a stretch, I think, that we could start with the
16 new witness today, but we'll see.

17 MR. EMMERSON: Would Your Honours be prepared to say that the
18 cross-examination begins clean on Tuesday of next week, even if we do
19 start today? In other words, so that over the weekend we can all get
20 together, revise our estimates, and come back with a proposal that
21 the cross-examination be done within the --

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 I don't want to make a commitment that it would start clean, but
24 I would like you to get together and talk about it and come back on
25 Tuesday --

1 MR. EMMERSON: Yes.

2 PRESIDING JUDGE SMITH: -- and give us a revised estimate.

3 MR. EMMERSON: Thank you very much.

4 PRESIDING JUDGE SMITH: Just for planning purposes, and so we
5 can keep the witness advised. And the same thing goes with this
6 witness. You know, it would be nice if we can finish his time here
7 today. But I understand if we can't, we can't.

8 MR. EMMERSON: Yes, yes. Maybe I wasn't entirely clear on what
9 I was asking. Simply to say that if we do begin the evidence of the
10 following witness today and have his evidence in chief, I would ask
11 that we then break, even if it's a few minutes before the end of the
12 day, so that we can do the revision that you're suggesting and come
13 in clean on Tuesday and have the cross-examination conducted
14 efficiently and within a short period of time.

15 PRESIDING JUDGE SMITH: Yes, we'll consider doing that.

16 MR. EMMERSON: Thank you very much.

17 PRESIDING JUDGE SMITH: Thank you.

18 Madam Court Usher, you can bring the witness in. We'll continue
19 with his cross-examination.

20 Sorry, I said cross-exam. It's not. It's Judges' questions.

21 MR. FERDINANDUSSE: Your Honour, while we wait. Can I ask we --
22 I assume you saw the e-mail we sent this morning. Will you come back
23 to that and the question of the reserve witness later today? Because
24 that has some logistical consequences.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 We'll try to give you an answer on that yet today.

2 MR. MISETIC: Mr. President, let me just say already that my
3 estimate may actually be reduced for the next witness because the
4 parties have reached agreement so the Thaci Defence will be going
5 last, and I'm assuming that a lot will be covered in advance. So
6 I'll be less than two and a half hours, probably closer to one to one
7 and a half.

8 PRESIDING JUDGE SMITH: Thank you.

9 [Microphone not activated].

10 MR. ROBERTS: No change from what there was before. Our
11 estimate is still three and a half hours, Your Honour.

12 MS. ALAGENDRA: No change on my side as well, Your Honours.

13 PRESIDING JUDGE SMITH: Well, keep an open mind. If you can all
14 talk about it collectively, it might make a difference. Thank you.

15 [The witness takes the stand]

16 THE WITNESS: Thank you.

17 PRESIDING JUDGE SMITH: Good morning, Witness.

18 THE WITNESS: Good morning.

19 PRESIDING JUDGE SMITH: Today we're going to continue with the
20 Judges' questions, and there may be further questions from the
21 Defence following that. We will endeavour to conclude your testimony
22 by the end of today.

23 I think I told you that yesterday, too, but --

24 THE WITNESS: Yes.

25 PRESIDING JUDGE SMITH: -- we weren't very successful doing

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1 that.

2 THE WITNESS: Yes, sir.

3 PRESIDING JUDGE SMITH: I remind you to please try to answer the
4 questions clearly with short sentences. If you don't understand a
5 question, feel free to ask counsel to repeat the question, or tell
6 them you don't understand and they will clarify.

7 Please remember to try to indicate the basis of your knowledge
8 of the facts and circumstances upon which you will be questioned. I
9 remind you that you are still under an obligation to tell the truth
10 as stated by you in your solemn declaration.

11 Please also remember to speak into the microphone and to wait
12 five seconds after the question and then speak at a slow pace to
13 allow the interpreters to catch up.

14 So we continue now with Judge Mettraux's questions.

15 Go ahead.

16 JUDGE METTRAUX: Thank you, Judge Smith.

17 WITNESS: SHAUN BYRNES [Resumed]

18 Questioned by the Trial Panel: [Continued]

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

20 A. Good morning, sir.

21 JUDGE METTRAUX: So I indicated yesterday we'd go through the
22 seven incidents I've listed. One down, six to go. So I'd like to
23 turn now to the incident involving the Tanjug journalists
24 Mr. Radosevic and Dobricic. It's again a case that you handled
25 through the troika; is that right?

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1 A. Yes, sir.

2 JUDGE METTRAUX: And we know that you were present at the time
3 of the release and we've heard that there were journalists present as
4 well when these two individuals were released. My question is this:
5 Did you call the journalists to attend this occasion?

6 A. No, I did not.

7 JUDGE METTRAUX: Is it fair to assume that the KLA must have
8 done so?

9 A. Yes.

10 JUDGE METTRAUX: And if that's the case, what interest, in your
11 understanding, would the KLA have had to publicise this occasion?

12 A. Could you repeat? I'm not sure I understand the question.

13 JUDGE METTRAUX: Why, in your understanding, would the KLA wish
14 to have journalists present when a detainee is released to your
15 custody?

16 A. I can only speculate. But it would seem to me that they were
17 interested in getting some positive publicity about the way they
18 treated particularly Serbian journalists, that they were doing -- if
19 you will, they were doing the right thing.

20 JUDGE METTRAUX: And how did you interpret the presence of
21 Sokol Bashota, a member of the General Staff, being present on that
22 occasion?

23 A. He was -- in my experience, he was usually always present at any
24 event involving KDOM.

25 JUDGE METTRAUX: And why do you think, if you know, and if you

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1 don't know, of course, say so, but why would the General Staff send
2 one of its members to be present when, again, a detainee is being --
3 or two detainees in this case are being released to your custody?

4 A. Here again I can only speculate, but he was -- he was clearly
5 the designated General Staff point person for dealing with KDOM, and
6 I assume that's the reason they wanted somebody present.

7 JUDGE METTRAUX: Now I'll go to incident number three, and
8 that's the case you've already been asked about, the LDK activists,
9 Mr. Desku and Mr. Kastrati, and that's a case you told us you handled
10 again through the troika; is that right?

11 A. Yes, sir.

12 JUDGE METTRAUX: Can the Registry please bring up P1067.

13 That, sir, is a cable that you have seen and commented upon on
14 quite a few occasions already. It's dated 3 November 1998.

15 And I'll ask the Registry to go to page 075307. And if you
16 can -- thank you.

17 Sir, can you focus on the paragraph that is there with the words
18 starting: "Furthermore ..." Do you see that?

19 A. Are those words -- sir, are those words at the beginning of the
20 paragraph?

21 JUDGE METTRAUX: It is the third sentence in the block there.
22 It says:

23 "Furthermore, the KLA 'secret police' arrested two members of
24 the leadership of the LDK's Malisevo chapter on October 30."

25 Do you see that?

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1 A. No, I don't. Is this -- what I have, sir, is -- in front of me
2 is paragraph 2.

3 JUDGE METTRAUX: No, you should have what is noted as page 4.

4 A. Okay. I now see it. It's in the paragraph above. Okay.

5 JUDGE METTRAUX: Can you take a second and read it, please.

6 A. "Furthermore, the KLA 'secret police' arrested two members of
7 the leadership of the LDK's Malisevo chapter on October 30. On
8 November 2, Mahmuti confirmed the 'arrests,' claimed that it was not
9 done for 'political reasons' but because the two LDK officials --
10 Cen Desku and Jakup Kastrati -- had 'collaborated' with the Serbian
11 police in encouraging locals to turn in their weapons."

12 Shall I continue?

13 JUDGE METTRAUX: Yes.

14 A. "Mahmuti claimed that Desku and Kastrati were 'in prison' and
15 were being 'well treated.' He said they would be allowed to select
16 their own lawyer to defend them in their forthcoming 'trial.' Such
17 developments raise disturbing questions about the KLA's commitment to
18 a peaceful solution to this crisis and its willingness to tolerate
19 other parties and opinions. In short, the KLA seems only interested
20 in enhancing its public and international image and in strengthening
21 its control over Kosovo."

22 JUDGE METTRAUX: You can stop there.

23 Now, sir, in relation to the first part that you've read. Is
24 that consistent with your recollection of what Mr. Mahmuti told you
25 about this case?

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1 A. Yes, sir, it is.

2 JUDGE METTRAUX: And in respect to the latter part, do you stand
3 by your statement and analysis as you have it there?

4 A. Yes.

5 JUDGE METTRAUX: Can the Registry now bring up Exhibit P303,
6 please. And in the English version, it will be the second page; and
7 in the Albanian, to the right.

8 Sir, just to contextualise, this is a press release No. 4 of the
9 KLA Military Police Directorate. I briefly mentioned it last night
10 to you. It was issued on 1 November 1998 and published in *Zeri i*
11 *Kosoves* on 5 November 1998. And I'll give you a moment to acquaint
12 yourself with its content. Tell me, please, when you're done
13 reading.

14 A. I've completed reading it, sir.

15 JUDGE METTRAUX: Thank you. I have two preliminary questions.
16 The first one is are you familiar with this document? In other
17 words, had you seen it at the time?

18 A. I do not recall having seen it, sir.

19 JUDGE METTRAUX: But are you aware in general terms that the KLA
20 was communicating to the public or the international community
21 through press releases, communiqués, political statements? Are you
22 familiar with this practice?

23 A. Yes.

24 JUDGE METTRAUX: Now, if you look at the first paragraph, it
25 provides context as to who and when Mr. Kastrati and Mr. Desku were

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1 arrested. And then if you look at the second paragraph, it says
2 that:

3 "According to the information of the KLA Intelligence Service,
4 during their activity against the KLA liberation war, the
5 above-mentioned persons have spread propaganda about surrendering
6 weapons in cooperation with collaborators namely Selmon Binici from
7 the village of Banje and Ramiz Hoxha from Bellanica, who had been
8 executed some time ago by the KLA. Furthermore, they are in
9 continuous coordination with Agim Krasniqi, a member of the LDK
10 Presidency, who is known to the ... Intelligence Service as an
11 inspirer of the special war against the KLA and an initiator of a
12 kind of autonomous [policy] of Kosovo."

13 Now, there are two references here to information having been
14 received and provided by the KLA intelligence service. Is that
15 consistent with what you said earlier, that you had indication
16 already at the time that an intelligence service was functioning
17 within the KLA?

18 A. It is.

19 JUDGE METTRAUX: And it makes a number of allegations against
20 these two individuals about spreading propaganda about surrendering
21 weapons. Do you see that?

22 A. I do.

23 JUDGE METTRAUX: Would you know why the KLA was opposed to
24 civilians surrendering their weapons?

25 A. Sir, I can only speculate. I can only speculate about that. I

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1 do not know specifically.

2 JUDGE METTRAUX: Well, I'll ask you the question differently
3 then. There's a cable that you've seen yesterday. It's P1073. It's
4 a cable -- if you wish, I can show it to you. But I'll just read the
5 relevant passage. It's a cable of yours from 26 December 1998, and
6 it says this:

7 "At present, the KLA does not appear at all interested in
8 avoiding conflict and may welcome its arrival."

9 Was that your analysis at the end of December 1998?

10 A. I'll stand by that. I don't have it in front of me. But I
11 would ask the question -- I'm not sure sitting here 25 years later
12 what I meant by "conflict." Was that conflict between the UCK and
13 the LDK, or was it the wider conflict with the Serb security forces.

14 JUDGE METTRAUX: Well, I'll --

15 A. I don't know what the context is.

16 JUDGE METTRAUX: I'll ask you the question in that way.

17 A. Okay.

18 JUDGE METTRAUX: Up to the end of December 1998, was it your
19 understanding that some parts of the KLA were hoping that a conflict
20 between them and Serb forces would drag in the international
21 community in the conflict? In other words, that violence was part of
22 the strategy.

23 A. I know we're all anxious to get out of here, sir, for the Easter
24 weekend. May I talk a little bit more widely in responding to your
25 question?

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1 JUDGE METTRAUX: Please.

2 A. I think here context is important. My first point is that both
3 sides, both the Serbs, Belgrade, Milosevic, and particularly the UCK,
4 clearly did not trust each other. And both sides expected,
5 notwithstanding the October 30 agreement and the truce, this uneasy
6 truce we were trying to and KVM were trying to police. They
7 anticipated that there would be more fighting in the spring, and both
8 sides -- and let me add a footnote: We were hearing this kind of
9 thinking from both Serbs, like Sreten Lukic was very explicit in
10 saying that the KLA, the UCK would strike again in the spring. March
11 was considered the start of the fighting season, if you will.

12 And we were hearing this also from our contacts in the troika
13 and just and more generally UCK in the -- officials that we
14 encountered. And at the same time, we were aware, and KVM was even
15 more aware because they were already stood up and they had much
16 greater resources than we did. We were down to about five or six
17 officers at that point. We were, as the internationals - KVM and
18 KDOM - were aware that both sides were preparing for the possible
19 breakout again of conflict, active fighting.

20 KVM was monitoring the border and they were reporting that the
21 Serbs were -- Serbian forces were slipping additional troops and
22 weapons in overnight, and we were aware from contacts -- our contacts
23 with UCK leaders that they were reorganising their forces,
24 recruiting, and bringing -- trying to bring in more weapons from
25 Albania and from Macedonia. They'd opened up another weapons

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1 smuggling route across the mountains that they called the Sar
2 Planina, separating Kosovo from Macedonia. That, sadly, was the
3 atmosphere on the ground.

4 My sense - and I'd just emphasise, my sense - at the time was
5 that the General Staff leadership, at least the people we were
6 dealing with, the troika, were committed to trying to make the truce
7 work while at the same time they were also worried about the -- that
8 the Serbs would launch another attack in the spring. And they
9 were -- they supported efforts to prepare for that by their troops.

10 My final point, and I think it's an important one, is the --
11 and, again, this is Shaun Byrnes trying to connect dots at that time.
12 Both sides were -- at local levels were provoking the other. And I
13 saw no evidence and I heard no evidence from our UCK leadership
14 troika contacts that that -- that directions to do so were coming
15 from the UCK leadership. Our assumption is that any direction to
16 attack a Serbian police post or a Serb -- more often Serbian police
17 patrols on the roads, those actions were directed by local UCK
18 officers. Again, I have no hard evidence of that, but that's the
19 point.

20 Finally, I would suggest since KVM was -- had far more resources
21 at that point and was monitoring -- it was their responsibility to
22 actually monitor the implementation of the 30 December -- 30 October
23 agreement, they would be a better -- if you will, a better source of
24 information than I am.

25 I'm sorry for the --

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1 JUDGE METTRAUX: Thank you --

2 A. -- duration.

3 JUDGE METTRAUX: -- for that. I'm grateful.

4 The same cable, that's P1067, states the following about what
5 your understanding of the reasons behind the rest of Mr. Desku and
6 Kastrati was. And I will read it out to you and ask you about it.
7 It says this:

8 "Politically ..."

9 And it's at page 075301.

10 "Politically, the KLA seeks to enhance its international
11 recognition as the 'determining factor' in Kosovo, undermine LDK
12 President Rugova and take the lead in negotiations with the
13 international community aimed at achieving a political solution to
14 the Kosovo problem. The KLA's arrest of two Malisevo LDK leaders
15 underscores its intention to dominant local politics in the area it
16 controls and raises serious questions about its willingness to
17 tolerate other political parties and views."

18 Do you recall saying that?

19 A. Yes.

20 JUDGE METTRAUX: And do you stand by it today?

21 A. Yes. And, again, may I add -- may I amplify my comment?

22 JUDGE METTRAUX: Please.

23 A. I thought then, and I think even more so now, over the years
24 having thought about that, this was fundamentally a conflict over
25 who -- now that the international community was deeply engaged in the

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1 Kosovo problem, this was fundamentally a conflict about who was going
2 to govern Kosovo after the bigger conflict with Serbia was resolved.

3 JUDGE METTRAUX: Thank you. I'd like to show you another
4 document. You've seen it very briefly, so I want to ask you to
5 comment about a certain aspect of it. And that's Exhibit P1090.

6 You probably recall it, Mr. Byrnes. It was shown briefly to you
7 as being a record of a meeting that Mr. Rossin had with KLA
8 representatives in Geneva in early December 1998. Do you recall
9 being shown this document earlier this week?

10 A. Yes, I do.

11 JUDGE METTRAUX: If we can scroll down a little bit on that
12 first page. You will see that it records that meeting from the point
13 of view of a KLA participant, but one of the things that it says on
14 the first page, it's -- your name appears. It says that:

15 "According to Burns, there is very good cooperation on the
16 ground."

17 Can you confirm that, in general terms, you, yourself,
18 Mr. Byrnes, had good cooperation with the KLA leadership in terms of
19 addressing issues of concerns to you?

20 A. I can. As I said in an earlier comment this week, we had our
21 problems and we had our disagreements, but overall, cooperation was
22 good with the -- particularly with the troika.

23 JUDGE METTRAUX: Can we please turn to the second page of that
24 document. And there's a paragraph, Mr. Byrnes, if you can locate it,
25 it starts with the words: "The detention of two LDK ..." Can you

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1 find that?

2 A. Yes, sir.

3 JUDGE METTRAUX: It says this:

4 "The detention of two" --

5 And those are words attributed to Mr. Rossin, it appears. It
6 says:

7 "The detention of two LDK officials is also a matter of concern
8 to us. We think that this is a violation of human rights. This
9 creates the impression that the KLA is not playing the role of a
10 democratic force in this process."

11 My first question for you is had you raised similar concerns
12 with those members of the troika or the KLA leadership that you met,
13 that in your view this was inconsistent with democratic values?

14 A. Yes. Yes, I had, on several occasions.

15 JUDGE METTRAUX: And with members of the troika?

16 A. Yes, sir.

17 JUDGE METTRAUX: Can we please go to the next page now.

18 There is -- they go on to discuss this issue, and there's one of
19 the members of that KLA delegation who says the following to
20 Mr. Rossin in relation to the LDK official. It says:

21 "As for the arrest" --

22 Do you see these words in the middle of the page?

23 A. I do.

24 JUDGE METTRAUX: It records the following:

25 "As for the arrest of the two LDK 'officials', in this case we

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1 have to do with two spies, collaborationists of the repressive
2 Serbian apparatus. They have been arrested because they have caused
3 damage to our cause. No political force has condemned the arrest of
4 these spies, Kastrati and Desku. Every country would have done the
5 same thing. The United States has also arrested US citizens who
6 spied, for instance, for the Russians!"

7 Is that statement consistent with the allegations that
8 Mr. Mahmuti was making to you and which you recorded in the cable we
9 saw a moment ago?

10 A. I -- I don't -- I'd have to go back and look, but I don't
11 recall, even after looking at it today, that he called these -- these
12 two LDK officials spies. I think he said -- anyway, I'll stop there.

13 JUDGE METTRAUX: Well, what about the collaborationists? Do you
14 remember him telling you that, and do you remember the press release
15 that I've read to you?

16 A. And that's -- yes, that was the general sense of the press
17 releases.

18 JUDGE METTRAUX: And in your understandings, were Mr. Desku and
19 Kastrati either spies or collaborationists of the Serbian government?

20 A. In my -- in my view? Is that the question?

21 JUDGE METTRAUX: Yes.

22 A. I have no idea.

23 JUDGE METTRAUX: You have no information suggested they ever
24 spied or collaborated with the Serbian government?

25 A. Absolutely none.

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1 JUDGE METTRAUX: Now, Mr. Rossin is recorded as responding the
2 following. It's the paragraph just below. If we could scroll up a
3 little bit so that you have the full -- thank you. He's recorded as
4 saying:

5 "Demaci has refused to allow the International Cross," it should
6 be the Red Cross, "to visit the KLA prisoners. I would like to tell
7 you that in case there is judicial process it should be open and
8 fair. The KLA might create conditions for the
9 International Red Cross to visit the prisoners. Serbia has allowed
10 access to its prisons. My suggestion is that the International Red
11 Cross members should be allowed to make such visits. How can one
12 visit the prisoners when there is no information about the location
13 of the prison?!"

14 Do you recall -- or maybe did you do -- did you make similar
15 demands upon the KLA leadership in respect of access by the ICRC to
16 KLA detainees?

17 A. I do not recall.

18 JUDGE METTRAUX: Then there's the response of Mr. Bardhi that's
19 noted just below, and it says:

20 "Only the General Staff has the authority, neither us nor even
21 Demaci. We can only convey this information to the General Staff.
22 It is their issue."

23 Do you see that?

24 A. I do.

25 JUDGE METTRAUX: And is that consistent with your understanding

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1 that this would be an issue for the General Staff to decide?

2 A. Yes.

3 JUDGE METTRAUX: And is it the case that, in fact, a number of
4 KLA detainees were given the benefit of ICRC visits at a later stage?
5 Are you aware of that?

6 A. No, I'm not.

7 JUDGE METTRAUX: Now, I want to go on to the release of
8 Mr. Desku and Kastrati and ask you to comment on two documents
9 briefly. The first one is SPOE00225269.

10 And I'll give you a moment to read it, Mr. Byrnes. Tell me when
11 you're finished, and we'll scroll it up a little bit to see the rest.

12 A. I've read it.

13 JUDGE METTRAUX: Now, if we can just scroll up a bit so that you
14 have - thank you - the full document.

15 As you can see, it purports to be a decision from a KLA
16 investigative judge dated 7 November 1998, and it pertains to
17 Mr. Kastrati and Desku. And the first paragraph says that:

18 "The KLA Military Court Investigative Judge, based on
19 information by KLA IS /Intelligence Service - SHI - Sherbimi
20 Informativ/ and Chapter VIII, item four," and so on, that it would
21 continue with its investigation of Mr. Kastrati and Desku.

22 And it goes on to say, under the reasoning:

23 "Since the beginning of the enemy offensive, the above-mentioned
24 persons carried out a special warfare against the KLA and our
25 people's war for freedom and independence. They defended the

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1 wretched position of the party they belong to, which has always
2 obstructed our people's commitment in the war for freedom, [and] they
3 spread insecurity and defeatism everywhere they went to. They did
4 not help the Kosovo Liberation Army; on the contrary, they hindered
5 and sabotaged its ... war."

6 Do you see that?

7 A. I do.

8 JUDGE METTRAUX: Is -- well, first let me ask you. Had you seen
9 this document before?

10 A. No, sir, I haven't.

11 JUDGE METTRAUX: And is that consistent with the claim that
12 Mr. Mahmuti made to you that these two individuals would be put
13 through trial?

14 A. It seems to me it is.

15 JUDGE METTRAUX: Can the Registry please show document 1D47.

16 Now, sir, I'll give you a moment to read it again. It's a
17 General Staff Communiqué No. 63, and it's dated 27 November 1998, and
18 it's attributed to the KLA General Staff. Can you please read it in
19 your head and tell me when you're done.

20 A. I've read it.

21 JUDGE METTRAUX: Now, my first question is were you familiar,
22 again, at the time, or have you become familiar since then with this
23 particular document?

24 A. I've seen this document before during my visit here to Den Haag.

25 JUDGE METTRAUX: But you were not aware of it before?

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13992

1 A. I do not recall having seen it before.

2 JUDGE METTRAUX: Now, would you agree that from the content of
3 this document it suggests that it's the General Staff that decided
4 through the adoption of an amnesty to release these individuals, the
5 two LDK members, Cen Desku and Mr. Kastrati, and the two Tanjug
6 journalists? Do you agree?

7 A. Do I agree to what?

8 JUDGE METTRAUX: That this document suggests that it was the KLA
9 General Staff that decided upon their release.

10 A. That's certainly what the document says.

11 JUDGE METTRAUX: And that they did that, according to the
12 document, by means of an amnesty; correct?

13 A. Yes.

14 JUDGE METTRAUX: And, again, is there anything in the document
15 that you found to be inconsistent with your own experience and
16 interactions with the General Staff in relation to these matters?

17 A. Let me say in response to your question, this is a -- this is
18 fundamentally a political document which intends to put the UCK
19 General Staff in a very good odour with the international community,
20 and particularly with the new OSCE mission, which was in the process
21 of being set up.

22 I would add that I am quite confident that the amnesty that the
23 General Staff decreed or granted to the two Tanjug journalists was a
24 result of the pressure placed on the troika and, by extension, the
25 UCK General Staff by both US and EU KDOM and the new KVM mission led

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13993

1 by Ambassador Walker.

2 JUDGE METTRAUX: And I don't want to put words in your mouth,
3 but would you agree that this document suggests that the amnesty and
4 the release of these four individuals was being used by the KLA
5 General Staff as some sort of public relation exercise towards the
6 international community?

7 A. I would.

8 JUDGE METTRAUX: Now, I will go to the next incident that you've
9 been involved in. That's the arrest and release of police inspector
10 Goran Zbilic. Do you remember that case?

11 A. I do.

12 JUDGE METTRAUX: *[REDACTED] Pursuant to in-Court Redaction Order
F2208RED.*

13 *[REDACTED] Pursuant to in-Court Redaction Order F2208RED.*

14 *[REDACTED] Pursuant to in-Court Redaction Order F2208RED.*

15 A. I have to say vaguely. I've found these discussions intensive
16 and exhausting. But, yes, I recall him asking about that and
17 commenting on it.

18 JUDGE METTRAUX: And I'd like to ask you about something you
19 said during your proofing session with the Prosecution last week.
20 It's proofing note 2 at paragraph 37, it's ERN 120248. You are
21 recorded as saying this:

22 "If the KLA considered someone to be a Serbian policeman, it
23 meant that they were considered to be a traitor."

24 Does that reflect your view and does that reflect accurately
25 what you told the Prosecution?

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13994

1 A. It does. I think the term "the enemy" is a better term than
2 "traitor," but I don't -- I don't remember precisely whether that was
3 said or "enemy" was said 25 years ago. But Serb policemen were
4 considered 100 per cent the enemy.

5 JUDGE METTRAUX: And in your mind, would that have applied to
6 Goran Zbilic?

7 A. Absolutely.

8 JUDGE METTRAUX: Now, you told Mr. Miletic that you went to
9 Remi, Rrustem Mustafa, to try to secure the release of this
10 individual; is that correct?

11 A. Yes, sir.

12 JUDGE METTRAUX: Did Remi tell you who he turned to to be
13 authorised, if anyone, to release that individual? Did Remi tell you
14 that?

15 A. I do not remember.

16 JUDGE METTRAUX: Can the Registry please bring up Exhibit P841.
17 Again, that's something you've already seen, although very, very
18 briefly, Mr. Byrnes, earlier this week.

19 It's the transcript of a press conference involving Adem Demaci
20 and Ibrahim Rugova. And from its content, you'll have to take my
21 word for it, but you will see for yourself maybe in a second, this
22 conference would have taken place very, very shortly after the
23 release of Mr. Zbilic, so on or around 23 January 1999.

24 Can we turn, please, to page 2 of that document.

25 There's a preliminary matter that I want to ask you about

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13995

1 briefly. Do you see the second paragraph in that page that starts
2 with:

3 "/Translation/ I do not wish to tire you any longer."

4 Do you see that?

5 A. I do.

6 JUDGE METTRAUX: So it's Mr. Demaci speaking and he's recorded
7 as saying this:

8 "I do not wish to tire you any longer. I just wish to thank you
9 for all these communications we are having, to thank our three daily
10 newspapers for their objective reporting and to plead, in the name of
11 Kosovo Liberation Army, with all journalists, all newspapers to
12 refrain from cutting the official communiqués of the General Staff.
13 These communiqués are issued once in a while, they are not frequent.
14 They are [all] official documents, which have to be made known to the
15 public, the Albanian public, the Serbian public, and the
16 international public."

17 Now, my preliminary question is were you aware that the KLA was
18 treating their communiqués as official documents?

19 A. Not precisely. But when they were -- when these documents were
20 brought to our attention, they were all identified as an official
21 memorandum or something like that, so we assumed that they were
22 official.

23 JUDGE METTRAUX: Can we turn, please, to page 3.

24 And I'll ask you to look under time mark 0:10:53. And if we can
25 scroll up a little bit more, please. Thank you.

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13996

1 Do you see the timestamp, Mr. Byrnes?

2 A. Do I see, sir?

3 JUDGE METTRAUX: The timestamp 0:10:53?

4 A. I do.

5 JUDGE METTRAUX: Now, you will see there is a journalist who is
6 recorded as asking about the release of Goran Zbilic, which has just
7 occurred, and he says that the "families and relatives of Nebojsa
8 Radosevic and Kico Dobricic are voicing doubts that the two are still
9 alive, despite your statements to the contrary."

10 And then the response of Mr. Demaci is:

11 "Let me reassure you and their families, with whom I sympathise,
12 I know how much my mother and sister worried about me, despite being
13 able to visit me perhaps once a month. I know what it means to be in
14 prison, and let me reassure you that the two journalists in question
15 are alive and well. They are being treated humanely under these war
16 circumstances and so on. I am telling you this so that you can
17 convey it to all those who are concerned."

18 And there he says:

19 "We are doing what we can, playing the humanitarian role, doing
20 what we can to diminish their suffering."

21 And then he speaks about his own experience. And he goes on to
22 say:

23 "However, I am not entitled to interfere with these matters. I
24 can only interfere as a human, a humanitarian, and come up with good
25 proposals. You know very well that it is not up to me."

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13997

1 Do you see that?

2 A. I do.

3 JUDGE METTRAUX: And is that consistent with what you understood
4 to be the powers and the limits upon the powers of Mr. Demaci?

5 A. Yes.

6 JUDGE METTRAUX: Can we please turn to page 4 of that document.
7 And it's just so that you have the full context. To the bottom of
8 the page, please.

9 It goes on here to ask again about Mr. Zbilic, Mr. Byrnes, and
10 the interactions that had started between Mr. Demaci and
11 Mr. Milutinovic in Serbia, so that you have the context.

12 And if we can go to the next page, please. And if the Registry
13 can please scroll up so that Mr. Byrnes -- you can start maybe
14 reading, Mr. Byrnes, under 0:18:48 so that you have the full picture,
15 and tell me when you have reached the end of the full page.

16 A. I have read it.

17 JUDGE METTRAUX: Now --

18 A. May I ask a question?

19 JUDGE METTRAUX: Please go ahead.

20 A. You may not know the answer. Was -- I assume the journalist who
21 is asking these questions is from one of the Prishtine newspapers,
22 not a Serbian journalist?

23 JUDGE METTRAUX: I think you're right, Mr. Byrnes.

24 A. Okay.

25 JUDGE METTRAUX: Now, my question is this: You can see that

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13998

1 they are discussing again the case of Mr. Zbilic, and Mr. Demaci, and
2 that's under timestamp 0:19:42, explained that he was not there when
3 Mr. Zbilic was released and made a statement when he indicated that
4 he had been treated well.

5 And he said:

6 "And I believe you when you quote his words, if those were
7 indeed [his] words said by Mr. Zbilic. As you can see, the
8 General Staff of the Liberation Army accepted my plea, my call that
9 one should have understanding for these people. So my call was
10 100 per cent heard."

11 Do you agree that this suggests that Mr. Demaci having pleaded
12 with the General Staff to release Mr. Zbilic, the General Staff
13 agreed and accepted to release that individual, based on that
14 passage?

15 A. I actually don't know. I was not inside the General Staff. I
16 don't know what motivated the General Staff to make that decision.
17 But I return to my previous point. The internationals in Kosovo put
18 enormous pressure on the General Staff to release Mr. Zbilic as well.
19 Whether it was that pressure or Mr. Demaci's appeal that led to the
20 right decision, I don't know.

21 JUDGE METTRAUX: Fair enough. My question was not very precise.
22 I'm grateful for your answer which clarified things.

23 My question is do you agree that, according to Mr. Demaci's
24 account, the decision to release Mr. Zbilic was taken by the
25 General Staff, not by Remi? Do you agree with that?

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 13999

1 A. Yes.

2 JUDGE METTRAUX: Now, you've discussed yesterday your
3 understanding of --

4 A. Excuse me.

5 JUDGE METTRAUX: Please, sir. Yes.

6 A. I'm sorry to interrupt. Let me just add that what's
7 particularly interesting about this situation is Mr. Demaci was from
8 the Podujeve area, from the Llap region, and he had enormous -- he
9 had an enormous -- an enormously popular reputation and quite a
10 strong influence with the Llap UCK officials.

11 And let me try to connect the dots. If his appeal was -- his
12 appeal originally was to the Llap zone commander, Mr. Remi, to
13 release Inspector Zbilic, it appears that that appeal fell on deaf
14 ears.

15 JUDGE METTRAUX: I'm grateful for that.

16 I want to ask you about another document that pertains to
17 Rrustem Mustafa, Remi, and that's Exhibit P10.

18 I'll tell you briefly what it purports to be, Mr. Byrnes, and
19 I'll give you a moment to read it. But this is an amnesty dated
20 5 April 1999. You will see that it's signed by the commander of the
21 Llap zone, Remi Mustafa. It's numbered 003/04/99 for the Llap zone.
22 And it lists a number of individuals that are and have been in KLA
23 custody for quite some time. But I'll give you a moment to read it.
24 Please say when you have reached the end of the page so that we can
25 scroll down for you and then go to the next page.

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14000

1 A. Just a quick question. This is -- this is 4 April or -- or --

2 JUDGE METTRAUX: This is --

3 A. The European or the American ...

4 JUDGE METTRAUX: We understand it to be the European, sir. The
5 5 April 1999.

6 A. Okay.

7 JUDGE METTRAUX: Not the American.

8 A. Thank you.

9 JUDGE METTRAUX: And if we can scroll down a bit for the
10 witness. Thank you. And on to the next page, please.

11 A. Okay. I've read it. I noticed in the very first -- the
12 identification of the first prisoner, there seemed to be an
13 inaccuracy in the --

14 JUDGE METTRAUX: No, that's correct. I'll come to that.

15 If we can go back to the first page, please.

16 You're absolutely right, Mr. Byrnes. And I'll correct it for
17 the record. The first individual, Mr. Hoti, it suggests that he's
18 been in detention since 18 November 1999. It should be 1998.

19 A. 1998.

20 JUDGE METTRAUX: Is that what you picked up?

21 A. Yes, that's what I thought.

22 JUDGE METTRAUX: I'm grateful.

23 My first question for you, Mr. Byrnes, on this is: When you met
24 with Remi, did he tell you that he was holding these people? And as
25 you can see, he was holding them for quite a while. Some of them

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14001

1 were picked up in November 1998. So by the time this document is
2 issued, they would have been in KLA custody for six months. Did he
3 ever tell you about these people?

4 A. No, he did not. But let me note that, first, I'm entirely --
5 this is the first time I've seen this. Also, I was not aware of the
6 existence of these abductees by the Llap zone. Third point is OSCE
7 KVE was responsible -- was responsible at this -- entirely
8 responsible at this time for this sort of action. If there was any
9 meetings between Remi and his staff and the internationals, they
10 would have been with KVM, Ambassador Walker and his people.

11 JUDGE METTRAUX: And I suppose you've answered my next question,
12 but those members of the KLA leadership you met, none of them ever
13 mentioned that they were holding these people; correct?

14 A. Yes, sir.

15 JUDGE METTRAUX: And I suppose again you've answered my
16 question, but you don't know what Remi did with these people, right,
17 and whether he, in fact, released them; correct?

18 A. Exactly.

19 JUDGE METTRAUX: Now, if you focus on the first paragraph there,
20 it says that:

21 "Based on the political memorandums of the General Staff of the
22 KLA, the internal Regulation of the KLA and based on the Regulation
23 of the Civil Administration, the commander of the [Llap operational
24 zone] with the decision no. 003/04/99 ... declares [an] amnesty ..."

25 Do you see that?

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14002

1 A. I do.

2 JUDGE METTRAUX: And would you accept that, from the wording of
3 this document, Mr. Mustafa was issuing this amnesty on the basis of
4 the authority of the KLA General Staff that derived from these
5 political memorandums, internal regulation, and regulation on civil
6 administration? Do you agree with that?

7 A. Yes.

8 JUDGE METTRAUX: And I think we've reached the break,
9 Mr. Byrnes.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. EMMERSON: So can I just ask Your Honours to indicate the
12 sitting timetable for the day? If we're doing 15 minutes now, what
13 the next stage is?

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 It's the half-hour break at 11.00.

17 MR. EMMERSON: Oh, I see.

18 PRESIDING JUDGE SMITH: Oh, I'm sorry, at 11.00. Oh, yeah, that
19 was my mistake. I should have taken the half an hour at this point.

20 MR. EMMERSON: That's what I was wondering.

21 PRESIDING JUDGE SMITH: I'm sorry. Yeah, that will keep us on
22 schedule.

23 MR. EMMERSON: So half an hour now?

24 PRESIDING JUDGE SMITH: Yes.

25 MR. EMMERSON: Thank you.

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14003

1 PRESIDING JUDGE SMITH: Madam Usher, please advise the witness I
2 made a mistake and it's a half hour.

3 So we're adjourned until 11.30.

4 --- Recess taken at 11.04 a.m.

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

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

7 [The witness takes the stand]

8 PRESIDING JUDGE SMITH: All right, Mr. Byrnes. We continue with
9 questions.

10 Judge Mettraux has the floor.

11 JUDGE METTRAUX: Thank you, Judge Smith.

12 And good morning again, Mr. Byrnes. To keep you abreast of our
13 advances, we have three incidents left to go through together.

14 A. We have three what?

15 JUDGE METTRAUX: Three incidents left to go through together.
16 And I'll start with the incident involving the release of eight
17 Serbian soldiers.

18 Do you recall that you dealt with, from the KLA side, directly
19 with Jakup Krasniqi as the point person in relation to that incident?

20 A. I do.

21 JUDGE METTRAUX: Can the Registry please bring up Exhibit P1093.
22 That's, again, Mr. Byrnes, a document you saw, albeit very briefly,
23 earlier this week. It is, we are told, a manuscript from
24 Jakup Krasniqi that was, we are told, seized at his home.

25 And I'll give you the time you need to acquaint yourself

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14004

1 generally with that page, if you may. I'll go through it with you.
2 So if you can just take a minute and just acquaint yourself with the
3 context.

4 So as you can see, Mr. Byrnes, it's a personal account of the
5 incident involving the eight Serbian soldiers, and under paragraph 2
6 of that page, the person writing says:

7 "I was the key person responsible for the negotiations."

8 Do you see that?

9 A. I do.

10 JUDGE METTRAUX: And if we go back to the beginning of the page,
11 it says that:

12 "It was the beginning of January and the fighting was
13 concentrated in the Llap and Shala Zone. On 7 January, [I
14 personally] in the capacity of the deputy commander for support
15 services together with Bislum Zyrapi, Chief of the General Staff,
16 Rame Buja, Chief of AC ... Directorate as well as with Ferat Shala
17 were at the command of Shala."

18 My first question is had you been you made aware that
19 Mr. Krasniqi, in addition to his role as a spokesperson, had by then
20 been appointed as deputy commander for support service within the
21 General Staff?

22 A. I was not.

23 JUDGE METTRAUX: My second question has to do with this
24 individual named in the first sentence, Ferat Shala. Are you
25 familiar with this individual?

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14005

1 A. No, I am not.

2 JUDGE METTRAUX: Now, it says, if we continue, it talks of the
3 eight Serb soldiers who had been captured. The account is that the
4 author went back to Shala to the staff, zone and the brigade, and it
5 says:

6 "We instructed them on how to act, but without making our
7 presence too obvious. During the whole period during which the ...
8 /Shala Operational Zone/ was involved in the issue with these
9 captives, they coordinated every step with the GS," the
10 General Staff, "and I personally kept in contact with
11 Commander Rrahman Rama."

12 Do you see that?

13 A. I do.

14 JUDGE METTRAUX: And you can confirm, I suppose, that
15 Rrahman Rama was the Shala operational zone commander; correct?

16 A. Yes, sir.

17 JUDGE METTRAUX: Then it goes on to say:

18 "We coordinated [on] the first day with [the General Staff],
19 partially through the satellite telephone, that the captives could be
20 released, only in an exchange."

21 And then it says:

22 "On the same day, after 22:00 hours we had to travel to Divjak
23 because on the morning of 09.01.1999 at 08:00 ... we had to meet the
24 representatives of the OSCE and KDOM at Dragobil."

25 Now, can we assume that this would be the meetings that you

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14006

1 attended on the 9th?

2 A. Yes, sir.

3 JUDGE METTRAUX: And if we go now to paragraph 2 of that
4 document.

5 A. May I just make one slight correction? I've seen this
6 qualification of the house of Dragobilje as the headquarters of
7 US KDOM. That's not true. It was a house that US KDOM and OSCE used
8 for meetings. Our headquarters was technically in the building we
9 were residing in in Kosovo Polje.

10 JUDGE METTRAUX: Thank you for that.

11 A. It's --

12 JUDGE METTRAUX: Thank you for the specification.

13 Now, it continues, paragraph 2:

14 "We have had discussion with the [General Staff] about this
15 case. There were no conflicting opinions, and we shared a unanimous
16 opinion."

17 And it goes on to say in the same paragraph:

18 "We coordinated closely with the international factor while
19 showing maturity."

20 Can we go to the next page, please.

21 It suggests, at the top of the page, Mr. Byrnes, and if you feel
22 you need to read into the page, please say so, but it starts by
23 saying:

24 "The negotiations were exceedingly difficult, especially at the
25 beginning. On 9 January at Dragobil, we had begun the initial

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14007

1 negotiations regarding the persons held captive. In the
2 negotiations, the KDOM was represented by S. Berns, the OSCE by
3 Major David, and the KLA by me."

4 Is that consistent with your memory of who was present at the
5 meeting?

6 A. Yes, sir.

7 JUDGE METTRAUX: Now, if you go further down in that paragraph,
8 it starts with the words:

9 "However, the representative of OSCE ..."

10 Can you see that?

11 A. Yes.

12 JUDGE METTRAUX: It says:

13 "However, the representative of OSCE tried to put pressure and
14 blackmail us and went as far as to say, 'If I don't inform my
15 superior by 11:00 (the time then was 10:10), that [we] are going to
16 release the 8 Serb soldiers we will cease to be the mediators,
17 therefore, the Serbian offensive will commence'. He said this
18 bluntly and whilst standing."

19 And then there's the recorded response of the author of that
20 document.

21 I just wanted to ask you, you've indicated yesterday that there
22 was one occasion, I think only one, where you and Mr. Krasniqi had a
23 bit of a dispute. Is that the dispute, if you can recall?

24 A. Honest -- honestly, sir, I don't remember whether it was this
25 occasion.

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14008

1 JUDGE METTRAUX: Then the document under the bullet point says:
2 "I informed the [General Staff] after these negotiations and
3 they supported my stance."

4 Do you see that?

5 A. I do.

6 JUDGE METTRAUX: And is that again consistent with what you told
7 us yesterday, that Mr. Krasniqi was in and out of the room, using his
8 phone to call other people?

9 A. Yes, sir.

10 JUDGE METTRAUX: Can we turn to the next page, please. And
11 starting at the top of the page -- I have a slightly different
12 version. I'll read the one you have in front of you. It says:

13 "While we agreed to release the eight Serbian soldiers, we also
14 believed, but they were 10 very long days. For me, only the
15 liberation of Kosovo would have been better news than the release of
16 the nine soldiers ..."

17 Again, is that consistent with the account you gave us that the
18 timing, if you wish, of the release of the KLA detainees and that of
19 the Serb soldiers was staggered over a period of approximately ten
20 days?

21 A. Yes, sir.

22 JUDGE METTRAUX: And then the next paragraph says:

23 "The KLA [General Staff] was conscious that its political aspect
24 was a step we were interested in, but that there was uncertainty ..."

25 My version of the same document, Mr. Byrnes, says this:

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14009

1 "[General Staff] of the KLA was conscious that this was a move
2 that was motivated by a political interest, but that there was
3 uncertainty not relating to the international community but to ...
4 the Belgrade regime."

5 Is that consistent, the suggestion that it was in the political
6 interest of the KLA to release these eight Serbian soldiers, is that
7 consistent with your own understanding of what was going on?

8 A. Yes, sir, it is.

9 JUDGE METTRAUX: And can we please go to SPOE -- sorry,
10 Mr. Byrnes. I'm trying to find the right page. It's SPOE -- it's
11 now, sorry, P1091.

12 And, again, simply for your own benefit, Mr. Byrnes, this is
13 again a document you were shown very, very briefly earlier this week.
14 It's again described by the Prosecutor as a manuscript attributed to
15 Jakup Krasniqi that was found at his home. And I want to take you to
16 a few passages of that document.

17 It should be P1091. And the page should be SPOE00231062. Thank
18 you.

19 And, Mr. Byrnes, again, if you feel you need more time to read
20 the whole page, please say so. Otherwise, I'll take you to certain
21 passages. But as you can see, this is again a document that
22 discusses in some depth the incident we are discussing.

23 And I first want to ask you about something that's said in the
24 last paragraph on that page, and if you can read the paragraph that
25 starts with the words: "Looked at on the basis ..."

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14010

1 Can you see that?

2 A. I can.

3 JUDGE METTRAUX: And if it can be scrolled up a bit for the
4 benefit of the witness. Thank you.

5 So the document again goes through a number of steps we've
6 already discussed, and I won't go through that, but it says in that
7 last paragraph that:

8 "The KLA General Staff was informed in detail about this
9 discussion too, as well about every other discussion."

10 Do you see that?

11 A. I do.

12 JUDGE METTRAUX: Can we turn to the next page, please. And it
13 goes on to give details about that discussion within the KLA and with
14 other actors, about the prisoners. And somewhere around the middle
15 of that first big paragraph, it says:

16 "After many discussions, with arguments and counterarguments, we
17 decided on an exchange of the eight Serb soldiers, demanding the
18 release of the nine soldiers captured in the border zone in
19 mid-December 1998."

20 Do you see that?

21 A. I do.

22 JUDGE METTRAUX: And, again, I suppose you've said it, but it's
23 consistent with your own recollection of what was going on?

24 A. Yes.

25 JUDGE METTRAUX: Then it goes into the meeting of 11 January,

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14011

1 and please read into it.

2 It says that:

3 "The meeting lasted more than five hours. During the whole time
4 we were in contact with the Head of the Political Directorate and the
5 other members of the KLA General Staff."

6 Now, the head of the political directorate at the time was
7 Hashim Thaci; is that right?

8 A. Yes, sir.

9 JUDGE METTRAUX: So it would suggest, at least on that record,
10 that the person Mr. Krasniqi -- or persons Mr. Krasniqi was in touch
11 with on the phone while talking to you was Mr. Thaci and other
12 members of the KLA General Staff. Do you agree with that?

13 A. Yes.

14 JUDGE METTRAUX: Now, if we can go to page SPOE00231066.

15 It starts by saying:

16 "I am convinced that the talks about the exchange of prisoners
17 would have failed without the leader of American KDOM Shaun Byrnes,
18 who rescued the talks from the crisis."

19 Now, is that consistent with what you told us, that at some
20 stage you and Mr. Krasniqi took matters in your hands and tried to
21 find a solution to it?

22 A. Yes, sir.

23 JUDGE METTRAUX: Then it goes on to say:

24 "... I had earlier given an order to the Commander of the Shala
25 Operational Zone, Rahman Rama, to prepare the ... soldiers for

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

Page 14012

1 release and to put them into OSCE vehicles."

2 Do you remember Mr. Krasniqi giving that order to Mr. Rama?

3 A. I did not personally hear him give that order.

4 JUDGE METTRAUX: But he did tell you he had given that order;
5 correct?

6 A. Yes, he did.

7 JUDGE METTRAUX: Now, further down, it says:

8 "After Walker," that would be William Walker, "reads the
9 statement, I tell this Commandant that there has been an agreement,
10 and only after this notification is the departure of the vehicle
11 carrying the eight Serb soldiers authorised."

12 And then he goes on to say:

13 "Nine days went very slowly until Shaun Byrnes informed us that
14 the nine KLA soldiers would be released the next day and asked us to
15 tell him where we would receive them."

16 Do you recall, Mr. Byrnes, having been the one person who
17 informed the KLA leadership that this would be happening?

18 A. I do.

19 JUDGE METTRAUX: And do you recall who you called to inform them
20 of that?

21 A. Not precisely, but my assumption is, as always, it was a member
22 of the troika. It may have been Bashota, it may have been
23 Mr. Krasniqi.

24 JUDGE METTRAUX: Then it goes on to say, a bit further in the
25 paragraph:

Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14014

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14015

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Questioned by the Trial Panel (Continued)

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23 [Open session]

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

25 JUDGE METTRAUX: Thank you.

Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14019

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14020

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14023

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14024

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

Page 14026

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10 [Open session]

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

12 JUDGE METTRAUX: Now, my first question is -- I'll come to the
13 details in a second, but starting at the end. Do you recall that
14 when the Savelic brothers were handed by the KLA to a representative
15 of the international community that one of the Savelic brothers was
16 dead and the other one appeared to have been severely beaten? Do you
17 recall that?

18 A. I'm sorry, I do not.

19 JUDGE METTRAUX: Can the Registry please bring up Exhibit P394.

20 Now, sir, that's a press release from the OSCE Verification
21 Mission No. 27/99. It's dated 1 March 1999. And in the first
22 paragraph, it says that:

23 "On 1 March at 13,00 hours, the KLA handed over two missing Serb
24 brothers to the KVM. The two had been abducted from the village of
25 Velika Hoca on 27 February. One of the men had been shot dead; the

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

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1 other had apparently been badly beaten. This incident followed the
2 KVM's securing the release of another Serb civilian from the KLA on
3 the evening of 27 February. The FRY authorities have been
4 cooperative and have shown restraint throughout this episode."

5 Now, does that help refresh your memory about the fate of these
6 two individuals?

7 A. I still don't, frankly -- I did not participate in this so --
8 but I knew about it.

9 JUDGE METTRAUX: Well, in your statement you said that you
10 approached the KLA General Staff to again try to secure the release
11 of these individuals. Do you recall that?

12 A. No. This -- this was handled by OSCE KVM.

13 JUDGE METTRAUX: Can the Registry please bring up Exhibit P1066.

14 It's just to see if that refreshes your memory about who was
15 involved, Mr. Byrnes. And it's no criticism. Your memory is
16 impressive.

17 It would be page 075548, please. And the paragraph would be
18 137. That's the bottom of the page.

19 You can read the paragraph. It's your own statement, of course,
20 Mr. Byrnes. And --

21 A. 137?

22 JUDGE METTRAUX: Yes, please.

23 A. I've read it.

24 JUDGE METTRAUX: And does that -- is that consistent with your
25 memory that both KDOM and KVM were involved in the matter and engaged

Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

Page 14028

1 with the General Staff to secure the release of these individuals?

2 A. It -- I actually still don't remember. I remember that -- I
3 remember the woodcutters' abduction incident, but I just don't
4 remember that we were engaged in that. But this is a case of my
5 memory failing me again.

6 JUDGE METTRAUX: Well, there might be a document in a minute
7 that might --

8 A. Sure.

9 JUDGE METTRAUX: -- help you, Mr. Byrnes. And it really is no
10 criticism of you.

11 Can we please go into private session for a moment for Rule 107
12 considerations.

13 [Private session]

14 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14029

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14030

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14032

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14034

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14036

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14037

Questioned by the Trial Panel (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Questioned by the Trial Panel (Continued)

Page 14038

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18 [Open session]

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

20 JUDGE GAYNOR: Thank you.

21 I want to talk about, first of all, the KLA communiqués and the
22 political declarations, generally speaking. Now, I think in the last
23 sentence of paragraph 62 of your witness statement to the SPO, you
24 said:

25 "With respect to communiqués and declarations, we understood

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

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1 that these were issued and sanctioned by the GS."

2 You remember stating that?

3 A. What was the statement, sir? I don't have it in front of me.

4 JUDGE GAYNOR: No problem. I'll --

5 A. Thank you.

6 JUDGE GAYNOR: -- repeat it. You said:

7 "With respect to the communiqués and declarations, we understood
8 that these were issued and sanctioned by the GS."

9 A. That's correct.

10 JUDGE GAYNOR: And earlier today you said:

11 "... when these documents were brought to our attention, they
12 were all identified as an official memorandum or something like that,
13 so we assumed that they were official."

14 A. That's right.

15 JUDGE GAYNOR: What I want to understand is what role these
16 communications and declarations played in your analysis of KLA
17 leadership structures.

18 First of all, did you or US KDOM generally have a practice of
19 systematically reviewing the communiqués and declarations and press
20 releases?

21 A. To answer the second part of your question first, we didn't --
22 we did not have such a practice. And to answer your first question,
23 quick and dirty answer is no.

24 JUDGE GAYNOR: Was there a particular reason for that?

25 A. We very seldom had access to them.

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

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1 JUDGE GAYNOR: Okay. I want to turn now -- because those
2 were -- I was referring to those that were published in various
3 Kosovo newspapers.

4 I want to turn now to internal communications within the KLA
5 itself. And you said yesterday afternoon:

6 "I vaguely recall that we saw several English translations of
7 UCK orders, but I don't remember the substance of them."

8 You remember saying that?

9 A. I do.

10 JUDGE GAYNOR: Could you clarify for us the extent to which you
11 reviewed internal communications of the KLA when you were formulating
12 the diplomatic cables that you authored or co-authored?

13 A. My recollection, sir, is that we did not attribute much
14 importance to them. Perhaps that was a mistake. I tended to see
15 them as a public relations exercise that contained very little
16 valuable information for our mission.

17 So we read them but didn't pay any -- that much attention to
18 them.

19 JUDGE GAYNOR: Now, focusing on communications, for example,
20 from the brigade command to the zone command or from the zone command
21 to the General Staff or vice versa, do you remember having had access
22 to those kinds of communications?

23 A. No, I do not.

24 JUDGE GAYNOR: And so am I right in understanding that your
25 formulation of your analysis of the powers exercised by the

Witness: Shaun Byrnes (Resumed) (Open Session)
Questioned by the Trial Panel (Continued)

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1 General Staff *vis-à-vis* the zone command, for example, that you were
2 making that analysis without the benefit of reviewing that internal
3 set of communications?

4 A. Yes. Let me amplify or say a few more words about that. First,
5 we didn't have -- we had very little access to those communications.
6 We saw very few of them.

7 Secondly, our analysis of UCK operations was based on two
8 factors: One, our own interaction with UCK senior leadership,
9 particularly Sokol Bashota, Mr. Krasniqi, and Mr. Buja, and
10 occasionally zone commanders; and, two, their actions as we saw them
11 in the field. Now, actions speak louder than words, if you will.

12 JUDGE GAYNOR: Right. And would it be fair to say that in their
13 communications with you, we can assume that the KLA leadership were
14 very keen, indeed, to keep the United States on board politically and
15 militarily?

16 A. Absolutely.

17 JUDGE GAYNOR: And did that factor into -- did you think
18 occasionally they might have been playing you a little bit in terms?

19 A. We did.

20 JUDGE GAYNOR: Would you care to amplify on that issue a little?

21 A. The only thing I would say is we would have been supremely naive
22 if we did not think that they were trying to manipulate us, if you
23 will.

24 JUDGE GAYNOR: Thank you very much, Mr. Byrnes. That's it.

25 Thank you.

Witness: Shaun Byrnes (Resumed) (Open Session)

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Further Cross-examination by Mr. Misetic

1 PRESIDING JUDGE SMITH: Does the Prosecution have any follow-up
2 questions to the Judges' questions?

3 MR. FERDINANDUSSE: No, thank you, Your Honour.

4 PRESIDING JUDGE SMITH: Mr. Misetic.

5 MR. MISETIC: Yes, Your Honour. Just one moment, please. Thank
6 you.

7 Further Cross-examination by Mr. Misetic:

8 Q. Mr. Byrnes, good afternoon --

9 A. Good afternoon, sir.

10 Q. -- again. I'm going to ask you several questions in follow-up
11 to the questions that were put to you by the Panel. My first
12 question relates to a question Judge Barthe asked you about paragraph
13 28 of your statement to the SPO, which is Exhibit P1066, at
14 yesterday's transcript, page 124, at line 25.

15 You say in that paragraph of your statement:

16 "In September or November 1998, I brought up the issue of
17 intra-Albanian killings and the killing" --

18 A. Excuse me, could you speak a little more closely to the
19 microphone? Thanks.

20 Q. Sure. I'll try. In that paragraph you say:

21 "... I brought up the issue of intra-Albanian killings and the
22 killing of collaborators with the troika, and they flatly denied that
23 this took place."

24 And you say that you brought that up in September or November
25 1998. And you stated that:

Witness: Shaun Byrnes (Resumed) (Open Session)
Further Cross-examination by Mr. Misetić

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1 "... the U.S. believed that the KLA leadership could address
2 incidents such as these when committed by locals."

3 Now, my question for you is: Which Albanians are you referring
4 to that were killed by the KLA and whose killing you raised with the
5 troika in September or November 1998?

6 MR. FERDINANDUSSE: Objection, Your Honour. Beyond the scope.
7 The last part was not in the question of Judge Barthe.

8 PRESIDING JUDGE SMITH: Go ahead.

9 MR. MISETIC: Thank you.

10 THE WITNESS: Would you mind repeating the question then? Thank
11 you.

12 MR. MISETIC:

13 Q. Yes. You know I'm talking about the paragraph -- we can put it
14 on the screen, if you wish.

15 MR. MISETIC: P1066, paragraph 28.

16 Q. If you could just take a look at that paragraph.

17 A. Which paragraph is it, sir?

18 Q. 28.

19 A. Okay. Got it.

20 MR. FERDINANDUSSE: Your Honour, I would point out that that
21 paragraph has been clarified or corrected. I refer to 120245,
22 paragraph 16.

23 MR. MISETIC: I'm only putting the part of the paragraph that
24 was put to him by Judge Barthe, word for word.

25 PRESIDING JUDGE SMITH: Go ahead with your question.

1 MR. MISETIĆ:

2 Q. Sir, if you look at the last sentence of that paragraph. Can
3 you read it?

4 A. Yes, I can.

5 Q. My question to you is which Albanians, by name, are you
6 referring to that were killed by the KLA and whose killing you raised
7 with the troika in September or November 1998?

8 A. I cannot give you the names of any individual Albanian from
9 Kosovo. What I can tell you, from my memory, is that in September
10 Nick Turnbull and I were asked to -- were actually taken to Glogjan,
11 close to Djakovica, and shown a site where allegedly a number of
12 Albanian Catholics from Prizren had been taken by the UCK and
13 murdered. And then we were taken to a morgue in -- in what I
14 remember was Djakovica and shown remains and personal items of these
15 people.

16 Rumours were, and I stress "rumours" because we could never
17 confirm this, but the rumours were that Albanian Catholics - and they
18 were concentrated in Prizren and there was some in other parts of
19 Dukagjini - were hostile to the UCK and presumably favoured the LDK.
20 But that's my -- that's my connecting the dots. I don't know that
21 for certain.

22 But basically what we were told by the local UCK with whom we
23 discussed this incident later, that these people had been eliminated
24 because they were collaborating with the Serb forces.

25 Q. Okay. And you say you raised this issue with the troika about

1 the Albanian Catholics?

2 A. Yes.

3 Q. And when would that have been?

4 A. It would have -- I don't remember the date, but it would have
5 been sometime in that area. We also raised it in our -- and our
6 teams raised it with local UCK commanders at the brigade level --

7 Q. Okay.

8 A. -- in an effort to try to elicit more information about the
9 incident, and we never got -- we never got very much.

10 Q. Okay.

11 A. The -- I guess the rumour -- the rumours that we did get from
12 locals, our teams -- I did not personally get these, but our teams
13 that worked that area, and EU KDOM also worked Dukagjini hard because
14 they knew it better than we did, they'd been there first. The
15 rumours that we collected indicated that Ramush Haradinaj's Dukagjini
16 zone was responsible for these abductions and murders.

17 Q. Okay. But would you have reported --

18 A. I stress they were rumours.

19 Q. Would you have reported that in a cable?

20 A. I -- we probably did. I -- I don't have any clear memory of
21 writing that, such a cable.

22 Q. And you haven't been shown any --

23 A. And there -- there was an interest, of course, in Washington in
24 this, so we probably did. I just don't remember it.

25 Q. Right. Do you -- in the cables that you've been shown by the

1 Prosecutor, have you seen any cable where you reference the killing
2 of collaborators or Albanians by the KLA?

3 A. Yeah, I -- yes, I -- at least on one or two occasions we
4 reported that we had heard rumours of Albanian collaborators being
5 executed. And, again, the one specific incident -- specific --

6 Q. Sorry.

7 A. Go ahead.

8 Q. I'm trying to get you home by --

9 A. I know.

10 Q. -- finishing by 4.30.

11 A. I know. Okay.

12 Q. So let me say this: Have you seen a cable where you discuss
13 intra-Albanian killing? Have you seen it shown to you by the
14 Prosecutor or in court?

15 A. I don't -- maybe my memory is faulty. I don't remember.

16 Q. Okay. Let me ask you about something else Judge Barthe asked
17 you at transcript page 125, line 23, to 126, line 21. You were asked
18 about paragraph 38 of your statement.

19 MR. MISETIĆ: And if we could go that to that paragraph, please.

20 Q. And this paragraph talks about Fatmir Limaj's resistance to
21 complying with the October agreement. And in the middle of the
22 paragraph, you were asked questions by Judge Barthe about this
23 sentence:

24 "Finally, under pressure from Mike Dean and Nick Turnbull, and
25 from the KLA General Staff, Limaj complied with the terms of the

Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetić

1 agreement ..."

2 Do you recall that?

3 A. Yes.

4 MR. MISETIĆ: Can we move into private session for a moment,
5 Mr. President?

6 PRESIDING JUDGE SMITH: Into private session, please,
7 Madam Court Officer, to protect the witness.

8 MR. MISETIĆ: It's actually at the request of a provider,
9 Mr. President.

10 PRESIDING JUDGE SMITH: Oh, I'm sorry. At the request of a
11 provider.

12 [Private session]

13 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Miseti

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13 [Open session]

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

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. MISETIC: Thank you.

17 Q. Witness, you were asked questions by Judge Barthe yesterday at
18 transcript page 129, line 22, to 131, line 11, about Adem Demaci and
19 Mr. Thaci saying that Mr. Demaci had a minor role. Let me ask you,
20 in paragraph 43 of your SPO statement, you say that Mr. Demaci
21 approved KDOM team patrols in Kosovo; is that correct?

22 A. That's right.

23 Q. And in the same paragraph, you say that:

24 "Our patrol vehicles carried documents signed by Demaci and
25 noted his approval. In some zones, these documents enabled KDOM

1 teams to pass through KLA checkpoints and patrol freely. In other
2 zones, such as Haradinaj's zone, these documents were not effective
3 in gaining access."

4 Correct?

5 A. Yes, sir.

6 Q. Okay. And Remi's zone was one zone where they were effective?

7 A. Yes.

8 MR. MISETIĆ: If we can pull up Exhibit P01067. This is the
9 November 3rd cable. And I'll be going back and forth with this cable
10 for the rest of my examination. If we could go to page 075307,
11 please.

12 Q. And here, it says: "Meanwhile, the KLA in the Podujevo ..."
13 Which is, yes, the sentence above where it says page 04, so a little
14 bit higher. Yeah, it's at the top of the page on the screen right
15 now. That's fine.

16 A. Right. I see it.

17 Q. "Meanwhile, the KLA in the Podujevo, Drenica, Malisevo and
18 Pec/Jablanica zones has established checkpoints on secondary roads
19 and in Podujevo and Drenica has denied KDOM access without a 'permit'
20 signed by Demaci."

21 Is that accurate?

22 A. Yes.

23 Q. So Drenica was another zone where permits signed by Mr. Demaci
24 were required, in fact, if this language is correct?

25 A. Yes.

Witness: Shaun Byrnes (Resumed) (Open Session)

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Further Cross-examination by Mr. Misetić

1 Q. Drenica being Mr. Thaci's own home zone?

2 A. Yes.

3 Q. I mean his home --

4 A. Yes.

5 Q. -- town is --

6 A. Yes.

7 Q. -- located there? Okay. So even in Mr. Thaci's own zone,
8 Mr. Demaci was not a minor player. Would you agree?

9 A. It's more nuanced than that, sir. I think that he -- I took
10 that -- and I think I took -- I took Thaci's remark, and I think I
11 took it correctly, that Demaci was a minor -- played a minor role
12 politically, and we should not take -- we should not attribute too
13 much to anything -- any political comments he made.

14 Q. But in terms of his ability to influence --

15 A. I'm sorry?

16 Q. In terms of Demaci's ability to influence the military side on
17 the ground, it wasn't minor?

18 A. Obviously, in Drenica and Llap zones he had some authority.

19 Q. Okay.

20 A. But -- but I would say we -- I don't recall that authority being
21 tested on matters like abductions, except in the case of the Serb
22 policemen in which he played an important role.

23 Q. Yeah. And we'll get to --

24 A. Yeah.

25 Q. We'll get to that in a bit.

1 While we have the document on the screen and before the break,
2 you were asked some questions about Mr. Thaci's ideology. And this
3 is at transcript page 138, line 3, to 140, line 3. And you said that
4 you had a discussion with Mr. Thaci at the end of October where
5 Mr. Thaci spoke for hours, you said, and I believe you said he said
6 he was a Marxist-Leninist.

7 A. Yes.

8 Q. Is that correct?

9 A. That's correct.

10 Q. So if we could turn in this cable to page 075304, please.

11 Now, this is an effort, this cable, to describe the various
12 players in the KLA General Staff. Do you recall the document?

13 A. I do.

14 Q. And it's written on 3 November. So this would have been within
15 days of that discussion with Mr. Thaci at the end of October.

16 A. That's right.

17 Q. If you look at -- towards the bottom where it says "Page 04,"
18 but actually beginning at line 11. What it says there is:

19 "According to Hashim Thaqi, the political department of the
20 General Staff is made up of the following individuals:"

21 And then it starts:

22 "Himself. He is in his early thirties, is a Pristina university
23 graduate and is married with a family. He claims that he studied
24 East European history and politics in Zurich. He was a member of
25 Blerim Shala's student movement in the early 1990's. Shala has a

1 high regard for Thaqi's abilities and considers him a 'democrat.'
2 Thaqi understands and reads English but does not speak it. He does
3 speak German and Serbian. He seems reserved and affects a stern,
4 uncompromising stance in conversations with KDOM. We believe he is a
5 Drenica native. As noted above, he is the Drenica political
6 commander. We believe that Thaqi is the head of the political
7 department, something he refuses to acknowledge."

8 And that's the end of the description. Now, would you agree
9 with me that, first of all, the only description of his political
10 views that's contained in the paragraph is Blerim Shala's assertion
11 that he considers him a "democrat"; is that correct?

12 A. That's correct.

13 Q. You're writing this to your superiors; correct?

14 A. Yes.

15 Q. Would you agree with me that it's implausible that you would
16 have left out that Thaci himself considers himself a
17 Marxist-Leninist, writing to American officials in the State
18 Department, if he'd have told you that days earlier?

19 A. I ...

20 Q. Let me ask it a different way. Would you have left the
21 impression to your superiors that he's a democrat if days earlier he
22 told you he was a Marxist-Leninist?

23 A. It's a good -- it's a very good question. I --

24 Q. It's not something you would expect of yourself; is that fair?

25 A. Yeah.

1 Q. Thank you.

2 MR. MISETIC: Mr. President, it's time for the lunch break.

3 PRESIDING JUDGE SMITH: Time for lunch, Witness.

4 THE WITNESS: Thank you.

5 PRESIDING JUDGE SMITH: We'll break for an hour and a half and
6 be back here at 2.30. Thank you for your help. Be sure not to talk
7 to anyone about your case as I've previously instructed you.

8 THE WITNESS: Yes, sir.

9 [The witness stands down]

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

11 MR. FERDINANDUSSE: Your Honour.

12 PRESIDING JUDGE SMITH: Oh, I'm sorry, Mr. Ferdinandusse.

13 MR. FERDINANDUSSE: Yes, sorry, I don't mean to keep expanding
14 my logistical questions to you, but in the interests of the staff who
15 is involved in the next witness, if either now or at any stage today
16 it becomes clear that the next witness will not be heard today, we
17 would be grateful if you could give an indication. I'm not sure
18 whether we can take time estimates or ...

19 MR. MISETIC: I think it's safe to say I'm going to be a while
20 with him, and I have three other people behind me, so I think it's
21 safe to say he's not going to --

22 PRESIDING JUDGE SMITH: Let me just ask. Are all three of you,
23 other than Mr. Misetiç, having questions?

24 MR. EMMERSON: I do have some questions, yes. I hope they won't
25 take very long, but I do have some questions.

1 MR. ROBERTS: I may have some, Your Honour. Not very many. But
2 also obviously it depends on what's asked before.

3 MR. ELLIS: I do, yes, and it will take some time.

4 PRESIDING JUDGE SMITH: I think that gives you an answer,
5 doesn't it? It sounds to me like you're going to have a hard time
6 getting to your next witness today.

7 MR. FERDINANDUSSE: It sounds to me, too. So clearly if we
8 allow the staff involved in that next witness to go on an Easter
9 break a bit earlier today, then we can't recall that. So I'm looking
10 to you if you feel that's a fair conclusion at this point.

11 PRESIDING JUDGE SMITH: Well, let me just speak to that a little
12 bit more. This witness can be available next week, if necessary, but
13 not until Wednesday because of -- not because of him but because of
14 his associate from the US Embassy. She's not available.

15 So if we -- we can probably take your next witness starting on
16 Monday -- I mean, Tuesday, and do as much as we can, and then we'll
17 interrupt him and do this witness on Wednesday, and then go back to
18 your witness again.

19 MR. FERDINANDUSSE: That sounds good, but we can --

20 PRESIDING JUDGE SMITH: And, yes, I would say you should
21 probably release this witness today.

22 MR. FERDINANDUSSE: Okay.

23 PRESIDING JUDGE SMITH: All right. We'll adjourn until 2.30.

24 --- Luncheon recess taken at 1.04 p.m.

25 --- On resuming at 2.31 p.m.

1 the exercise.

2 And then at transcript page 140, 23 to 141, 18, you went on to
3 tell Judge Barthe that it was your judgment that the General Staff
4 was involved or directed this incident because Mr. Thaci was the
5 political director in the General Staff and, therefore, he apparently
6 was in charge of the Qirez Operation. "And, therefore, it was an
7 operation directed by the General Staff as part of the -- in a way,
8 the political conflict that was growing between the UCK and the LDK."

9 Do you recall answering that yesterday?

10 A. I do.

11 Q. Okay. First, Witness, do you know when Mr. Thaci became the
12 director -- the political director of the KLA?

13 A. No, I don't.

14 Q. Would it surprise you to learn that he became the political
15 director on 2 November 1998?

16 A. Not really.

17 Q. Correction, I dropped a 1. 12 November 1998.

18 A. Okay. No, that's not -- that's not a surprise.

19 Q. Okay. So you say that he was one of the -- in -- just one
20 second, please.

21 Now, Witness, again, I think we've established that you knew
22 that these cables that you write would go to the senior officials in
23 the Department of State; correct?

24 A. Yes.

25 Q. You will have noted that none of your cables that we have here

1 make any reference to the events of Qirez that happened in
2 mid-September 1998?

3 A. Yes.

4 Q. You met with Mr. Thaci at the end of October, and yesterday said
5 you spent hours with him, and this is part of that conversation where
6 you say he talked to you about Marxism and Leninism.

7 A. Yes.

8 Q. Did you bring up these allegations with him that he had been
9 involved in mistreating parliamentarians in Qirez?

10 A. I do not remember.

11 Q. As part of your operating procedure as a member of KDOM, would
12 it have been something that you would bring up with Mr. Thaci in the
13 ordinary course?

14 A. Yes. And may I modify my previous answer?

15 Q. Yeah.

16 A. The reason I wouldn't have brought that up was I didn't know I
17 was meeting with Mr. Thaci at the time.

18 Q. Well, you didn't know, but you came to know when you met with
19 him in late October that you were meeting with Hashim Thaci?

20 A. I guess so, but -- yes.

21 Q. Okay. And your testimony is that you were told a month earlier
22 that Hashim Thaci, the political director, was organising all of
23 this, and then you go meet him face-to-face. We have no evidence
24 that you actually had any conversation with him about that.

25 A. That's right.

1 Q. Would it have been normal procedure for you, as a member of
2 KDOM, in an hours-long conversation with him, not to bring it up?

3 A. No.

4 Q. Right. And if you had brought it up, would it have been normal
5 practice for you in these cables that were being sent, literally
6 within days is when we start seeing the cables going up, and we saw
7 the one from November 3rd where you're describing Mr. Thaci, that in
8 a classified cable you wouldn't have noted: I spoke to Hashim Thaci
9 four days ago and raised the issue of the parliamentarians, and
10 here's what he said?

11 A. Yes.

12 Q. So you would have expected that you would have recorded that?

13 A. Yes.

14 Q. Okay. This is again related to Qirez. Would you agree with me,
15 first - I'm laying some foundation here - that Mr. Thaci's
16 international status was very much elevated by the United States?

17 A. Yes.

18 Q. And it was elevated by meeting with people, including the
19 Secretary of State?

20 A. Yes.

21 Q. Richard Holbrooke?

22 A. Yes.

23 Q. Ambassador Hill?

24 A. Yes.

25 Q. Do you agree with me that it is implausible that you would have

1 allowed the Government of the United States, the Secretary of State,
2 Ambassador Hill, and others, to elevate Mr. Thaci's international
3 status without telling them that you've heard from two people that he
4 was involved in the mistreatment of parliamentarians in only months
5 earlier?

6 A. Could you rephrase that? I'm tired. I'm sorry.

7 Q. I don't blame you at all.

8 I'm going to put my case to you. It is implausible, and I say
9 that because you are a very competent diplomat, I think we all agree
10 here, that had you been told in September 1998 that Hashim Thaci was
11 involved in the mistreatment of parliamentarians, you wouldn't have
12 just stood by watching as the Department of State, including the
13 Secretary of State, was elevating his international status without
14 telling someone in the Department of State this guy was involved in
15 the mistreatment of parliamentarians only months earlier?

16 A. Yes.

17 Q. You agree with that proposition?

18 A. Yes.

19 MR. MISETIĆ: If we could show P01066 on the screen again,
20 please.

21 Q. I'd like to ask you some questions about questions that
22 Judge Barthe asked you regarding paragraph 116 of your statement to
23 the SPO. And you were asked questions by Judge Barthe about this
24 paragraph, and we're talking now of the abduction of the two Tanjug
25 journalists and two LDK officials. And you say, in the middle of

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1 paragraph 116:

2 "I do not know who the troika contacted to get them released,
3 although the troika said they needed to talk to the General Staff,
4 and I assume it was the General Staff who gave permission for their
5 release. In particular, I assume that it would have been Haliti,
6 Sylja or Thaci that gave permission."

7 MR. FERDINANDUSSE: Sorry, could I just, for the record, and for
8 counsel, because this may shorten this, point out a correction in
9 120 --

10 MR. MISETIĆ: That's what I'm about to do.

11 MR. FERDINANDUSSE: Okay, thank you.

12 MR. MISETIĆ:

13 Q. Now, you answered affirmatively to Judge Barthe that you stand
14 by that.

15 MR. MISETIĆ: And let me take you now to P1088, which is notes
16 of the corrections you made with the Prosecutor last week concerning
17 the entire statement, but I want to draw your attention to what you
18 said regarding paragraph 116.

19 And I do want to note for the record that I appreciate the
20 intervention yesterday by the Prosecutor to note this and again
21 today.

22 And if we go to paragraph 55, which is on page 4.

23 Q. And what you told the Prosecutor last week, and affirmed as your
24 testimony here on Monday, is:

25 "My assumption about Haliti, Thaci or Sylja giving permission for

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1 the release is retrospective. We had not yet heard about Sylva in
2 November 1998."

3 Is that correct?

4 A. Yes.

5 Q. Okay. So this is after the war you've surmised that these three
6 individuals were involved?

7 A. After what?

8 Q. After the war. After the conflict ended.

9 A. You're implying that I didn't know about Sylva's position until
10 after the conflict ended?

11 Q. Well, I'm trying to figure out when exactly you started making
12 this assumption.

13 A. What -- what I can tell you, he was introduced to me when we got
14 on the plane to Rambouillet as the chief of the General Staff.
15 That's when I remember first learning about it.

16 Q. Right. But in terms of when you started to assume that these
17 three were -- had granted permission for the release of the two
18 Tanjug journalists, it would to have been sometime after you met Sylva
19 at Rambouillet; is that correct?

20 A. I -- I apologise. I don't understand the timing.

21 Q. Okay. That's all right. I'll move on.

22 A. No, no, I -- I'd rather finish it up --

23 Q. Okay.

24 A. -- because I'm confused too.

25 Q. Okay. So you say that it's an assumption you're making that

1 Haliti, Thaci, or Sylja gave permission for the release of the Tanjug
2 journalists.

3 A. Yes.

4 Q. Okay. I'm trying to figure out when you started to make that
5 assumption --

6 A. Okay.

7 Q. -- given that you didn't even know Sylja was in the General Staff
8 until you met him at Rambouillet?

9 A. Okay. I'm sorry, I was confused on the timing and the fact that
10 I learned about -- formally that Sylja was head of the General Staff
11 in -- it would have been February.

12 Q. Yes.

13 A. Does that answer -- does that make it clear?

14 Q. Not really, but I'll move on. That's okay.

15 A. Okay.

16 Q. You were asked --

17 MR. MISETIĆ: Let me just ask one question, Mr. President.

18 [Specialist Counsel confer]

19 MR. MISETIĆ: Mr. President, we just sent something to the
20 queue. I don't know if it's available yet, but it's DHT03878 to
21 address the issue of Mr. Thaci in 2016.

22 [Trial Panel confers]

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 You're adding these -- what's the reason for adding them?

25 MR. MISETIĆ: There was some questioning regarding Mr. Thaci's

1 alleged attempt to influence him in 2016 by giving him an award, and
2 I'm trying to put that process into context.

3 PRESIDING JUDGE SMITH: All right. Go ahead.

4 MR. MISETIĆ: If we could put that document on the screen,
5 please.

6 Q. Witness, you've talked about, yesterday, the effort by Mr. Thaci
7 to award you in 2016; correct?

8 A. Yes.

9 Q. And I believe yesterday you said you don't know -- or his
10 intentions may have been good; correct?

11 A. That's right.

12 Q. Now, Mr. Thaci became president in 2016 of Kosovo; correct?

13 A. Yes.

14 Q. And, therefore, as part of his duties, you would understand that
15 presidents award foreign officials?

16 A. That's right.

17 Q. So within his first year of his first term, I'm just showing you
18 a list of international officials that Mr. Thaci, in 2016 and through
19 2020, issued awards to. And they would include people like
20 George W. Bush and Senator Dole and others, and then there were
21 people including -- that were -- you know, Sadako Ogata from UNHCR
22 and yourself, you say, is one of the people that he tried to issue an
23 award to; is that correct?

24 A. That's right.

25 MR. MISETIĆ: Okay. Mr. President, I would tender this document

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1 into evidence.

2 MR. FERDINANDUSSE: No objection.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 The document is admitted and will be assigned an exhibit number.

5 THE COURT OFFICER: Your Honours, with document ERN DHT03878 to
6 DHT037882 and its English translation will be assigned Exhibit
7 1D00127. Classification is public.

8 PRESIDING JUDGE SMITH: All right. Thank you.

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

10 Q. Witness, turning to Judge Mettraux's questions. And we'll go
11 through many of the incidents that Judge Mettraux took you through.
12 Let's start with Qirez.

13 Yesterday, Judge Mettraux asked you who you contacted to secure
14 the release of these individuals, and you said:

15 "I think it was Sokol Bashota because he was basically our go-to
16 contact."

17 And that was at yesterday's transcript, page 145.

18 Now, the way I understand your phrasing there, "I think it was
19 Sokol Bashota," suggests to me that you're not sure; is that correct?

20 A. That's right.

21 Q. Because you have no independent memory at the moment of who you
22 contacted; is that right?

23 A. That's right.

24 MR. MISETIC: If we could go into private session at the request
25 of a provider, Mr. President.

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1 [Private session text removed]

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23 [Open session]

24 THE COURT OFFICER: Your Honours, we are now back in public

25 session.

1 MR. MISETIĆ: Thank you.

2 Q. Did you discuss with, for example, William Walker what you heard
3 from Agim Krasniqi and Gjergj Dedaj?

4 A. I don't believe so. William Walker wasn't present in Kosovo at
5 the time of this incident.

6 Q. No, I mean when he came in country.

7 A. I don't recall doing so.

8 Q. Let me give you the time period of September 23rd to March
9 1999 -- actually, let's take it even further: September 23rd, 1998,
10 to September 23rd, 1999. Can you tell me the name of a person alive
11 today whom you believe you told what you learned about what happened
12 in Qirez, what you learned from Gjergj Dedaj and Agim Krasniqi?

13 A. I simply -- I simply don't remember. We obviously talked about
14 it. I obviously talked about it with members of my team, the KDOM
15 team.

16 Q. Who, can you give me a name?

17 A. Ron Capps, Michael Dean.

18 Q. So if we contacted those people, you believe they should be able
19 to verify that --

20 A. Yes.

21 Q. -- you told them what you learned from Dedaj and Krasniqi and
22 you told them that in 1998?

23 A. Yes. And I would add to that list EU KDOM Chief Nick Turnbull,
24 a British officer.

25 Q. What about Ambassador Hill?

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1 A. I don't remember. I just simply don't remember.

2 Q. How about Jamie Rubin?

3 A. No, I had no contact with Jamie Rubin until Rambouillet.

4 Q. Well, I'm saying -- I'm giving you --

5 A. Oh, yeah.

6 Q. -- a year.

7 A. Yeah. I don't think so. I don't -- I had contact with him at
8 Rambouillet, but it was not -- it was fleeting. It was handshakes.

9 Q. Let me take you to some testimony. Judge Mettraux put documents
10 to you yesterday regarding -- that you had not seen before. He first
11 showed you P158, which was a press release of the Military Police
12 Directorate of the KLA dated 23 September 1998 discussing the
13 detention of the parliamentarians in Qirez. Do you recall those
14 questions by Judge Mettraux?

15 A. Do I recall what?

16 Q. Actually, do you recall seeing that document yesterday?

17 A. I've seen so many documents.

18 Q. I'm sure.

19 A. It's a little confusing.

20 Q. Okay.

21 A. If you put it up, I -- I can --

22 Q. Well, I'm going to put up a different --

23 A. Okay.

24 Q. -- document for you, because after that, Judge Mettraux asked
25 you about another document.

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1 MR. MISETIĆ: It's P304, and if we could have that on the screen
2 please. At yesterday's transcript, page 158, starting at line 9,
3 Judge Mettraux told you that this document pertains to this incident,
4 referring to Qirez. And then went on to say again that the press
5 release says that:

6 "'The Directorate of the UCK Intelligence Service possesses data
7 about their activities,' talking about the parliamentarians, 'against
8 the UCK's liberation struggles.'"

9 And, Witness, so when Judge Mettraux said that he was calling up
10 this second press release pertaining to this incident and talking
11 about parliamentarians, you understood that to mean the Qirez
12 parliamentarians incident that you had just been discussing; correct?

13 I see you're reading the document, so I'm just going to tell you
14 I'm going to put to you this document has nothing to do with Qirez or
15 the parliamentarians.

16 JUDGE METTRAUX: Mr. Misetić, if it helps, it was the reference
17 to Agim Krasniqi, in the document.

18 MR. MISETIĆ: I quoted you, Judge, so ...

19 JUDGE METTRAUX: All I'm telling you is the one parliamentary
20 who is mentioned --

21 MR. MISETIĆ: Well --

22 JUDGE METTRAUX: -- here, Agim Krasniqi.

23 MR. MISETIĆ: -- I will quote it again, just for the record.

24 THE WITNESS: I -- I see no reference to the Qirez incident
25 here.

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Further Cross-examination by Mr. Misetić

1 MR. MISETIĆ:

2 Q. Right. Okay. And that's the point I wanted to make. Now, if
3 you look at the date of the document, it's 4 November 1998. Yes?

4 A. Yes.

5 Q. And Mr. Dedaj and Mr. Krasniqi were released on 23 September
6 1998; correct?

7 A. Yes.

8 Q. So the only -- and your testimony earlier in this trial was that
9 you believe you were told by both Dedaj and Krasniqi sometime in the
10 days after their release about this incident; correct?

11 A. Yes.

12 Q. And this is when they express to you some concern about you
13 revealing the KLA's involvement?

14 A. Yes.

15 Q. Now, this article couldn't have impacted what they told you in
16 September unless they were clairvoyant; correct? Do you agree with
17 me?

18 A. Would you -- I'm sorry, would you go over that again?

19 Q. I said this document is issued six -- five to six weeks after
20 they're released.

21 A. Yes.

22 Q. So if they spoke to you five or six weeks before the document
23 was issued, this document had no impact on what they told you. Would
24 you --

25 A. Yes.

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1 Q. -- agree with that? Okay.

2 If we could now turn to a different topic which is the detention
3 of Cen Desku and Jakup Kastrati. The document that we just had on
4 the screen, did you note that it mentions Desku and Kastrati's
5 arrest?

6 A. Yes.

7 Q. And is it correct that -- sorry, let me rephrase. In response
8 to Judge Barthe's questions about the LDK activists and whether they
9 were allowed to choose their own lawyer, you mentioned that you were
10 sceptical because there was "great tension between the LDK and the
11 UCK"; correct?

12 A. Yes, sir.

13 Q. There was an LPK wing of the KLA and a General Staff wing of the
14 KLA. Would you agree with that?

15 A. No.

16 Q. Okay. Tell me why.

17 MR. FERDINANDUSSE: Objection, Your Honour. That is a topic
18 that has been discussed extensively.

19 PRESIDING JUDGE SMITH: Overruled.

20 Go ahead and answer the question.

21 THE WITNESS: What is the question again, sir?

22 MR. MISETIC:

23 Q. Well, there was an LPK wing --

24 A. Oh, LPK.

25 Q. No.

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1 A. I thought you said LDK.

2 Q. No, no, no.

3 A. I'm sorry.

4 Q. I need to speak into the mic.

5 A. The answer is yes.

6 Q. Yes. Okay, great.

7 MR. MISETIĆ: If we go to P01066 at paragraph 102, please. Page
8 23, please. Sorry, page 21, beginning at page 21 at the bottom.

9 MR. EMMERSON: I'm sorry, but unless I've misunderstood, I think
10 the witness's final answer has been missed on the transcript; namely,
11 that there was, in fact, an LPK and a General Staff wing, which is
12 what -- the proposition the witness agreed to and somehow that's got
13 lost.

14 MR. MISETIĆ:

15 Q. Just to make it clear on the transcript, you agree that there
16 was an LPK wing and a KLA General Staff wing in the KLA; correct?

17 A. Yes.

18 Q. Thank you.

19 Now, if you read paragraph 102 and tell me when to turn the
20 page. It's at the bottom.

21 A. Yes.

22 Q. And this is where you say that the -- sorry, the targeting was
23 undertaken pursuant to instructions from local leadership; is that
24 correct?

25 A. Yes.

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Further Cross-examination by Mr. Misetić

1 Q. Targeting of the LDK.

2 A. Yes.

3 Q. Would you agree with me -- and I'm going to take you to cables
4 now about this issue of the LDK being targeted that Judge Mettraux
5 brought up to you earlier this morning.

6 Would you agree with me that your understanding of the KLA was
7 superficial in early November and then grew better as time went on?

8 A. Yes, and it was never complete.

9 Q. Okay. All right. So Judge Mettraux this morning showed you
10 Exhibit P1067, which was a cable from 3 November. And he, I believe,
11 read out to you or showed you your concern that the arrest of the two
12 LDK leaders, meaning Cen Desku and Jakup Kastrati, "underscores its
13 intention," meaning the KLA's intention, "to dominate local politics
14 in the areas it controls and raises serious questions about its
15 willingness to tolerate other political views."

16 And then you were shown a different portion, where you wrote
17 that the "arrest of two Malisevo LDK leaders underscores its,"
18 meaning the KLA's, "intention to dominate local politics in the area
19 it controls" -- and, sorry, that was the same point.

20 So you wrote that cable on 3 November. Okay? I'd like to show
21 you now something that occurred the day before you wrote that cable.

22 MR. MISETIĆ: And if we could have on the screen, please,
23 DHT03873 to DHT03877.

24 Q. What I'm going to show you is a tentative agreement the day
25 before you wrote that cable where the KLA General Staff and FARK

1 agreed to a unification -- tentatively agree to a unification of
2 their forces. Okay?

3 Now, FARK, once again, would you agree with me FARK was a
4 military organisation closely aligned to, amongst others, the LDK?

5 A. That's what I understood it to be.

6 Q. Okay. So if we turn to the second page of this document. You
7 can see that it says there were joint meetings between authorised
8 representatives and officers finally on 31 October 1998 between KLA
9 General Staff and FARK. Right?

10 "... the decision was taken to adopt the new structure of the
11 General Staff of the KLA ...

12 "It was adopted with full responsibility for the organisation,
13 leadership and conduct of the KLA war effort in Kosovo with the sole
14 aim of liberating the entire territory of Kosovo."

15 And then it says, a couple of paragraphs down:

16 "It is required that the Kosovo political and national structure
17 support the just war of our people under the leadership of the KLA,
18 with the present structure of the General Staff (See the structure of
19 the ... General Staff attached to this document on a separate
20 [paper]).

21 "This decision authoritatively prevents any possibility to
22 manipulate the will of the people for freedom, conscious that only by
23 fully bringing together the entirety of its potential and energies
24 and the brotherly support of the mother state and the principled
25 support of other freedom-loving peoples will lead to the realisation

1 of our objective to be independent, according to the standards of the
2 civilised world."

3 And then it says as a P.S.:

4 "In order for it to become final, the present decision also
5 requires the approval of the subsequent meeting to be held between:

6 "Adem Demaci

7 "Bujar Bukoshi," who was the minister of defence -- who was the
8 prime minister.

9 A. Prime minister.

10 Q. Right. The KLA representative and Halil Bicaj. And the
11 signatures on the bottom include Bislim Zyrapi and Kadri Veseli. Do
12 you see that? On one side. And for the Ministry of Defence, which
13 would be of the Bukoshi government, Halil Bicaj and Xhafer Jashari.
14 Do you see that?

15 A. I do.

16 Q. And if we go to the last page, you'll see who was -- sorry, I
17 apologise. This should be 061170, so the page before. You'll see
18 who was proposed to be the various spots in the new proposed
19 General Staff, and do you recognise any people, let's say, from the
20 FARK in this?

21 A. In the first instance, I don't recognise all the names. I want
22 to be clear about that. The only name that I recognise, and it comes
23 from the previous document, as being a FARK official is Xhafer
24 Jashari.

25 Q. Right. So what I'm suggesting to you is the day before you

1 wrote a cable concerning, you know, some -- what I put to you was a
2 superficial assessment that the KLA wanted to take over full control,
3 the day before they had tentatively agreed with the Bukoshi
4 government representatives to unify with FARK. Would that have
5 impacted your conclusion on November 3rd had you known about this?

6 A. It certainly would have.

7 Q. Thank you, Mr. Byrnes.

8 A. Was this -- I -- if -- I found this document fascinating. I
9 never even heard about this agreement.

10 Q. Okay.

11 A. Which shows how out -- perhaps how out of it we were.

12 Q. Let me continue. You went on in December to write a cable.

13 MR. MISETIĆ: And if we could have P01069 on the screen, please,
14 at 075331.

15 Q. Would you also agree that the document I showed you shows a
16 willingness to tolerate the LDK?

17 A. Absolutely. And may I add one point?

18 Q. Sure.

19 A. I didn't notice the names of any UCK zone commanders on that
20 document.

21 Q. Noted.

22 MR. MISETIĆ: And if we go to the bottom of the page, please.

23 Q. Now, in the middle of the paragraph there -- let's see. Seven
24 lines up, it discusses:

25 "... tension with the LPK leadership in Europe. In an effort to

1 outflank the LPK, the KLA [general headquarters] has been quietly
2 trying to make up with Bukoshi, in particular to obtain financial
3 support from him, and is also working discretely to build bridges
4 with the LDK, even with Rugova, and the other Kosovar Albanian
5 political forces. In the countryside, U.S. KDOM has frequently found
6 that the KLA and the LDK share the same ..."

7 If we could turn the page.

8 MR. FERDINANDUSSE: Your Honour, I note that this specific
9 page -- this specific passage from this specific page has been put to
10 the witness by this counsel, transcript page 13660. Again, it's not
11 a new matter.

12 MR. MISETIC: Judge, I'm trying to set up my next question to
13 ask him, which was -- yes?

14 THE WITNESS: Would you tell me again what the date of the cable
15 is?

16 MR. MISETIC:

17 Q. 18 December.

18 A. 18 December.

19 Q. Yes.

20 A. Okay. Thank you.

21 Q. So you can read it to yourself but I have some questions for
22 you.

23 A. Yeah, please.

24 Q. Did you finish reading it? The second page on the top.

25 A. No, I haven't. Yes.

1 Q. Okay. So at some point between 3 November and 18 December you
2 came to learn of this -- these attempts by the General Staff to build
3 bridges to the LDK; correct?

4 A. Yes.

5 MR. FERDINANDUSSE: Objection, Your Honour, asked and answered,
6 beyond the scope.

7 PRESIDING JUDGE SMITH: Overruled. It was raised.

8 Go ahead.

9 MR. MISETIĆ:

10 Q. And my question for you now is: Was there something in
11 particular that occurred between 3 November and 18 December that
12 would have caused it, or was this something that you just weren't
13 aware of in November and came to be aware of in December?

14 A. The proper answer is the latter.

15 Q. Okay.

16 A. But may I speculate for --

17 Q. We generally don't like --

18 A. I know that.

19 Q. -- when witnesses speculate --

20 A. That's why I asked.

21 Q. Okay. Go ahead.

22 A. My speculation is that Larry Rossin, about whom we've heard many
23 things already in the course of the testimony, and Jamie Rubin, were
24 meeting with UCK -- senior UCK officials in western Europe during
25 this time, and those officials included, in particular, Hashim Thaci,

1 and they were pushing for unity and cooperation, among other things,
2 but they were pushing for cooperation between the LDK and LPK and --
3 /UCK. That's again my speculation. No one told me that.

4 Q. Okay. You were shown -- well, I'll skip this question.

5 Turning to the case of Goran Zbilic. You were asked by
6 Judge Mettraux to interpret Mr. Demaci's words at a press conference
7 about whether Remi needed to go to the General Staff for approval.

8 Now, I'll put to you that the truth is that you don't know
9 whether Mr. Demaci was being truthful in that press conference or
10 whether that he too wanted to create an image of a proper vertically
11 organised army, do you?

12 A. I would agree with that.

13 Q. You are aware that Mr. Demaci and Remi worked together to topple
14 Azem Syla in February and install Sylejman Selimi; is that correct?

15 A. Yes.

16 Q. Turning to the case of the eight VJ soldiers.

17 First, in your witness statements you referred to the eight VJ
18 soldiers as, and this is at paragraph 136 of your statement, as
19 prisoners of war. Do you recall that?

20 A. Yes.

21 MR. FERDINANDUSSE: Your Honour, we ask that the counsel
22 complies with your 25 January order to indicate the Judges' question.

23 MR. MISETIĆ: It's related to the questioning about the VJ
24 soldiers. There was direct questioning about that by Judge Mettraux.
25 It's one of the seven incidents.

Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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1 [Private session text removed]

2 [Open session]

3 THE COURT OFFICER: Your Honours, we're now back in public
4 session.

5 PRESIDING JUDGE SMITH: Ten-minute break.

6 --- Break taken at 3.29 p.m.

7 --- On resuming at 3.41 p.m.

8 PRESIDING JUDGE SMITH: So what's the decision from the left
9 side of the room?

10 MR. ELLIS: Your Honour, I don't believe we can be finished
11 today, I'm afraid. There are matters in relation to, in particular,
12 the intercepts which were documents put to this witness that hadn't
13 been raised by the Prosecution in direct, and I need the time to go
14 through them with this witness. I don't think it will be finished in
15 the time available.

16 PRESIDING JUDGE SMITH: Okay. Thank you.

17 Please bring the witness in.

18 MR. FERDINANDUSSE: Your Honour, as a housekeeping matter then.
19 On the reserve witness for next week, having heard the time estimates
20 and what you have communicated earlier, we would propose that we will
21 not ask for a videolink to be prepared for next week given the
22 resources involved in this, and it sounds like it's unlikely that we
23 will be examining more than this witness and the next witness next
24 week.

25 PRESIDING JUDGE SMITH: Understood. And I think I agree with

Witness: Shaun Byrnes (Resumed) (Open Session)
Procedural Matters

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1 you, Mr. Ferdinandusse. So we will plan on that and you can release
2 the witness for next week.

3 We will try to arrange next week in the manner that I mentioned
4 earlier. I'm not sure yet, and so ... Tuesday morning, I -- I can't
5 guarantee you who's going to be here. This gentleman will not be
6 here Tuesday morning so far, unless the embassy comes up with an
7 alternative to his associate.

8 So we'll try to finish that up today so we know so you can all
9 plan on what's going to happen on Tuesday.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Before we go further, is there -- we
12 cannot reasonably say we will be finished with you today, and we are
13 planning for next week. And Tuesday would work for us or Wednesday,
14 either one, but we need to know what day. I think the problem is you
15 have another commitment. Is there somebody else that can take part?

16 MS. MARCOVITZ: [Microphone not activated].

17 PRESIDING JUDGE SMITH: Yeah, try the mic.

18 MS. MARCOVITZ: I've asked Washington if there's somebody who
19 might be able. Unfortunately, the embassy is quite thinly staffed
20 next week, and we just have a conflict on Tuesday. But I've asked if
21 somebody could participate virtually from --

22 PRESIDING JUDGE SMITH: I'm not hearing you. [Microphone not
23 activated].

24 MS. MARCOVITZ: Apologies, Your Honour. I've asked if somebody
25 from Washington could participate remotely, and I just haven't heard

1 anything back yet. But unfortunately, the embassy has a conflict on
2 Tuesday.

3 PRESIDING JUDGE SMITH: You could be here Wednesday?

4 MS. MARCOVITZ: That's correct, Your Honour.

5 PRESIDING JUDGE SMITH: And is that a problem?

6 THE WITNESS: Yes. I can be here Tuesday. If we can finish on
7 Tuesday, I want to go home. I came here at the request of the
8 department and the Special Prosecutor, but I no longer work for the
9 Department of State, and I'm not going to be governed by somebody
10 else's social schedule. I'm sorry.

11 MS. MARCOVITZ: Your Honour, can we have a quick break?

12 PRESIDING JUDGE SMITH: Yeah. Yeah, go ahead now. You can step
13 outside.

14 [The witness stands down]

15 MR. EMMERSON: It just occurs as a suggestion from behind me,
16 but there's no reason at all why Mr. Byrnes can't complete his
17 evidence remotely, if that can be arranged.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. EMMERSON: He can go home now and then --

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 I don't even know where he lives, so I don't know how difficult
22 that is or whether it's possible, but we can explore that.

23 MR. EMMERSON: Certainly I don't think anybody on this side of
24 the courtroom will remotely object to that.

25 PRESIDING JUDGE SMITH: No, I don't think anybody would. Would

1 you?

2 MR. FERDINANDUSSE: I would not object to that. I think we will
3 need, obviously, some time to arrange that videolink, so we will have
4 to see how quickly we can get that done. And, obviously, there will
5 be potentially timing issues, given that he will be across the ocean.

6 PRESIDING JUDGE SMITH: That might be the -- we discussed that
7 briefly, and that might be the only -- earlier, and that might be the
8 only solution that is fair to everybody. So we'll explore that as
9 well. But I assume probably that would make it difficult for next
10 week to have the videolink arranged in the United States. I don't
11 know.

12 MR. FERDINANDUSSE: That is not something I can guarantee --

13 PRESIDING JUDGE SMITH: Yeah.

14 MR. FERDINANDUSSE: -- at this moment.

15 PRESIDING JUDGE SMITH: Yeah. And Registry would have to take
16 part in that discussion.

17 Thank you all for the suggestions, though.

18 MR. FERDINANDUSSE: And, Your Honour, just to point out. It
19 will -- would require Registry flying to the US --

20 PRESIDING JUDGE SMITH: Yes, yes.

21 MR. FERDINANDUSSE: -- and it will have some logistical
22 consequences. So if we could finish it with the witness here, I
23 think that would be preferable.

24 PRESIDING JUDGE SMITH: It probably wouldn't happen next week.
25 We'd probably have to skip into the following week or something like

1 that.

2 JUDGE METTRAUX: The following sitting week, Mr. Misetic.

3 MR. MISETIC: Yes, yes, agreed. I just wanted that clear on the
4 record. Thank you.

5 PRESIDING JUDGE SMITH: The following week of actual court,
6 yeah.

7 MR. ROBERTS: Your Honour, if I can actually just deal with a
8 housekeeping matter while we're waiting. We just have an issue in
9 relation to a requested extension of time to respond to Prosecution
10 notification of its upcoming witnesses and Rule 154 witnesses. So
11 that's filings F2195 and F2196, which had deadlines for next week for
12 us for Tuesday, the 2nd of April and the 4th of April, respectively.

13 We've been in communication with the SPO just to ensure that
14 they wouldn't object to an extension to our responses to both those
15 filings. I will just explain.

16 So we proposed by Monday, 8 April, to provide our comments on
17 the first ten witnesses listed in F2195, which will be the witnesses
18 that will be heard in the next block and the three reserve witnesses
19 listed in the same filing. So that's time estimates as well as
20 Rule 154 responses. And for the remaining witnesses listed in that
21 filing, by 26 April.

22 We also received another filing this morning in relation to
23 further Rule 154 witnesses, and so we have requested until 26 April
24 to file the response to those. Again, with no objection from the
25 Prosecution.

Witness: Shaun Byrnes (Resumed) (Open Session)
Procedural Matters

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1 PRESIDING JUDGE SMITH: All right. We will prepare an order to
2 that effect and have that on file as soon as possible.

3 MR. ROBERTS: Thank you, Your Honour.

4 [Trial Panel and Court Officer confers]

5 PRESIDING JUDGE SMITH: The witness may come in.

6 [The witness takes the stand]

7 PRESIDING JUDGE SMITH: Something to add?

8 THE WITNESS: Yeah, I have good news for you, sir.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 THE WITNESS: I misunderstood the circumstances, and I apologise
11 for my sort of brutal remark. But I'm willing, under the
12 circumstances that I understand well now, I am willing to -- if we
13 have to extend the testimony into next week, I'm willing to do it on
14 Wednesday and not on Tuesday.

15 PRESIDING JUDGE SMITH: Thank you very much, both of you, for
16 this.

17 MS. MARCOVITZ: And apologies, Your Honour. I'm just hearing
18 back from Washington in realtime. If it's possible and I can reach
19 out to somebody to schedule for April 2nd, I will still try to make
20 that happen, so I will just -- I will have to potentially do that
21 after 4.30 today.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. MARCOVITZ: Tuesday, yes.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 The problem is nobody's going to know. If you can be here

Witness: Shaun Byrnes (Resumed) (Open Session)
Further Cross-examination by Mr. Miseti

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1 Wednesday, let's just do it that way --

2 THE WITNESS: Yeah.

3 PRESIDING JUDGE SMITH: -- and that way we have an assured
4 timeframe, and the witness -- once again I'll tell you we'll finish
5 with you on that day --

6 THE WITNESS: Okay.

7 PRESIDING JUDGE SMITH: -- but I've lied to you about three
8 times in a row now, so I'll do my best not to do it again.

9 THE WITNESS: My father always said every event, good or bad, or
10 particularly bad, has a silver lining, and the silver lining might be
11 that the sun will shine on Tuesday and my wife will be able to get to
12 Keukenhof to look at the tulips.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 All right. So we will continue with your questioning now, and
15 we will probably just -- we aren't going to get finished.

16 Go ahead.

17 MR. MISETIC: I hope to finish pretty quickly.

18 PRESIDING JUDGE SMITH: All right.

19 MR. MISETIC:

20 Q. Mr. Byrnes, let me just, while we're in public session, ask you
21 just one question. But I took you through, before the break, the
22 FARK agreement --

23 A. Yeah.

24 Q. -- the tentative agreement, and then we took you through the
25 cable about your observations or what you had heard about the KLA

1 reaching out to the LDK in December.

2 You are aware, are you not, that ultimately at Rambouillet it
3 was not a KLA delegation, but it was a unified Albanian delegation
4 that included President Rugova, Rexhep Qosaj from LBD, and others, so
5 that that process wound up with a unified Kosovo Albanian delegation
6 at Rambouillet; is that correct?

7 A. That's correct. And let me just add an additional important
8 point. It was the LDK that recommended that Hashim Thaci lead the
9 delegation.

10 Q. Okay. And how do you know that?

11 A. I was there.

12 Q. Okay. All right. That's fair enough. Thank you.

13 I just have to go into private session for a few more minutes,
14 and I hopefully will be finished by 4.00 or 4.05.

15 PRESIDING JUDGE SMITH: Into private session, please, as
16 requested by a provider.

17 MR. MISETIC: Yes.

18 [Private session]

19 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Misetic

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Further Cross-examination by Mr. Misetić

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20 [Open session]

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

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. MISETIĆ: Thank you.

24 Q. Mr. Byrnes, you have referred to the General Staff as the
25 foreign ministry of the KLA. And I just want to suggest to you that

1 in all of these incidents, someone has been taken by a lower level
2 and internationals go to the "foreign ministry" of the KLA for
3 action; is that fair?

4 A. Yes.

5 Q. And would you agree with me when you said that the
6 internationals dealing with the General Staff giving it an air of
7 legitimacy, that that pressure on the General Staff was something
8 that could be used by the General Staff to influence people who had
9 engaged in these actions to release people?

10 A. Yes.

11 Q. Thank you very much, Mr. Byrnes, for your time, and I'm sorry
12 it's taking so long. Thank you.

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

14 Mr. Roberts.

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

16 PRESIDING JUDGE SMITH: All right.

17 Mr. Ellis.

18 MR. ELLIS: Thank you, Your Honour.

19 Further Cross-examination by Mr. Ellis:

20 Q. Do you hear me okay, Mr. Byrnes? Sorry, I'm just trying to move
21 the microphone closer.

22 A. Okay, good. Thank you.

23 Q. Now, you'll recall that I put to you a series of questions about
24 Mr. Krasniqi's knowledge and involvement in a release in Likoc on
25 23 January. And earlier today you were shown [REDACTED] Pursuant to
in-Court Redaction Order F2208RED.

Witness: Shaun Byrnes (Resumed) (Private Session)
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1 [REDACTED] Pursuant to in-Court Redaction Order F2208RED.

2 [REDACTED] Pursuant to in-Court Redaction Order F2208RED. that I want
to go

3 through with you today.

4 A. Okay.

5 Q. I'm not in any way asking you to authenticate those documents.

6 To be quite clear, you hadn't seen any of those documents until
7 today, had you?

8 A. My head is swimming in documents. It's hard to keep them
9 straight.

10 Q. I see. [REDACTED] Pursuant to in-Court Redaction Order
F2208RED.

11 [REDACTED] Pursuant to in-Court Redaction Order F2208RED.

12 [REDACTED] Pursuant to in-Court Redaction Order F2208RED.

13 [REDACTED] Pursuant to in-Court Redaction Order F2208RED.

14 [REDACTED] Pursuant to in-Court Redaction Order F2208RED.

15 MR. FERDINANDUSSE: Just to point out that we're in open
16 session.

17 MR. ELLIS: Do I need to move into private?

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. ELLIS: I apologise.

20 PRESIDING JUDGE SMITH: Into private session under 107, please.

21 [Private session]

22 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14111

Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14113

Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14114

Further Cross-examination by Mr. Ellis

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 14115

Further Cross-examination by Mr. Ellis

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12 [Open session]

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

14 PRESIDING JUDGE SMITH: All right. Thank you all.

15 We are adjourned until Tuesday at 9.00, and we will have the
16 next witness at that time.

17 --- Whereupon the hearing adjourned at 4.31 p.m.

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