

1 Thursday, 28 November 2024

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: I note that the accused are all present  
11 in court today.

12 We will now continue hearing the evidence of Prosecution  
13 Witness W03873.

14 Madam Court Usher, please bring the witness in.

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: I note for the record that Duty Counsel  
17 for W03873 is present in the courtroom.

18 Good morning, Witness.

19 Good morning, Duty Counsel.

20 Today we're going to continue your testimony. I remind you to  
21 please try to answer the questions clearly, with short sentences. If  
22 you don't understand a question, please ask the attorney to repeat  
23 it, or if it needs to be clarified, please ask them to do so and they  
24 will try to do that. Also, please try to remember to indicate the  
25 basis of your knowledge of facts and circumstances upon which you

1 will be questioned.

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

4 I also remind you that the assurances provided to you by the  
5 Panel are still applicable and that the refusal to give testimony may  
6 be sanctioned with the imposition of a fine.

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

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

12 WITNESS: HALIL QADRAKU [Resumed]

13 [The witness answered through interpreter]

14 Mr. Pace, you indicated you may have some additional questions;  
15 is that correct?

16 MR. PACE: Thank you, Your Honour. I don't have questions.

17 PRESIDING JUDGE SMITH: Yes, counsel.

18 MR. KOCI: [Interpretation] Honourable Court, good morning to  
19 everyone. I have the impression that I was not allowed yesterday to  
20 fulfil my duties appropriately during the questioning of my client.  
21 When Judge Mettraux was asking questions, I raised my hand repeatedly  
22 and I was ignored. I was not allowed to express my views.

23 My purpose was to prevent him speaking on camera about the  
24 conviction for which he was rehabilitated, and I would have wanted  
25 this not to be broadcast. I would kindly ask for this to be removed

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1 from the public broadcast.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. KOCI: [Interpretation] I also have another matter to raise.

4 I --

5 PRESIDING JUDGE SMITH: Does it have to do with the issue that  
6 you are here for in connection with possible self-incrimination?

7 MR. KOCI: [Interpretation] It has to do with the dignified  
8 treatment of my client, which I think is one of my duties here, to  
9 preserve --

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. KOCI: [Interpretation] -- his dignity.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. KOCI: [Interpretation] During the questions put to my client  
14 by Judge Mettraux - I will try to paraphrase and not quote him  
15 because I do not have it in front of me - the issue of the conviction  
16 of Sali Veseli was raised. The Judge, I'm paraphrasing him, said  
17 Sali Veseli was convicted, and my client answered saying he was  
18 convicted and then later released. And then the Judge added: Yes,  
19 but he was again convicted, from his position.

20 Now, from this position which the question was asked from, my  
21 client said, "I do not know." I was not able to verify and  
22 double-check this yesterday. I now had enough time to check, and I  
23 can confirm that Sali Veseli was released by a final decision.

24 Because of the position of my client, I would like to kindly ask  
25 for my client to be treated in a dignified manner. I apologise for

1 my intervention, but I believe this was my duty.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. KOCI: [Interpretation] Thank you.

4 PRESIDING JUDGE SMITH: The question that was asked yesterday,  
5 was he convicted, and the answer was yes, he was convicted. The fact  
6 that he was later released does not change the fact that he had been  
7 convicted.

8 We will proceed now.

9 Mr. Dixon, I believe you led off, so I think you can lead off --

10 MR. DIXON: Yes.

11 PRESIDING JUDGE SMITH: -- on the questions concerning the  
12 Judges' questions.

13 MR. DIXON: Thank you, Your Honours.

14 Further Cross-examination by Mr. Dixon:

15 Q. Mr. Qadraku, good morning. I have just a few follow-up  
16 questions for you. If I could ask you please just to answer the  
17 question shortly that I ask and then we can get through this  
18 speedily. Do you understand?

19 A. Yes, I understand.

20 Q. Firstly, in relation to a question that Judge Barthe put to you  
21 yesterday - this is at page 32, line 11 onwards of the transcript -  
22 he was asking and referring to a document dated 14 March 1999.

23 That's P500. And your answer in relation to that matter was the  
24 following. I'm just going to read it so you can orientate yourself:

25 "During the war, I was at the General Staff on three occasions.

1 I always tried to maintain the contact through my command. I do not  
2 recall to have contacted the General Staff without notifying the  
3 commander apart from the documents we read yesterday."

4 Do you remember saying that yesterday?

5 A. Yes, counsel.

6 Q. So that there's no confusion, in relation to the document of  
7 14 March 1999 that was referred to yesterday, it's correct, isn't it,  
8 that you did say in your testimony that this document was, I believe  
9 you said, given "to Commander Drini or Sadik Halitjaha, who was his  
10 deputy commander. And I believe that through the command I sent it  
11 to where it was supposed to go." You said that in your testimony.

12 MR. DIXON: For those following, that's at page 22723, line 17.

13 Q. Is that correct?

14 A. Yes, counsel.

15 Q. So it's your evidence that it was, as far as you recall, sent  
16 through your zone command but you don't know whether it was sent up  
17 further; is that right?

18 A. That's correct.

19 Q. Thank you. Moving on. Another question that Judge Barthe was  
20 inquiring about. He was asking whether Commander Drini and  
21 Tahir Sinani after him, whether it was up to the commander to inform  
22 and to report to the General Staff. That's at page 33, line 22  
23 onwards.

24 And your answer, sir, said:

25 "Yes, sir. If he," that's the commanders, "deemed it necessary

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1 and reasonable to report my proposals and notifications to the  
2 command, it was his duty to inform the General Staff."

3 Do you remember saying that?

4 A. Yes, sir.

5 Q. And then following on from that, you were asked by His Honour  
6 whether or not you had heard of any complaints by members of the  
7 General Staff that they did not receive important information through  
8 the zone. And you said:

9 "I never had a complaint from any of the commanders, be it  
10 Commander Drini or Tahir Sinani, or information that a complaint had  
11 arrived from the General Staff about my reporting or lack of it on  
12 the positions and movements of the enemy forces."

13 Do you remember that?

14 A. Yes, sir.

15 Q. Now, to ask you just as a follow-up from that: It's correct,  
16 isn't it, that you don't know one way the other what information was  
17 sent by your commanders at the zone command, Drini or Sinani? You  
18 don't know what was sent on to the General Staff?

19 A. It is correct that I did not know what they reported to the  
20 General Staff from those reports.

21 Q. So it follows then that you don't know what the General Staff  
22 received and what they did with the information they received if they  
23 got any information; is that correct?

24 A. That is correct.

25 Q. And then moving forward, another question from Judge Barthe, and

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1 this is at page 51, line 22 onwards. You were asked by His Honour if  
2 "it was important to you to provide information to the General Staff  
3 as well about what you saw and experienced. So was it important to  
4 you or not?"

5 And you said:

6 "Certainly it was. And I thought that there was a structure. I  
7 thought that the General Staff had a well-organised structure which  
8 would receive all of our reports that we were sending from the  
9 ground, that they would analyse, assess them, and have a clearer  
10 picture of the movements, including those of the [enemy]."

11 Do you remember giving that answer to His Honour?

12 A. Yes, sir, I remember. And I always thought that my reports were  
13 indispensable to inform the General Staff. It is true that I thought  
14 that they had a large sector to analyse the movement of forces  
15 throughout Kosovo. This is what I thought. This was my opinion.

16 Q. Thank you, Mr. Qadraku. I understand that. But it's correct  
17 that you don't know actually what information the General Staff  
18 received and what they did with any information they received.  
19 That's right, isn't it?

20 MR. PACE: Objection, Your Honours. Asked and answered two  
21 questions ago precisely the same.

22 PRESIDING JUDGE SMITH: Sustained. Sustained.

23 MR. DIXON: I was merely following up. But if the answer is  
24 clear on the record, I'll move on, Your Honours.

25 PRESIDING JUDGE SMITH: It's clear.

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1 MR. DIXON: Thank you.

2 Q. Another follow-up question which you haven't addressed directly  
3 is it's correct, isn't it, Mr. Qadraku, that you don't know how the  
4 General Staff itself worked? You don't know about its inner  
5 workings, do you?

6 A. It is true, sir. I did not know.

7 Q. And you never got, you've said this before, any reports back  
8 from them - that is, the General Staff or any people in the  
9 General Staff - through your zone commander; is that right?

10 A. That's right, counsel. Never during that time period, for five  
11 months and four days, during my functions as chief of G2 in Pashtrik  
12 operational zone during the war, I never received an order, request,  
13 or notification from the General Staff of the Kosovo Liberation Army.

14 Q. And also you don't know if the General Staff met on a regular  
15 basis, if at all. You have no knowledge of those details, do you?

16 A. No, sir, I don't, and I didn't.

17 Q. In the questions that followed from Judge Barthe, you were asked  
18 about an interview that you had given to the SPO where you had said:

19 "Whereas Kadri Veseli and the General Staff, he had the same  
20 responsibilities, duty to inform Azem Sylja just as I [did] ..."

21 And then you go on to look at it applying throughout the whole  
22 of Kosovo. Do you remember being asked about that?

23 A. Yes, sir. I remember.

24 Q. And then the proposition was put to you by His Honour:

25 "Would you agree that based on your statement it was even more



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1 important that the General Staff was well informed of what was going  
2 on in the seven operational zones?"

3 And you said:

4 "This is how I thought. This is how I thought it should be."

5 Do you remember saying that?

6 A. Yes, sir, I remember.

7 Q. The fact is, though, sir, that you don't have any information  
8 yourself - direct information - about what were the responsibilities  
9 of Mr. Kadri Veseli or others in the General Staff? That's right,  
10 isn't it?

11 A. That's right. I said that too.

12 Q. Thank you. I now just want to finally ask some questions about  
13 matters that were put to you by Judge Mettraux, and that was  
14 concerning documents dated the 11th -- sorry, 18th and 19th August  
15 1999. Do you remember those questions that you were asked about  
16 those two documents and you were shown them side by side yesterday?

17 A. Yes, counsel, I remember.

18 Q. And you were asked questions about the documents being found in  
19 your house in Prizren in May 2001.

20 A. Yes, sir. That's right.

21 Q. Now, I just want to ask you some follow-up questions about how  
22 those documents got to your house in Prizren. They were presumably  
23 documents that were kept in the zone command headquarters in Nishor  
24 during the war; is that right?

25 A. These documents were in my archive. I always kept a copy for my

1 archive. During the war, I dug a hole and buried that archive to  
2 preserve it, either for a museum or for a court or for whatever it  
3 may be needed in our state. So these were my archives during the  
4 war.

5 Q. And your archive was kept where? At the headquarters in Nishor  
6 during the war?

7 A. My archive was always kept in the office, but not all the  
8 documents. We also had a small secret bunker where I kept older  
9 documents if we needed to refer to or go back to for clarifications  
10 or verifications. Therefore, I kept them well until the end of the  
11 war. They were not always in my office because we also moved from  
12 one location to another.

13 Q. So it's right, then, that in order for all of those documents  
14 that are there in the office and in the bunker to get to your home in  
15 Prizren, you would have gathered them up from time to time as you  
16 moved and eventually taken them to your house in Prizren where they  
17 were later discovered by UNMIK; is that right?

18 A. That's right.

19 Q. And in gathering up those documents, you were taking your  
20 documents in the office, those in the bunker, you were gathering all  
21 documents that were there from many people? Is that how you recall  
22 it?

23 A. To my recollection, I took with me only my documents, documents  
24 that were in my archive.

25 Q. And what about the documents that were in the bunker? You said

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1 there were documents kept there in a secret bunker. Did you take  
2 those with you to your home address in Prizren?

3 A. Yes, counsel, including those. I took them home. Some were  
4 shown here in court. They were contemporaneous to wartime.

5 Q. Yes. And it's right, isn't it, that while you were gathering  
6 those documents and when you took them to your home in Prizren, you  
7 weren't reviewing them on a regular basis. You just kept them for  
8 records to potentially be looked at later.

9 A. That is right, dear counsel. I don't think I read them after  
10 the war either. I just kept them, preserved them as an evidence of  
11 my modest contribution.

12 Q. So you weren't reading them in your home in Prizren after the  
13 war, were you?

14 MR. PACE: Your Honour, I think this was just covered. "Read"  
15 is another version of "review." I don't understand the repetition of  
16 the same question when -- so the objection is asked and answered.

17 PRESIDING JUDGE SMITH: Overruled.

18 Go ahead.

19 THE WITNESS: [Interpretation] I think that I did not read or  
20 re-read my documents after the war. I did not need to. Had any  
21 institution -- any relevant institution, any court, any museum asked  
22 for them, or any higher institution, I would have delivered all of  
23 them. I kept them, but I had no need to have them.

24 MR. DIXON:

25 Q. And your wife, Peka, who was the assistant or administrator in

1 your section, did she also have documents that she kept and gave to  
2 you to store at the home in Prizren?

3 A. As a matter of fact, all these wartime documents were put in a  
4 bunker and kept in a safe place by my wife. I was busy with other  
5 matters, dealt with other issues on the ground, operational matters.  
6 I think she was the most suitable person to keep and preserve those  
7 documents which survived wartime up until the moment I was arrested.

8 Q. So it's right that she assisted you or maybe did the main part  
9 of the work in gathering up all of the documents and taking them to  
10 your house in Prizren? Is that how it happened?

11 A. That is correct.

12 Q. Now, I just want to read one part of the interview that you gave  
13 to the investigating judge. Judge Mettraux put various parts of this  
14 to you yesterday.

15 MR. DIXON: I don't think it need be called up just to save  
16 time. I'll read it onto the record because there's no Albanian  
17 anyway.

18 Q. I just want to ask you one question about it.

19 MR. DIXON: It's on page 123456. It's the very part that  
20 Judge Mettraux was asking about.

21 Q. Here, you have the investigating judge showing you "the second  
22 page to Annex A to the Order of Expertise containing the handwritten  
23 letter with the title 'Statement by Kimete Krasniqi.' The witness  
24 reads the document."

25 And then in response, you say:

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1 "I read it but if it was in my file, it could be, I cannot deny  
2 or affirm it. I cannot remember. I only accept the previous  
3 document because of my signature [on it] ..."

4 That's the document of 19 August 1999, to be clear.

5 "... but for this statement, when I was arrested I had 400  
6 [kilogrammes] of documents so I don't know whether this was part of  
7 this."

8 Do you remember giving that answer to the investigating judge in  
9 the case in Kosovo?

10 A. Yes, sir. I do remember. I gave this statement while I was  
11 detained in 2002.

12 Q. And is the reason why you said you simply can't remember, the  
13 reason being because you hadn't gone through and reviewed all the  
14 documents over the time that it had been there in your house or  
15 before?

16 A. That's right.

17 Q. We have heard that it was a huge number of documents. Are we  
18 talking about thousands of pages?

19 A. Yes, sir. We're talking about thousands of pages which happened  
20 to be there. I also had other documents. And, Your Honour, I  
21 offered to the Prosecutor a video footage which I had not filmed, but  
22 this was filmed by the ICTY, The Hague court. I have submitted over  
23 3.000 kilogrammes of documents to the Court.

24 In my work, I dealt with a lot of papers and documents, and  
25 assisted the Court with these. Some of them happened to be in my

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1 home, my house when I was arrested in 2001.

2 Q. Thank you, sir.

3 MR. DIXON: Could I now please call up two documents, and this  
4 is my last part of the questions, for you just to look at. The first  
5 is SPOE00035842 to 00036049, and it's at page 147 of the PDF.

6 Your Honours, this is the investigation file in the case that  
7 Judge Mettraux took the witness to yesterday. [Microphone not  
8 activated].

9 Q. This is only going to be in English, Mr. Qadraku, but I'll read  
10 it onto the record, and then you can comment.

11 You'll see here there's a list of exhibits dated 15 March 2002,  
12 and it says in the column there:

13 "One UCK original typed letter signed by Halil Qadraku attached  
14 to a copy of a letter handwritten by Kimete Krasniqi."

15 Do you see that?

16 A. Yes, I see it.

17 MR. DIXON: If that, again, could be put on one side of the  
18 screen, and on the other side could we call up page 99 in the same  
19 document, please. This will also be only in English, but I'll read  
20 out the relevant part.

21 Q. Now, here we have a note from the investigators in the case. We  
22 see there's a date here of 5 April 2002, so this is after the earlier  
23 list of exhibits. This is in April. And at 1400 hours, I'm just  
24 going to read out what's recorded there:

25 "Met with Schmidt from RIU Prizren. Checked through all boxes

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1 of search at Halil Qadraku" --

2 PRESIDING JUDGE SMITH: That's not on the screen.

3 MR. DIXON: Oh. Sorry.

4 MR. KOZI: It's not on the screen, yeah.

5 MR. DIXON: Sorry, sorry, sorry.

6 JUDGE METTRAUX: You need to scroll down.

7 MR. DIXON: Yes, thank you, Your Honours. If you can scroll  
8 down so everyone can read.

9 Q. So I'll start again. 1400 hours. This is on the date of  
10 5 April 2022:

11 "Met with Schmidt from RIU Prizren. Checked through all boxes  
12 of search at Halil Qadraku, could not find original letter of Kimete  
13 Krasniqi. Writer found an original letter," so the writer here being  
14 Helene Beaulieu, who signed this at the bottom. "Writer found an  
15 original letter signed by Halil Qadraku (similar to the one we  
16 already had but different date 18-08-1999) Attached to it was a copy  
17 of Kimete Krasniqi's letter. RIU does not know if they always only  
18 had a copy, if not they have no idea where the original is at, as  
19 there is no mentioned of it in their file. Writer seized original  
20 UCK letter and copy of Kimete Krasniqi letter as it was in a better  
21 shape than our copy. Also we could not find the original UCK letter  
22 signed by Halil Qadraku and dated 19-08-1999."

23 Did you follow that? I just read onto record what's there in  
24 English for us all to follow.

25 A. Yes, counsel, I heard it.

1 Q. Now, you've already given evidence, Mr. Qadraku, that the part  
2 of the letter of 19 August that was written in hand by Mr. Sinani,  
3 you hadn't seen that part before. You've accepted the rest of the  
4 document because it has your signature on it.

5 What I wanted to ask is, in this investigation or in the  
6 proceedings, can you recall one way or the other whether you were  
7 ever shown the original of that document? The original being with  
8 Mr. Sinani's handwriting on it. Do you remember?

9 A. No, sir, I do not recall the original. They were always copies.  
10 I said at the time, and I'm saying today, that they were not. Now,  
11 if they insist that they found them, I accept that. I never saw the  
12 original.

13 Q. Yes. But it's correct, it's your evidence, isn't it, that you  
14 don't know what happened to that document of 19 August, whether it  
15 was sent on anywhere else; is that right?

16 A. Correct. I did not know. I only submitted that request to  
17 Commander Tahir Sinani.

18 Q. Yes. Thank you Mr. Qadraku.

19 MR. DIXON: Those are my questions. Thank you, Your Honours.

20 PRESIDING JUDGE SMITH: Thank you.

21 Thaci Defence.

22 MS. TAVAKOLI: Thank you.

23 Further Cross-examination by Ms. Tavakoli:

24 Q. I have a couple of questions for you. Yesterday at the  
25 provisional transcript page 53.22, you were asked a question by



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1 Judge Barthe about paragraph 44 of your Prep Note 2. And  
2 specifically, you were asked about your involvement in a commission  
3 evaluating applications for veterans status. Do you remember that  
4 question?

5 A. Yes, I think so. I said that myself. But more or less, I  
6 remember it.

7 Q. Thank you.

8 Now, my questions are these: It's correct, isn't it, that there  
9 was a political agreement between Hashim Thaci, the PDK leader and  
10 deputy prime minister, and Isa Mustafa, the LDK leader and  
11 prime minister, to include former members of FARK in the category of  
12 people who could apply for veteran status? That's correct, isn't it?  
13 A "yes" or a "no," please.

14 A. Yes.

15 Q. And it's also correct that at that time the PDK and LDK were in  
16 a coalition government; correct?

17 A. Yes, madam.

18 Q. Thank you.

19 MS. TAVAKOLI: Those are my questions.

20 PRESIDING JUDGE SMITH: Thank you.

21 Mr. Tully.

22 MR. TULLY: Thank you, Your Honour.

23 Further Cross-examination by Mr. Tully:

24 Q. Good morning, Witness. I have a few questions for you about a  
25 document you were shown by Judge Mettraux and questions you were

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1 asked about it.

2 MR. TULLY: If I could have on screen, Mr. Court Officer, 074625  
3 to 074633-ET. Thank you very much. And it's at page 074630. And I  
4 think the Albanian is the same ERN.

5 Q. While I'm waiting for this to come up on screen, you remember  
6 being asked questions about this document yesterday, don't you?

7 A. Yes, counsel.

8 Q. Okay. And I'm going to focus on the same paragraph that you  
9 were asked initially, which is the one that begins "1993-1995." Now,  
10 as Judge Mettraux pointed out to you, all of the places that are  
11 listed there are Kosovo, Macedonia, Albania, and I believe Presevo;  
12 isn't that right?

13 A. Yes, sir. That's right.

14 Q. I want you to focus on the list of names that follows all of  
15 those place names and take a look at it. There are, obviously, some  
16 names there that could not have been part of those councils, and I'm  
17 going to point out, obviously, your name, Halil Qadraku, which is on  
18 that list, you weren't in Kosovo at that time or in any of the listed  
19 areas that are at the beginning of that paragraph; correct?

20 A. Yes, counsel. I was not in Kosovo. However, I would go twice a  
21 year to Kosovo. I was an immigrant in Switzerland, and every year  
22 twice a year I would go to Kosovo. I would have contacts, work there  
23 for the duration of my stay.

24 Q. But you weren't a member of any council that's listed there in  
25 any of those names, are you? Place names.

1 A. These names are from all Kosovo. I could work with Durmish  
2 Gashi, Selim Gashi, they were coming from my municipality. Rahovec,  
3 that is. We did not know these names at the time. Everything was in  
4 secret. Everybody worked in their own municipalities with their own  
5 comrades.

6 I know that Selim and Durmish Gashi were the ones with whom I  
7 cooperated during those years, in 1993, 1994, 1995 and before,  
8 together with the idol of our municipality, Ukshin Hoti, who was  
9 killed by the Serb occupying forces in 1999.

10 Q. And Mr. Ragip Shala, was he in Kosovo at the time or was he  
11 based in Switzerland?

12 A. I think that Mr. Ragip Shala came to Switzerland in 1997. He  
13 was persecuted by the Serbian police. He had come there together  
14 with Fatmir Limaj. At the time, Fatmir Limaj's father and brother  
15 were arrested in Kosovo, and they had to go -- to flee the country.  
16 That's why I remember that Ragip and Fatmir Limaj came together.  
17 They fled the Serb occupying forces.

18 Q. Okay. And to the question you were asked specifically, and this  
19 is at page 79 of yesterday's transcript, Judge Mettraux asked you:

20 "Now, would you agree with the suggestion that is being made  
21 here, to the extent you know these people, of course, that these are  
22 well-known activists who shifted from political to military work  
23 during that period?"

24 And you answered:

25 "I agree that we were in the service of."

1 Do I understand -- and I just want clarity on this because it's  
2 not very clear in the English. When you say, "I agree that we were  
3 in the service of," am I right to understand that this is your  
4 general recognition that the people on this list were at some point  
5 either in the service of the LPK or the KLA?

6 JUDGE METTRAUX: Or both, Mr. Tully.

7 MR. TULLY:

8 Q. Or both.

9 A. As a simple member of the LPK, I was at the service of the  
10 organisation then, of People's Movement of Kosovo, and I was at the  
11 service of all groups that were working and carrying out activities.  
12 If they gave me any task, to carry an information or to give an  
13 assistance, regardless I was at their service.

14 Q. I think we're clear on what you were doing, but maybe if I can  
15 be -- if I can look, maybe, at the answer you gave afterwards. So  
16 the Judge continued:

17 "So you have no issue here with any of the names?"

18 And you said:

19 "I don't, sir. 99 per cent, 100 per cent of these names," and  
20 I'm talking about the names on that list, "I know them -- or, I  
21 apologise, I knew, because the majority of them have passed away or  
22 were killed."

23 Do I understand your response to indicate that in general you  
24 recognise the names of the people on that list or in some cases knew  
25 them personally? That was the extent of your answer.

1 A. I knew some of them personally. For some of them I had read.

2 And now, in 2024, I can say that I know all of them.

3 Q. Okay. Well, this is what I'm getting to, because the Judge was  
4 asking you specifically whether you knew these people shifted from  
5 political to military work during this time period. It's 1993 to  
6 1995. So do I understand your answer correctly that you don't have  
7 personal knowledge of the political and military activities of  
8 everybody on that list in 1993 to 1995? Personal knowledge. Even if  
9 you know them or knew them personally.

10 A. Yes, sir. That's very correct. At that time, I was not  
11 familiar with the activities of all of them. As I said, we were  
12 working secretly within the country.

13 Q. So focusing then on Mr. Selimi, and I understand your evidence  
14 so far that you weren't aware of Mr. Selimi's activities during the  
15 period that you were living in Switzerland; is that accurate?

16 A. Yes.

17 Q. So on the document itself -- now, this comes directly from the  
18 LPK. All of the people who are listed here, they're well-known  
19 persons in Kosovo's recent history, as the document says itself. As  
20 a piece of political promotion, and from your experience with  
21 political parties, do you agree it would be advantageous for the LPK  
22 in 2002 to emphasise all of these names as part of their official  
23 history?

24 A. Yes. I think that this was done for the purposes of the  
25 affirmation of the LPK as a movement.

1 Q. And then just on the level of detail that's in this document.  
2 The document doesn't list any of the councils, specific councils any  
3 of these people on the list were involved with; correct?

4 MR. PACE: Objection, Your Honour. Are we asking for guesswork  
5 or are we asking based on what the witness has seen? I don't think  
6 he's read all nine pages of the document, if that's been established.

7 MR. TULLY: He's looking right at the paragraph I'm asking  
8 about.

9 PRESIDING JUDGE SMITH: Overruled. He can answer the question  
10 if he knows.

11 MR. TULLY:

12 Q. The document doesn't give any connection between these people on  
13 this list and the councils in the areas listed before; correct?

14 A. Yes, counsel. They're here only mentioned as names, and there's  
15 no connection between the councils and the various individuals or  
16 groups and where they were active.

17 Q. And as to the level of political work or their involvement  
18 within the LPK, it doesn't give any type of description of how  
19 involved with the LPK they were; isn't that correct? Yes or no?

20 A. Yes, sir.

21 Q. And do you agree with me that the term "activist" that it uses  
22 here is a very vague term. It gives no indication of seniority or  
23 authority within the LPK. It could be anything from somebody who  
24 hands out a pamphlet up as far as a chairman of a council; isn't that  
25 correct?

1 A. Yes, sir. Correct.

2 Q. Now, one -- finally, I want you to look at the next paragraph  
3 that comes along that says -- it begins with the date 17 November  
4 1994, and it says:

5 "The first military Communiqué was issued. The LPK [Chairman],  
6 at the insistence of the armed groups within the country, decided to  
7 start issuing communiqués by taking responsibility for them."

8 Now, this document again does not indicate - and this is yes or  
9 no - does not specify which armed groups made this insistence; isn't  
10 that correct?

11 A. Yes, sir, correct.

12 Q. And, finally, it does not say that any of the people listed in  
13 the previous bullet point were part of those armed groups that made  
14 that insistence; isn't that correct?

15 A. Yes, that's what it says.

16 Q. Thank you very much.

17 MR. TULLY: Those are my questions, Your Honour.

18 MS. TAVAKOLI: So I rise because there's eight words of my  
19 question that haven't been picked up by the transcript. So I don't  
20 know if you want me to repeat the question or check -- or just check  
21 with the transcribers?

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. TAVAKOLI: Should I just repeat it?

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 I'm sorry. I didn't get on the record. Just repeat it, please.

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1 MS. TAVAKOLI: Thank you.

2 Further Cross-examination by Ms. Tavakoli: [Continued]

3 Q. Sorry, sir. I'm just going to repeat the question I asked  
4 before and if you can repeat your answer. It hasn't been picked up.

5 It's correct, isn't it, that there was a political agreement  
6 between Hashim Thaci, the PDK leader and the deputy prime minister,  
7 and Isa Mustafa, the LDK leader and the prime minister, to include  
8 former members of FARK in the category of people who could apply for  
9 veteran status?

10 A. Yes, madam. That's true.

11 MS. TAVAKOLI: Thank you.

12 PRESIDING JUDGE SMITH: Thank you.

13 Mr. Ellis.

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

15 Further Cross-examination by Mr. Ellis:

16 Q. Good morning, Witness. I am Aidan Ellis representing  
17 Jakup Krasniqi. And there's one topic that I want to address with  
18 you this morning. It arises from questions that you were asked by  
19 His Honour Judge Mettraux at provisional transcript page 83 about the  
20 murder case involving Commander Drini.

21 And I'll read back to you the questions and answers now, I  
22 think, in the transcript at page 22860, line 22. You were asked:

23 "And your fellow defendant and fellow KLA member Sali Veseli was  
24 convicted, if I understand, for a plot to murder Drini; is that  
25 right? "



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1 And you answered:

2 "At the moment I was acquitted, he was sentenced to 15 years,  
3 but I know that one year afterwards he was acquitted and released as  
4 innocent.

5 "Q. And then he was re-tried and convicted once again; is that  
6 right?

7 "A. I don't remember, Your Honour. I might make a mistake.  
8 What I remember is he was acquitted once and released. I don't  
9 remember the rest."

10 Do you recall that exchange from yesterday afternoon? I see  
11 that you're nodding, Witness.

12 MR. ELLIS: So I could have on screen, please --

13 PRESIDING JUDGE SMITH: Hold on just a second. He's still  
14 listening. [Microphone not activated].

15 THE WITNESS: [Interpretation] I recall the question of  
16 His Honour on this topic. I remember the words. I said that the  
17 entire group, Xhemali Beqiraj, Haziraj, Sali Veseli, and myself, were  
18 acquitted and released as innocent. Although, he was released four  
19 years later and I was released after the first trial. And I repeat  
20 this again, that the entire group was acquitted, although some were  
21 acquitted later.

22 MR. ELLIS: Could I have on screen SPOE00125174 to SPOE00125190.  
23 Thank you. That's fine.

24 Q. This is only available in English, Witness, so I'll have to read  
25 the relevant parts when we come to them. But this is a decision of

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1 the Supreme Court of Kosovo dated 22 August 2007. Have I understood  
2 correctly from your answer, sir, that by this time you were not  
3 involved in the re-trial proceedings? You had been acquitted at an  
4 earlier stage; is that right?

5 A. Yes, counsel.

6 Q. All right.

7 MR. ELLIS: Could we go, please, to page 10 of the PDF first.  
8 And if we could scroll down a little. That's fine. Thank you.

9 Q. This is, first of all, summarising the retrial verdict. And it  
10 says:

11 "On 04 August 2006 the oral announcement of the retrial Verdict  
12 was announced. The written retrial Verdict dated 4 August 2006  
13 specifically stated that defendant Sali Veseli was guilty ..."

14 And it continues in the paragraph below that he was given an  
15 aggregate sentence of 15 years of imprisonment.

16 Could it be that retrial verdict that you had in mind when you  
17 said he was sentenced to 15 years?

18 A. In 2003, when I was released on 23 March, I believe that  
19 Sali Veseli was convicted to 10 or 15 years. I don't remember  
20 exactly for how long. Then there was a retrial, and then he was  
21 again convicted, and then the Supreme Court released him. So there  
22 were many trials, many trial sessions. Therefore, to this day I  
23 don't remember exactly.

24 What I know is later on Sali Veseli and the entire group were  
25 acquitted. And for this, I'm 100 per cent sure. I don't know the

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1 date of his acquittal, but I know that they were acquitted.

2 Q. Thank you. And that's what I'm going to come on to now, and I'm  
3 going to read a couple of -- I think four paragraphs from the  
4 decision to you, and then ask you a question at the end of it.

5 MR. ELLIS: If we could have on the screen, first of all, page  
6 12 --

7 PRESIDING JUDGE SMITH: Mr. Ellis, why don't we take a break for  
8 him for ten minutes now and then you can come back and go through  
9 that.

10 MR. ELLIS: I'm happy to be guided, Your Honour. This is my  
11 last question --

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: -- but it will involve a little bit of reading.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 Go ahead.

16 MR. ELLIS: I'm grateful.

17 Sorry, page 12. Yes.

18 Q. Now, I'm reading from paragraph 4 on that page:

19 "Accordingly, the Supreme Court of Kosovo finds that the retrial  
20 Verdict of 4 August 2006 by the District Court of Prizren in Criminal  
21 Case P. No. 49/04 incorrectly applied the substantive criminal law, a  
22 violation of Article 365, Paragraph 4, of the LCP. For that reason,  
23 it acquits defendant Sali Veseli of the crime of Criminal Association  
24 in violation of Article 26 of the PCCK ..."

25 MR. ELLIS: And if I could then move, please, to page 14, and if

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1 we could scroll down a little, please.

2 Q. And there's then a paragraph reading:

3 "There is nothing in the retrial Verdict of 4 August 2006 which  
4 suggests that Fazli Neziraj ever agreed with Sali Veseli that he  
5 would murder Ekrem Rexha. To the contrary, it speaks to  
6 non-agreement between Sali Veseli and Fazli Neziraj in that regard."

7 MR. ELLIS: And if we could go over, then, to page 15. And  
8 scroll down, please.

9 Q. I'm looking at the paragraph in the middle of that page:

10 "The retrial Verdict of 4 August 2006 established that Ekrem  
11 Rexha was murdered on 8 May 2000. It also established that the only  
12 two witnesses who were present near the scene of the murder were  
13 Ruzhdi Rexha, the brother of Ekrem Rexha, and Hajrije Rexha, the wife  
14 of Ekrem Rexha. And it established that neither Ruzhdi Rexha nor  
15 Hajrije Rexha were able to identify the person who shot Ekrem Rexha."

16 MR. ELLIS: And finally, please, page 16.

17 Q. At the bottom of the page:

18 "Accordingly, the Supreme Court of Kosovo finds that, with the  
19 acknowledgement in the retrial Verdict of 4 August 2006 that there is  
20 insufficient proof to identify the assassin or killer of Ekrem Rexha,  
21 and with no direct proof to find a causal connection between the  
22 actions of Sali Veseli and the murder of Ekrem Rexha, the necessary  
23 elements of the crime of complicity in the murder of Ekrem Rexha  
24 could not have been proven, circumstances which precluded continued  
25 criminal prosecution."

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1 MR. ELLIS: And it continues over the page, please.

2 Q. "For that reason, it acquits defendant Sali Veseli of the crime  
3 of Murder in violation of Article 30, Paragraph 3 of the CCK ..."

4 And, Witness, my question for you is: Are those paragraphs that  
5 I have read to you consistent with your recollection that Sali Veseli  
6 was not merely released, he was acquitted by the Supreme Court?

7 A. Yes, counsel. This is what I was trying to say yesterday, but  
8 Judge Mettraux was persistent, saying that he was convicted, he was  
9 convicted. And I knew that he was innocent, not only him, but all  
10 members of that group that was charged with that crime were innocent  
11 and acquitted.

12 MR. ELLIS: Thank you for allowing me that time, Your Honour.  
13 Those are my questions.

14 PRESIDING JUDGE SMITH: Thank you.

15 Witness, this ends your questioning today. You are finished  
16 with your obligation to the Court. You are released. We appreciate  
17 you having been with us. You can leave the courtroom now.

18 Thank you, Duty Counsel, for your presence.

19 Yes?

20 MR. KOZI: [Interpretation] I have a request which I had given  
21 notice yesterday about since my client has received a decision from  
22 the Prosecution indicating that they ceased the investigation against  
23 him for the offences he was suspected of. That is a confidential  
24 decision. I would kindly request the Court if we can make that  
25 decision public, that my client is not under investigation -- under

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1 any formal investigation any longer.

2 We wouldn't want to make a violation by making it public. The  
3 public opinion is aware of this and since the investigation has  
4 ceased.

5 PRESIDING JUDGE SMITH: We will inquire about it.

6 Mr. Prosecutor?

7 MR. PACE: Just to say, Your Honour, we're in open session, so  
8 this has *de facto* just happened, and no further action is necessary,  
9 to our knowledge.

10 PRESIDING JUDGE SMITH: Do you understand that the statement was  
11 made in open session? So the world knows. All right? Thank you.

12 MR. KOCI: [Interpretation] As a matter of fact, Your Honour, you  
13 have 45 minutes' delay, and you can always remove certain parts of  
14 the discussions in the courtroom, and in this sense I'm making my  
15 request to you.

16 PRESIDING JUDGE SMITH: Is there any objection to it being  
17 public?

18 MR. PACE: I mean, Your Honour, when we supplied the document to  
19 counsel, it said "confidential," and that was for a reason. We've  
20 had this conversation before, that making a confidential document  
21 public is -- we are certainly not going to be ones who advise it.  
22 But, again, he has now made it public, and I think it can just stay  
23 there.

24 PRESIDING JUDGE SMITH: Thank you. That's all. You may leave  
25 the courtroom now.

1 [The witness withdrew]

2 PRESIDING JUDGE SMITH: Judge Mettraux had a question.

3 JUDGE METTRAUX: And it's for you, Mr. Pace, if you could  
4 assist. We have been given a document that's on your exhibit list.  
5 It's SPOE00231358 to SPOE00231362-ET. And it seems that the English  
6 translation of that document is missing a page, or at least we cannot  
7 find the last page. We have the complete version in Albanian. Could  
8 you look into that for us in the course of today?

9 MR. PACE: Yes, of course.

10 JUDGE METTRAUX: Thank you.

11 PRESIDING JUDGE SMITH: We'll take a 15-minute break for you to  
12 get set up with the next witness. Is that sufficient?

13 MR. PACE: Yes, Your Honour. And just as a matter of  
14 scheduling, the next witness is ready to go. 15 minutes will  
15 suffice. We understand that that witness should, based on estimates,  
16 not take more than two hours, perhaps less. So the witness  
17 thereafter we're also ready to go, and we're eager to start the  
18 witness to ensure completion next week.

19 PRESIDING JUDGE SMITH: Depending on the timeframe that we  
20 finish, that will be perfectly all right. Thank you.

21 So we're adjourned for 15 minutes.

22 --- Break taken at 10.06 a.m.

23 --- On resuming at 10.22 a.m.

24 PRESIDING JUDGE SMITH: We're ready to start hearing the  
25 evidence of Prosecution Witness W04820.

1 Madam Court Usher, please bring the witness in.

2 [The witness entered court]

3 PRESIDING JUDGE SMITH: Good morning, Witness.

4 THE WITNESS: [Interpretation] Good morning.

5 PRESIDING JUDGE SMITH: Can you hear okay?

6 THE WITNESS: [Interpretation] Yes.

7 PRESIDING JUDGE SMITH: Witness, the Court Usher will now  
8 provide you with the text of the solemn declaration you are asked to  
9 take pursuant to our Rule 141(2). Please take a look at the document  
10 and then read it aloud.

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

15 WITNESS: W04820

16 [The witness answered through interpreter]

17 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated  
18 now.

19 Witness, today we will start your testimony, which is expected  
20 to last two to three hours. As you may know, the Prosecution will  
21 ask you questions first. Thereafter, the Defence has the right to  
22 ask questions of you, and members of the Panel might also ask  
23 questions of you.

24 The Prosecution estimate for your examination is 40 minutes.

25 The Defence estimates that it will need approximately one hour. As



1 regards each estimate, we hope that the counsel will be judicious in  
2 their use of their time. The Panel may allow redirect examination if  
3 conditions for it are met.

4 Witness, please try to answer the questions clearly, with short  
5 sentences. If you don't understand a question, feel free to ask  
6 counsel to repeat the question or tell them you don't understand and  
7 they will clarify. Also, please try to indicate the basis of your  
8 knowledge of facts and circumstances which you will be asked about.

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

13 Speak into the microphone and wait five seconds before answering  
14 a question, and then speak at a slow pace so the interpreters can  
15 catch up.

16 While you are giving evidence in this Court, you are not allowed  
17 to discuss with anyone the content of your testimony outside the  
18 courtroom. If any person asks you questions outside this Court about  
19 your testimony, please let us know.

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

23 If you feel the need to take breaks, please make an indication  
24 and we will accommodate you.

25 We begin first with the questions from the Special Prosecutor's

Witness: W04820 (Private Session)

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Examination by Mr. De Minicis

1 Office. They are seated to your left. Please give them your  
2 attention.

3 Mr. Prosecutor, you have the floor.

4 MR. DE MINICIS: Thank you, Mr. President.

5 Your Honours, could we please move into private session.

6 PRESIDING JUDGE SMITH: Private session, please,

7 Mr. Court Officer.

8 [Private session]

9 [Private session text removed]

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1 [Private session text removed]

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6 [Open session]

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

8 Thank you.

9 MR. DE MINICIS:

10 Q. Witness, you and I met recently, and at the beginning of our  
11 meeting, I gave you some time to read the interview that you had with  
12 the SPO some time ago; correct?

13 A. Correct.

14 Q. Now, once you finished reading, you indicated that you wanted to  
15 make some changes and provide some clarification about your  
16 interview; is that correct?

17 A. Correct.

18 Q. You then proceeded to list these changes, which I wrote down. I  
19 then read them back to you. Do you remember that?

20 A. Yes.

21 Q. After I read them back to you, you then confirmed that the  
22 changes that I had noted down correctly reflected the changes that  
23 you wanted to make; is that correct?

24 A. That's correct.

25 Q. Now, subject to the changes that you made and that I recorded in

1 Preparation Note 1, does your SPO interview accurately reflect your  
2 evidence and what you would say if examined today about the same  
3 events?

4 A. Yes, entirely.

5 MR. DE MINICIS: Your Honours, we submit that this satisfies the  
6 requirements of Rule 154. We seek admission of Preparation Note 1,  
7 ERN 123860 to 123863, and of the two parts of the witness's SPO  
8 interview, which are ERN 094542-TR-ET Part 1 RED2 and 094542-TR-ET  
9 Part 2 RED2, and of the corresponding Albanian versions which are  
10 094542-TR-AT Part 1 Revised RED2 and 094542-TR-AT Part 2 Revised  
11 RED3. These statements were found to be admissible under Rule 154 in  
12 paragraph 84 of decision F02044 dated 8 January 2024.

13 All these materials should be confidential to give effect to the  
14 protective measures granted to this witness. And in this regard, I  
15 would ask that the dates of the statements are not read out in public  
16 session.

17 PRESIDING JUDGE SMITH: Any objection to the tender?

18 MR. ELLIS: No new objections, Your Honour.

19 MS. ROWAN: No, thank you.

20 MS. TAVAKOLI: No, thank you.

21 PRESIDING JUDGE SMITH: The statement and Note 1, as indicated  
22 by ERN numbers, are admitted.

23 THE COURT OFFICER: Thank you, Your Honours. The statement,  
24 which is the ERN 094542-TR-ET and AT, Part 1 will be assigned  
25 Exhibit P01867.1, and Part 2 will be assigned Exhibit P01867.2. This

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1 goes both for English and the corresponding Albanian. And the  
2 classification is confidential.

3 Preparation Note 1, which is the ERN 123860 to 123863, will be  
4 assigned Exhibit P01868, and it's classified as confidential. Thank  
5 you, Your Honours.

6 PRESIDING JUDGE SMITH: You want it to remain confidential on  
7 both of those?

8 MR. DE MINICIS: [Microphone not activated].

9 PRESIDING JUDGE SMITH: Okay. Go ahead, then.

10 MR. DE MINICIS: Your Honour, could we please move back into  
11 private session.

12 PRESIDING JUDGE SMITH: Back to private session, please,  
13 Mr. Court Officer.

14 [Private session]

15 [Private session text removed]

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Examination by Mr. De Minicis

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Examination by Mr. De Minicis

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Examination by Mr. De Minicis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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7 [Open session]

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

9 PRESIDING JUDGE SMITH: Adjourned until 11.30.

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

11 --- On resuming at 11.33 a.m.

12 PRESIDING JUDGE SMITH: So we will begin now with the evidence  
13 of Prosecution Witness 4401.

14 Madam Court Usher, please bring the witness in.

15 [The witness entered court]

16 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear  
17 okay?

18 THE WITNESS: [Interpretation] Good morning. Yes, I can.

19 PRESIDING JUDGE SMITH: I note for the record that Duty Counsel  
20 for W04401 is present in the courtroom.

21 Could you please identify yourself for the record?

22 MR. QERKINI: [Interpretation] Thank you, Mr. President. I am  
23 Artan Qerkini, lawyer from Kosovo, and I represent Mr. Bashota.

24 PRESIDING JUDGE SMITH: Thank you, counsel.

25 Witness, the Court Usher will now provide you with the text of

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1 the solemn declaration which you are asked to take pursuant to our  
2 Rule 141(2). Could you look at the document and then read it aloud?

3 THE WITNESS: [No interpretation].

4 PRESIDING JUDGE SMITH: Yes, go ahead.

5 THE WITNESS: [Interpretation] Thank you.

6 Conscious of the significance of my testimony and my legal  
7 responsibility, I solemnly declare that I will tell the truth, the  
8 whole truth, and nothing but the truth, and that I shall not withhold  
9 anything which has come to my knowledge.

10 WITNESS: SOKOL BASHOTA

11 [The witness answered through interpreter]

12 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated  
13 now.

14 Witness, today we will start your testimony, which is expected  
15 to last approximately four days. As you may know, the Prosecution  
16 will ask you questions first. Once they are finished, the Defence  
17 has the right to ask questions of you, and members of the Panel may  
18 also have some questions for you.

19 The Prosecution estimate for your examination is five hours.  
20 The Defence estimates that it will need 12 hours. As regards each  
21 estimate, we hope that counsel will be judicious in the use of their  
22 time. The Panel also may allow redirect examination by the SPO if  
23 conditions for it are met.

24 Witness, please try to answer the questions clearly, with short  
25 sentences. If you don't understand a question, feel free to ask

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1 counsel to repeat the question or tell them you don't understand and  
2 they will clarify. Also, please try to indicate the basis of your  
3 knowledge of facts and circumstances that you will be asked about.

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

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

11 During the next days while you are giving evidence in this  
12 Court, you are not allowed to discuss with anyone the content of your  
13 testimony outside of the courtroom. If any person asks you questions  
14 outside the Court about your testimony, please let us know.

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

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

20 I also take this opportunity to remind the parties and  
21 participants to avoid talking over one another to facilitate the  
22 witness's understanding of the questions that are put to him.

23 We are aware that counsel has been assigned to the witness so  
24 that the witness is able to seek legal advice if he has any  
25 legitimate concerns of self-incrimination.

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1           Witness, I remind you that as per the solemn declaration that  
2           you have just read, you are obliged to tell the truth. Under our  
3           rules, you are hereby advised that you are not required to answer a  
4           question that is incriminating unless and until the Panel compels you  
5           to answer, in accordance with Rule 151(2), and determines if an  
6           assurance under Rule 151(3) should be provided to you.

7           You are hereby advised that in the event such a question of  
8           self-incrimination arises, you or your assigned counsel may raise the  
9           issue to the Panel, and we will proceed to determine whether or not  
10          and under what circumstances you might be compelled to answer.

11          In such a case, the decision as to whether you must answer a  
12          question is exclusively that of the Panel. If ordered to do so by  
13          the Panel, you must answer all questions asked of you.

14          Mr. Qerkini, have you discussed this issue with your client?

15          MR. QERKINI: [Interpretation] Yes, Mr. President. I have  
16          informed my client about his rights in accordance with Rule 151 of  
17          the rules, and this is, as a matter of fact, the first issue I would  
18          like to raise in front of you.

19          PRESIDING JUDGE SMITH: Let me just proceed with some questions  
20          first of all.

21          He is aware of the rights and obligations of Rule 151?

22          MR. QERKINI: [Interpretation] Yes.

23          PRESIDING JUDGE SMITH: And does he have some issues or possible  
24          self-incriminatory statements within his testimony that he wants to  
25          avoid?

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1 MR. QERKINI: [Interpretation] Considering that Mr. Bashota will  
2 testify about wartime circumstances in which he took part, the first  
3 issue I wanted to raise has to do precisely with the privilege of not  
4 self-incriminating according to the Rule 153(3). And I would kindly  
5 ask the Court to first issue a decision in this regard and then  
6 proceed with the subsequent matters.

7 PRESIDING JUDGE SMITH: I take it that means you are seeking an  
8 assurance for your client?

9 MR. QERKINI: Sorry?

10 PRESIDING JUDGE SMITH: I said I take it that means you are  
11 seeking to have an assurance given by the Court to your client so  
12 that he can testify without fear of self-incrimination; is that  
13 correct?

14 MR. QERKINI: [Interpretation] That is correct.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Excuse me. One more time, I want to go through this.

17 I remind you that you have been called to testify and are  
18 obligated to testify and tell the truth. If you do not tell the  
19 truth, you might be sanctioned. If you believe you may incriminate  
20 yourself, you can always refuse to answer, but I'm going to go into  
21 the procedure that I and your attorney have just discussed.

22 The Panel notes that, in a confidential and *ex parte* filing,  
23 F02734, the SPO has informed the Panel that, if considered necessary  
24 by the Panel, the SPO would have no objection to this witness being  
25 provided assurances in accordance with Rule 151(2) and (3) of the

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1 rules. The Panel therefore does not consider seeking the *ex parte*  
2 views of the Specialist Prosecutor under Rule 151(3) necessary under  
3 the present circumstances since they've already consented to it if  
4 necessary.

5 The Panel, however, would like to receive submissions from the  
6 SPO as to whether and how the evidence that the witness would  
7 provide, if compelled to testify, would be unique evidence relevant  
8 to the case pursuant to Rule 151(2)(b).

9 Mr. Halling.

10 MR. HALLING: Thank you, Your Honour. The witness was a member  
11 of the KLA General Staff with the accused and, if willing, is well  
12 placed to describe its structure, aims, and methods.

13 PRESIDING JUDGE SMITH: Thank you.

14 Any comment on this from the Defence? None being heard.

15 Having heard the parties' submissions, including the SPO's  
16 *ex parte* -- the SPO's *ex parte* views in F02734, the Panel finds that,  
17 in light of the importance of the witness's anticipated evidence, its  
18 unique relevance to the case, the limited nature of the possible  
19 self-incrimination, and the sufficiency of available protective  
20 measures should they become necessary, the elements listed in  
21 Rule 151(2) have been met. The Panel therefore compels the witness  
22 to testify.

23 Pursuant to Rule 151(3), the Panel assures the witness that the  
24 evidence provided in response to the relevant questions:

25 (a) shall be given *in camera* unless he seeks otherwise, and

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1 shall not be disclosed in any manner to the public, Kosovo, or any  
2 third state; and

3 (b) will not be used either directly or indirectly against the  
4 person in any subsequent prosecution before the Specialist Chambers,  
5 except under Article 15(2) of the Law and Rule 65.

6 In this regard, the Panel warns the witness that refusal to give  
7 testimony may be sanctioned with the imposition of a fine.

8 The last question I have, Mr. Qerkini, is concerning the closed  
9 session. He has a right to have all these proceedings take place in  
10 a closed session. That means no transmission outside of the  
11 courtroom of any information and the gallery being closed. Does he  
12 wish to continue in that manner, or does he want to have this in a  
13 fully open status?

14 MR. QERKINI: [Interpretation] Following the consultations with  
15 my client, he decided to remove all protective measures and give  
16 evidence in open session.

17 PRESIDING JUDGE SMITH: And do you agree with that, Witness?

18 THE WITNESS: [Interpretation] Yes.

19 PRESIDING JUDGE SMITH: You understand that even though you're  
20 granted the right to have this matter not transmitted, it will be  
21 transmitted. Do you understand that? It will go on our web site,  
22 for example, which can be accessed by anybody.

23 THE WITNESS: [Interpretation] Yes.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Knowing that, you still want to go ahead in a completely open

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1 session?

2 THE WITNESS: [Interpretation] Yes.

3 PRESIDING JUDGE SMITH: And you agree, Mr. Qerkini?

4 MR. QERKINI: [Interpretation] Yes.

5 PRESIDING JUDGE SMITH: All right. That will be our finding  
6 then. We will proceed. You have the assurance. And we now begin  
7 the process of your testimony.

8 We begin, first, with the -- I'm sorry.

9 MR. MISETIC: Yes, before we begin, Mr. President, if I can just  
10 have on the record a request from the Defence. If we could receive a  
11 copy of F02734, please, which was filed *ex parte* --

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. MISETIC: -- which I think we can now receive.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. HALLING: None, Your Honour. It can be reclassified as  
16 confidential at this time.

17 PRESIDING JUDGE SMITH: It will be reclassified as confidential  
18 and be deliverable to the Defence.

19 Witness, we begin with the questions by the Specialist  
20 Prosecutor's Office. They're to your left. Please give them your  
21 attention.

22 MR. HALLING: Thank you, Your Honour.

23 Examination by Mr. Halling:

24 Q. Good morning, Witness. We've met before, but my name is  
25 Matt Halling, and I'm a Prosecutor with the SPO. And I'll be asking



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1 you questions today and likely for part of Monday as well.

2 First, what is your name?

3 A. Sokol Bashota.

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

5 A. 7 March 1966, Caravik.

6 Q. In 2006, did you give an interview to the ICTY?

7 A. Yes.

8 MR. HALLING: Could the Court Officer please pull up on the  
9 screen T000-5325-TR-AT Part 1 Revised, page 1. And this can take the  
10 whole screen in Albanian.

11 Q. Witness, in a moment a document's going to appear on the screen,  
12 and then I'll just ask you a question. And so, Witness, you see the  
13 document on the screen now?

14 A. Yes.

15 Q. Is this your 2006 ICTY interview?

16 A. So it seems, yes.

17 MR. HALLING: Could the Court Officer now please put on the  
18 screen U009-4678 to U009-4687 RED, the first page in both English and  
19 Albanian on the screen. And if we can zoom out to see the whole  
20 page.

21 Q. Witness, what's on the screen now, is this signed statement a  
22 kind of summary of that same ICTY interview?

23 A. Yes.

24 Q. Have you recently had an opportunity to re-familiarise yourself  
25 with the contents of these statements?

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1 A. When do you think -- are you thinking? During the preparation  
2 session?

3 Q. Yes. In the preparation session last week, did you have an  
4 opportunity to review these statements?

5 A. Yes. Yes, thank you.

6 Q. And in that preparation session, you indicated some changes and  
7 clarifications to these documents; correct?

8 A. Yes.

9 Q. And these changes were reflected in a note that was read back to  
10 you; is that right?

11 A. Yes.

12 Q. And do you confirm that what was read back in that note reflects  
13 your changes fully and accurately?

14 A. Yes.

15 Q. And subject to the changes provided in that note, do these  
16 statements accurately reflect what you said and what you would say if  
17 asked again in court today?

18 A. Yes.

19 MR. HALLING: Your Honours, having fulfilled the Rule 154  
20 criteria, and in accordance with decision F02720, the SPO hereby  
21 tenders the seven-part transcript of the ICTY's statement of this  
22 witness. The ERNs are set out in footnote 124 of Your Honours'  
23 decision. I can read the ERNs into the record if necessary. We  
24 tender them in English and Albanian.

25 We also tender the signed ICTY statement and Preparation Note 1,

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1 which is 123871-123874.

2 There is one associated exhibit for this witness, and we also  
3 tender the English and Albanian version of exhibit U016-3286 to  
4 U016-3287.

5 PRESIDING JUDGE SMITH: Any objection to the statements, the  
6 note, and the exhibits?

7 MR. MISETIC: No objection.

8 MR. DIXON: No objection, Your Honours.

9 MR. ROBERTS: No objection.

10 MS. V. ALAGENDRA: No objection.

11 PRESIDING JUDGE SMITH: T000-5325-TR-AT, in seven parts,  
12 Revised, is admitted.

13 THE COURT OFFICER: And it will be assigned Exhibit P01871.1 for  
14 the Part 1; .2 for the Part 2 of the T000-5325. T000-5326 Part 1  
15 will be .3; Part 2 will be .4. T000-5327 Part 1 will be .5; Part 2  
16 will be .6. And T000-5328 Part 1 will be assigned Exhibit P01871.7.  
17 That goes for the corresponding Albanian translation. And it's  
18 classified as confidential. Thank you, Your Honours.

19 PRESIDING JUDGE SMITH: It should remain confidential?

20 MR. HALLING: Yes, Your Honour.

21 PRESIDING JUDGE SMITH: All right. Then U009-4678 to U009-4687  
22 RED is admitted.

23 THE COURT OFFICER: And it will be assigned Exhibit P01870 both  
24 for English and Albanian corresponding translation. Currently  
25 classified as confidential.

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1           PRESIDING JUDGE SMITH: Yes.

2           MR. MISETIC: Mr. President, if I could just inquire as to why  
3 it needs to be confidential?

4           MR. HALLING: We should be able to prepare a public redacted  
5 version. There are ICTY interpreters' names in these statements and  
6 things that -- so we can make a public version of it, but this is why  
7 we would maintain confidential classification.

8           PRESIDING JUDGE SMITH: It'll remain confidential for now.

9           MR. MISETIC: Okay.

10          PRESIDING JUDGE SMITH: I think you should endeavour to get a  
11 public statement, though.

12          MR. HALLING: Understood.

13          PRESIDING JUDGE SMITH: Public version.

14          MR. MISETIC: Mr. President.

15          PRESIDING JUDGE SMITH: Yes.

16          MR. MISETIC: I'm told there may be an issue with the numbering.

17          PRESIDING JUDGE SMITH: [Microphone not activated].

18          MR. MISETIC: I think you went a number down instead of a number  
19 up.

20          PRESIDING JUDGE SMITH: Yeah, we were at 71 and now we're at 70.

21          THE COURT OFFICER: This is correct, Your Honours.

22          PRESIDING JUDGE SMITH: It should be 72.

23          THE COURT OFFICER: In that case, we would skip the 1870.

24                               [Trial Panel and Court Officer confers]

25          PRESIDING JUDGE SMITH: For the record, there will be no

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1 Exhibit 1870.

2 [Trial Panel and Court Officer confers]

3 PRESIDING JUDGE SMITH: A further clarification. The first  
4 statement will be re-numbered 1870.1 through .7. And then this one  
5 will be 71.

6 THE COURT OFFICER: Thank you, Your Honours.

7 PRESIDING JUDGE SMITH: Thank you for noting that, counsel.  
8 And then the note, which is 123871-123874, is admitted.

9 THE COURT OFFICER: And will be assigned Exhibit P01872.  
10 Currently classified as confidential.

11 PRESIDING JUDGE SMITH: Thank you. And the associated exhibit  
12 U016-3286 to U016-3287 is admitted.

13 THE COURT OFFICER: And it will be assigned Exhibit P01873, also  
14 classified as confidential.

15 PRESIDING JUDGE SMITH: All right.

16 MR. HALLING: And, Your Honour, that last of the items is a  
17 media interview and can be classified --

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. HALLING: The last item is a media interview which can be  
20 classified as public, what is now P01873.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. HALLING: Correct.

23 PRESIDING JUDGE SMITH: It will be reclassified as public, then.

24 THE COURT OFFICER: Thank you, Your Honours.

25 PRESIDING JUDGE SMITH: You may proceed.

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1 MR. HALLING: Thank you, Your Honour.

2 Q. Witness, I have some additional questions for you covering  
3 certain matters discussed in your statements and in your preparation  
4 session.

5 I'd like to first start with the LPK. Witness, were you in the  
6 LPK?

7 A. Yes.

8 Q. Around what time did you join that group?

9 A. I do not know the exact date of when I joined this illegal  
10 structures there. I was there from year 1982 until 1993. I do not  
11 have an exact date of joining. We were involved in clandestine  
12 activities at the time, starting from 1984.

13 Q. And you said from 1982 until 1993. In 1993, where did you go  
14 next?

15 A. In 1993, we were organised within the Democratic League of  
16 Kosovo with the youth activities.

17 Q. During your time in the LPK around 1993, what exactly were you  
18 doing in the group?

19 A. In 1993, we mainly dealt with activities related to rallies  
20 dealing with the situation which the Albanian people was going  
21 through. We appealed to the masses to mobilise and join the movement  
22 as a formation with clear national objectives, which was the  
23 independence of Kosovo.

24 Q. Did the LPK take on any sort of military function around 1993?

25 A. I do not know about any military function related to the LPK.

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1 MR. HALLING: Your Honour, we'd seek to ask a question to the  
2 witness based off of Preparation Note 2, paragraph 15.

3 PRESIDING JUDGE SMITH: Yes, go ahead.

4 MR. HALLING:

5 Q. So, Witness, just to see if there's any inconsistency here, you  
6 said in your preparation session that you did move to the military  
7 formations within the LPK around this time, which was 1993, and that  
8 you made this decision personally in light of persecution from  
9 Serbia; is that correct?

10 A. That's correct. But in your previous question, I was referring  
11 to political organisation. I said we moved on to the LDK  
12 organisation dealing with youth activities. With respect to the time  
13 period of 1993, we were persecuted. I was also imprisoned at the  
14 time. And voluntarily, we were prepared, armed, to avoid being  
15 caught by the Serb police.

16 Q. Thank you.

17 MR. HALLING: Could the Court Officer please put up on the  
18 screen 1D203. And the specific page in English and Albanian would be  
19 DHT04462.

20 Q. And, Witness, during your preparation session, you were shown  
21 item, this is a Thaci Defence exhibit entitled "The LPK, its Statute  
22 and Programme," and I want to show you a specific page within it.

23 The sentence that I'm interested in is on the top left side of  
24 the page, where it says:

25 "To achieve national aspirations, LPK will use all forms of a

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1 national liberation struggle: democratic, peaceful, political and  
2 armed resistance."

3 And my question for you is whether what is written on this page  
4 consistent with what you understood the LPK's aims to be in 1993?

5 A. I had not seen this document before the preparation session, but  
6 it could be as it is put there.

7 Q. Now, before leaving this page --

8 MR. HALLING: And actually this is a question for the  
9 interpreters. We note that after "national liberation struggle:"  
10 there's one comma after that colon in the Albanian version and there  
11 are three in the English translation that we have.

12 Is it possible for the interpreters to confirm how many  
13 alternatives there are after the colon in that sentence?

14 MR. MISETIC: Mr. President, I'm going to just raise a point. I  
15 believe it's -- the Order on Conduct of Proceedings requires any  
16 translation issues to be addressed outside of court.

17 MR. HALLING: This is not a translation issue as such. It's  
18 purely a question of the punctuation in the sentence.

19 MR. MISETIC: Well, I mean, it should be done by -- not by  
20 interpreters but by the translators.

21 PRESIDING JUDGE SMITH: Yes, it should be. [Microphone not  
22 activated].

23 MR. HALLING: Well, it's also a question that I can put to the  
24 witness if that is amenable to Your Honours.

25 PRESIDING JUDGE SMITH: Yes, you can.



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1 MR. HALLING: Yes.

2 Q. So, Witness, I'll ask the same question to you. How many  
3 different alternatives to a national liberation struggle are there in  
4 this sentence?

5 A. Democratic, peaceful, political, and armed resistance. This is  
6 what it reads under Section III.

7 Q. Are you able to determine if those are three or four separate  
8 alternatives?

9 A. I am not able to make a clear distinction between the word  
10 "democratic," comma, then "peaceful and political." That results to  
11 me to be three.

12 Q. That results to be three. Thank you. In your statement --

13 MR. HALLING: And this can be taken off the screen.

14 Q. In your statement, you said the following --

15 MR. HALLING: I don't think this needs to be put on the screen,  
16 but I'll read it just to orient you. This is in P1870.1, and it  
17 should be page 7.

18 Q. You say that -- you are asked:

19 "... when would you say is the first time, approximately, that  
20 there was -- that you had thoughts about creating an armed force as  
21 the KLA?"

22 And the answer is:

23 "The creation of a military force, this came out of a general  
24 meeting of the LPK and from -- it was decided by this meeting."

25 And then you were asked:

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1 "When approximately was that?"

2 And you said:

3 "I wasn't a member of this assembly, but it was at the beginning  
4 of the '90s."

5 My question for you is how do you know what you say there about  
6 a general meeting of the LPK?

7 A. People from the municipality of Kline attended those meetings as  
8 well, and Sahit Berisha was in one of those meetings. In another  
9 meeting, Isa Krasniqi was present. So from one of those two.

10 MR. HALLING: We'd now ask --

11 MR. MISETIC: Sorry, just for the record, I believe it should be  
12 page 8 of P1870.1. Page 8.

13 MR. HALLING: Thank you. I'm guided.

14 The next document, if the Court Officer could please put up on  
15 the screen 074625 to 074633 in English and Albanian.

16 Q. Now, Witness, you can see here on the top there's a red header,  
17 forgive my pronunciation, but it's "*Levizja Popullore e Kosoves*" on  
18 the top. It is a timeline of the LPK's history prepared by an  
19 Emrush Xhemajli. Had you seen this document prior to the preparation  
20 session last week?

21 A. Yes.

22 Q. When had you seen it previously?

23 A. No, I hadn't seen it previously.

24 Q. Now I follow.

25 MR. HALLING: We'll actually go first to page 074629 in both

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1 languages.

2 Q. And, Witness, I'll direct you to the entry that begins "28-29  
3 July 1993," and you can see here:

4 "The LPK 4th General Meeting is held with the participation of,"  
5 and then it gives a list of names including Xheladin Gashi, Emrush  
6 Xhemajli, Sabri Kicmari.

7 And then it says:

8 "The meeting decided about changes in the program and statute.  
9 The program includes in writing the armed warfare as a means to  
10 achieve the goal for the liberation of Kosovo (the Albanian  
11 territories in former-Yugoslavia). The resolution approved said that  
12 the armed warfare should be a priority in LPK actions."

13 Witness, is this consistent with what you knew about the LPK  
14 general meeting you discussed in your statement?

15 A. No.

16 Q. How is it different?

17 A. I do not know about the English version, but I don't know where  
18 you read in Albanian.

19 Q. Ah, it's possible that the page wasn't scrolled down far enough  
20 on the Albanian side.

21 MR. HALLING: If the Court Officer could please roll the  
22 Albanian page down to the bottom.

23 Q. And, Witness, it is the paragraph beginning "28-29 July  
24 1993 ..." And I would say in fairness if I could just give you a  
25 moment to read that, and then I'll ask my question again.

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1 A. Yes, but I have no idea about this because I was not part of  
2 this meeting. I see the name of the person I mentioned earlier,  
3 Isa Krasniqi, as an attendee.

4 Q. So just to make it clear for the record, I'm not saying you  
5 attended the meeting, but is what you know about the meeting  
6 consistent with what is written here?

7 A. I am not able to say something in specific about this. I was  
8 not part of this.

9 Q. But the general meeting that you are familiar with involved the  
10 creation of a military force; correct?

11 A. We weren't not told precisely or expressly like this. A  
12 commission was, however, set up, special commission. I do not know  
13 more about this.

14 MR. HALLING: Let's go to the next page now, which is 074630.

15 Q. And you can see for the entry marked "1993-1995," it says here:  
16 "The most well-known activists who shifted from political to  
17 military work included ..."

18 And then there is a long list of names including your own.

19 And, Witness, I believe you said this already in the courtroom  
20 today, but did you shift from political to military work in the LPK  
21 around 1993?

22 A. I said that in 1993, after having received several summonses to  
23 appear at the police, I took measures to protect myself. I armed  
24 myself to avoid being caught alive by the enemy. So we  
25 self-organised. I took these measures to ensure my physical

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1 protection. But I did not have any task that would have been  
2 received from the LPK.

3 Q. Witness, that's not exactly an answer to the question that I  
4 asked you. Let me ask it again. Did you shift from political to  
5 military work in the LPK around 1993?

6 A. In 1993, I did not undertake any military action. I did not  
7 take part in any combat activities at that time. I'm referring to  
8 1993.

9 Q. I understand that.

10 MR. HALLING: And, Your Honour, if I could go again to paragraph  
11 15 of Preparation Note 2.

12 PRESIDING JUDGE SMITH: Yes, go ahead.

13 MR. HALLING: Thank you.

14 Q. And, Witness, I'm just trying to understand what you meant when  
15 you said that you moved to military formations within the LPK around  
16 this time. What exactly did that mean to you?

17 A. It is often a problem, because from the distance, speaking  
18 today, and referring to past periods of time, things change. My aim  
19 was not to surrender to the enemy.

20 Q. Thank you.

21 MR. HALLING: Your Honours, this document has been discussed a  
22 lot in court this week. It has not been given an exhibit number. In  
23 light of the evidence of this witness and the previous one earlier in  
24 the week, we would say that it's *prima facie* admissible and would  
25 tender the entirety of the timeline, which is 074625 to 074633.



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1 Q. Witness, to continue with your experience in the LPK, what would  
2 have happened or what did happen to LPK activists when they were  
3 captured by the Serbs?

4 A. Those who were captured suffered inhumane torture in Serbian  
5 prisons, most of them. I suffered the same on three occasions when I  
6 was imprisoned. I was -- I was tortured horribly by Serbian forces  
7 in the former Yugoslav prisons. Therefore, there would be  
8 consequences.

9 There were occurrences when people were even killed, like Nuhi  
10 Berisha, Rexhep Xhemajli. I think it was in 1984. But there were  
11 other occurrences later on. I do not know the names, though.

12 Q. Did the consequences of being caught that you describe create  
13 fear within the LPK of being infiltrated by the Serbs?

14 A. In the clandestine organisations, the possibility of being  
15 infiltrated is never excluded, people who could potentially  
16 collaborate with the occupier. However, I do not know about  
17 specific, concrete examples.

18 Q. What would you do within the LPK to try and protect your secrets  
19 from getting out?

20 A. We mostly took prevention measures. The three formula: One  
21 plus two members. In order to prevalent the infiltration of such  
22 elements that would then harm our organisation.

23 Q. Just for the benefit of everyone in the courtroom, can you  
24 explain further what you mean by "the three formula"?

25 A. The organisation was done by three. This is how it was referred

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1 to at the time within the LPK. I would have two persons. A friend  
2 of mine would have me and somebody else. These were prevention  
3 measures in order to prevent the dissemination or uncovering of  
4 information.

5 Q. Were there concerns within the LPK about people being arrested  
6 by the Serbs revealing the activities of other LPK members?

7 A. Yes, it is possible. There was always this fear. But I do not  
8 know of any specific case, of any person around us having done such a  
9 thing.

10 Q. Was limiting LPK activities to groups of three a way of limiting  
11 how much damage would be caused if someone was caught by the Serbs?

12 A. Yes.

13 Q. I'd now like to talk a bit about the creation of the KLA.

14 MR. HALLING: And for this purpose, we would ask the  
15 Court Officer to please put up on the screen 067269 to 067710 in  
16 Albanian and English, and the first page would be 067707.

17 Q. Witness, I want to ask you a couple of questions about  
18 Azem Syla. First, is Azem Syla an authority on the history of the  
19 KLA?

20 A. Yes.

21 Q. And what was Azem Syla's role in the KLA?

22 A. Azem Syla had the role of the commander of the KLA.

23 MR. HALLING: Now, I see that we have the beginning of the  
24 document on the screen, but we're looking specifically for 067707.  
25 If we could go to page 475 of the PDF. There.



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1 Q. So, Witness, this is a *Zeri* article of Azem Sylja from September  
2 1999 that you saw in your preparation session.

3 MR. HALLING: I'd now like to go to a specific page within this  
4 and ask you a question. The page would be 067709 in both Albanian  
5 and English. And so the Albanian page is correct. The English page  
6 needs to go forward. One more page. Yes, the ERN is actually  
7 reproduced twice in the document for some reason. But if you go one  
8 further page in the English.

9 Q. This is the page that I wanted to ask you a question about, and  
10 it's in relation to the highlighted portion. So, Witness, *Zeri* says  
11 following:

12 "KLA officials in their statements reveal that the KLA was  
13 founded in December 1993. Who took part in the founding meeting and  
14 what was your organisation's agreement? Can you explain to us the  
15 KLA organisational structure?"

16 And the beginning of Mr. Sylja's answer is:

17 "The KLA was founded in December 1993. The people who attending  
18 that meeting were Sokol Bashota, Xhavit Haliti, Xheladin Gashi, Ali  
19 Ahmeti, another friend whose name we cannot [remember] at the moment  
20 and I. That meeting decided the organisational structure for the  
21 guerrilla groups, the tactic of carrying out the operations, ways of  
22 expanding the ranks and obtaining weapons and ammunition, methods of  
23 communication between them and the centre in Kosovo, staff training  
24 and military education and, most importantly, intensifying the  
25 operations throughout Kosovo."

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1           Witness, my first question to you is do you remember attending a  
2 meeting with a group like this around the end of 1993?

3           A.    As I said in the preparation session, we met in Tirana, but the  
4 creation of the Kosovo Liberation Army was not discussed there. In  
5 this meeting, instructions were given only, saying that in Kosovo  
6 there were armed groups, and the instruction was to work in the  
7 direction of unifying those groups. But the creation of an army was  
8 not discussed in that meeting.

9           Q.    So, Witness, are the topics that Azem Sylja says were discussed  
10 in this meeting on the organisational structure for the guerrilla  
11 groups and so on through that sentence, were those topics discussed  
12 at the Tirana meeting you're recalling?

13          A.    I do not recall all the details of this, but I do know that it  
14 was said that there are several armed groups in Kosovo, including the  
15 group of Adem Jashari, the legendary commander of the KLA, other  
16 groups in Llap and Dukagjin, and the idea was to unify these groups,  
17 but no specific tasks as presented by him.

18                This glorifying article seems to have been written after the war  
19 rather than having accurate and truthful information in it.

20           MR. HALLING: And, Your Honours, if we could please go to  
21 paragraph 5 of Preparation Note 2 to probe a potential inconsistency.

22           PRESIDING JUDGE SMITH: Yes, go ahead.

23           MR. HALLING:

24           Q.    Witness, when you were discussing this interview, you did say  
25 that you didn't understand the meeting as being the one creating the

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1 KLA, but you did say that the topics discussed were the same as those  
2 mentioned by Azem Syla; is that correct?

3 A. Yes, but not all that he has mentioned here. I indicated in the  
4 preparation session that this was mainly about instructions on --  
5 with the purpose of unifying the armed groups, which were, as I said,  
6 the Drenica, Llap, and Dukagjini groups.

7 Q. Thank you.

8 MR. HALLING: Your Honours, the witness is confirming that the  
9 meeting happened. This is also an interview with a named JCE member  
10 just after the charged timeframe. We would say that this entire  
11 article is relevant and probative in this case, and we would tender  
12 it for admission.

13 The last thing I'll mention is that this is a much larger ERN  
14 than the actual interview itself. The interview is only nine pages  
15 and it's across ERN 067707 to 067710, and we see no reason why it  
16 shouldn't be understood in its full context.

17 MR. MISETIC: We do object, Mr. President. If they wish to bar  
18 table the whole interview, they can, but the witness has not provided  
19 any significant information. And at page 74, lines 4 to 5, he  
20 specifically disputes the accuracy of the interview, and therefore we  
21 would object to it coming in in this manner.

22 MR. HALLING: Your Honours, if the item is bar table eligible,  
23 then it can come in without any witness commentary at all. The  
24 witness's contextualisation of it should also ensure its  
25 admissibility. There are other interviews of this person that are

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1 admitted through the bar table, but it doesn't seem necessary given  
2 what we've done in the courtroom now.

3 MR. MISETIC: May I respond, Mr. President?

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. MISETIC: My point was not that it can come in through the  
6 bar table. It's that they can apply and then we can respond  
7 appropriately.

8 MR. DIXON: Your Honours, if I could add as well in support of  
9 the objection that the relevant portions that -- have been read on  
10 the record anyway in order to understand the witness's evidence.  
11 But, otherwise, it's an exercise in contortion to try and use that as  
12 a way of getting an entire document in when there are other ways of  
13 doing that. Applications can be made or witnesses can be called.

14 [Trial Panel confers]

15 PRESIDING JUDGE SMITH: We will admit the nine pages but not the  
16 entire document, not the entire range. But I'm not sure the numbers  
17 for those nine pages. If you can give me that range.

18 MR. HALLING: Yes. So there's something -- because I think the  
19 Albanian is a newspaper and the English is requiring multiple pages  
20 to match one page, the exact range of the nine pages is 067707 to  
21 067710. It is the last document in the compilation, and it's all we  
22 tender.

23 PRESIDING JUDGE SMITH: Those nine pages will be admitted as  
24 satisfying the *prima facie* standard of Rule 138.

25 THE COURT OFFICER: And will be assigned Exhibit P01875,

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1 currently classified as confidential.

2 PRESIDING JUDGE SMITH: Thank you.

3 Go ahead.

4 MR. HALLING: As separated, this can be public, Your Honour.

5 PRESIDING JUDGE SMITH: Reclassified as public.

6 THE COURT OFFICER: Thank you, Your Honours.

7 MR. HALLING: And the document can be taken off the screen.

8 Q. So, Witness, talking about when the KLA does get started, and I  
9 want to focus now on the Central Staff which becomes the  
10 General Staff. What were the first core members of what become that  
11 Central Staff?

12 A. You're referring to the Central Staff; right?

13 Q. Yes.

14 A. In the Central Staff were Azem Syla, I, Xhavit Haliti,  
15 Nait Hasani, and I think Ali Ahmeti.

16 Q. Was Xheladin Gashi one of those first members as well?

17 A. Yes. Yes, if I didn't mention him. One clarification, if I'm  
18 allowed. At the time, Xheladin Gashi requested for three names  
19 inside Kosovo to be given and three names from outside Kosovo for  
20 this Central Staff. He sent my name and that of Nait Hasani. And we  
21 learned that Azem Syla, Xhavit Haliti, and, I think, Ali Ahmeti were  
22 there.

23 Q. Understood. I'd now like to fast-forward into 1997 and ask you  
24 about an incident that is described, amongst other places, in an  
25 interview of Rexhep Selimi.

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1 MR. HALLING: Could the Court Officer please pull up on the  
2 screen SPOE00131824 to 00131857-ET. The first page of the Albanian  
3 version, if it helps to find it, is SPOE00131751. The page that I  
4 would like to go to is SPOE00131832. And just for completeness of  
5 information, other pages of this longer item have been admitted as  
6 P1857 but not the page being shown now.

7 So the English extract is correct. The first page of the  
8 Albanian longer version of the item is SPOE00131751.

9 Q. And, Witness, once the page of the interview is on the screen in  
10 both languages, I wanted to read you part of it and ask a question.

11 MR. HALLING: The specific page would be, once again,  
12 SPOE00131832. And if we scroll to the bottom of the page in both  
13 versions.

14 Q. At the very bottom, it says -- Rexhep Selimi says the following:

15 "After those first three ones, seven more RPGs were brought by  
16 Hashim Thaci and Kadri Veseli in Jabllanice in August 1997. So, in  
17 terms of RPGs" - and then if we can please turn the page - "we had  
18 eleven of them. Three additional ones came in other forms, and then  
19 we had fourteen to prepare for the fourteen actions of September 11,  
20 1997. Until that day we did not use any of them, even though we did  
21 have a need for using them, but we did not want the Serbs to take  
22 action since at that time we considered them to be a large weapon and  
23 wanted to take the Serbs by surprise, as we indeed did, when we  
24 organised a very powerful and synchronised [attack] in September  
25 1997. We had 14 RPGs and we carried out 14 actions. Had we had 20

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1 RPGs we would have done 20 actions."

2 Now, Witness, my first question for you is are you familiar with  
3 the synchronised action against the police stations in September 1997  
4 that Rexhep Selimi is describing here?

5 A. This is an interview. I would not want to prejudice whether he  
6 wanted to represent the organisation as better organised at the time,  
7 but I personally was not part of this organisation. The action was  
8 carried out as far as I know. Now, whether they were synchronised or  
9 whether they happened at the same time, that I don't remember.

10 Q. Okay.

11 MR. HALLING: If we can now pull up P279 and put that on the  
12 screen in English and Albanian. And so we'll wait a moment for the  
13 English version of the item to also be put up on the screen.

14 Q. But as you can see already, Witness, this is in relation to  
15 Communiqué 36.

16 MR. HALLING: If it helps for the ERN, SPOE00209309, and it's  
17 the ET Revised.

18 Q. Now, Witness, do you recognise this as a KLA communiqué?

19 A. No, I don't remember it.

20 Q. I'll read the beginning of it:

21 "On 11 and 12 September 1997, by decision of the Central Staff,  
22 ... KLA armed units carried out a synchronised operation throughout  
23 the whole 1st Operative Zone ."

24 And then it says shortly thereafter:

25 "They attacked in a lightening operation the police stations,"

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1 and then it gives a variety of locations.

2 You said in your Preparation Note 1 that Rexhep Selimi wasn't  
3 able to do anything in the Central Staff in 1997. Do you recall  
4 saying that?

5 A. Yes. According to my information. We did not meet very often  
6 at the time. We didn't spend time together at the time.

7 Q. But does this communiqué show that the KLA was capable of armed  
8 actions that were organised in 1997?

9 MR. MISETIC: Mr. President, could I just get a reference in  
10 Prep Note 1?

11 MR. HALLING: Yes. So this, I believe, would be P1873 is the  
12 ERN of the -- sorry, P1872, and it would be paragraph 5, and it  
13 specifically says:

14 "[The witness] does not believe that Rexhep Selimi was able to  
15 do anything at all in the Central Staff in 1997."

16 MR. MISETIC: Okay. I have a procedural issue, but I'll address  
17 it later, in terms of if this is impeachment of a -- what's now in  
18 evidence as the substantive evidence of a witness.

19 MR. ROBERTS: Your Honour, I'd also -- I would also object in  
20 the sense that those questions don't follow one another. There's no  
21 evidence been given as to Mr. Selimi's role in the Central Staff up  
22 to this point.

23 MR. HALLING: This is the very thing that we are asking the  
24 witness to comment on. These topics can be explored in  
25 cross-examination.



1 MR. MISETIC: [Microphone not activated].

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 What?

4 MR. MISETIC: If I could just make one procedure -- my  
5 procedural objection?

6 PRESIDING JUDGE SMITH: Yes, go ahead. Do we need to excuse the  
7 witness?

8 MR. MISETIC: Perhaps. Perhaps.

9 PRESIDING JUDGE SMITH: Witness, you will be excused for a few  
10 minutes. Please go out of the courtroom with the Court Usher.

11 [The witness stands down]

12 PRESIDING JUDGE SMITH: Mr. Qerkini, you can go if you wish.  
13 It's up to you.

14 Go ahead.

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

16 This is more just a -- me putting a marker down in terms of the  
17 rules here. But as I understand, what the Prosecutor is doing here  
18 is impeaching the witness for paragraph 5.

19 Our position is that impeachment is specifically governed by  
20 Rule 143. And according to the interpretations given by this Panel  
21 as to what constitutes a statement for purposes of impeachment under  
22 143, it's now specifically defined in the law of the case -- or,  
23 sorry, it's a precedent of this Panel as to that it's a statement  
24 given in the context of a criminal investigation.

25 So our position, therefore, is that, first of all, you have to

1 seek leave to impeach the witness under Rule 143; and, secondly, you  
2 can't use material such as this to impeach a witness given the  
3 definition the Panel has made for what constitutes a statement for  
4 purposes of impeaching your own witness under 143. Thank you.

5 PRESIDING JUDGE SMITH: Are you attempting to impeach your  
6 witness?

7 MR. HALLING: I would say not yet, although we're getting there.  
8 Right now we're just trying to explore and understand what the  
9 witness is saying about his knowledge of this incident.

10 PRESIDING JUDGE SMITH: That was my understanding as well.

11 MR. MISETIC: I don't know if we're in a grey area here and if  
12 we're going to it. But our position is that when a party calls a  
13 witness and submits that evidence as the witness's direct testimony,  
14 then the party lives with that evidence unless authorised under 143  
15 to offer a contrary statement for the truth of its contents. And if  
16 we're going in that direction, then what has been put to this witness  
17 so far can't constitute a statement under 143.

18 PRESIDING JUDGE SMITH: Well, you said you wanted to put down  
19 your marker and you have.

20 MR. MISETIC: Thank you.

21 PRESIDING JUDGE SMITH: I understand that.

22 MR. MISETIC: That's all I wanted to do.

23 PRESIDING JUDGE SMITH: I understand that.

24 MR. MISETIC: Thank you.

25 PRESIDING JUDGE SMITH: You may go ahead.

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1 MR. HALLING: We resist the hypothetical when we get to it.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 You may bring the witness back.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: You may go ahead.

6 MR. HALLING: Thank you, Your Honour.

7 Q. Witness, I imagine I need to repeat my question given the break.  
8 So we were talking about the communiqué that's on the screen here,  
9 and I asked you does this communiqué show that the KLA was capable of  
10 armed actions that were organised in 1997.

11 A. I said from the beginning that I did not see this communiqué. I  
12 don't recognise it as such. The communiqués were written abroad. I  
13 don't know who wrote it, and I don't know to what extent it mirrors  
14 the reality of that time in Kosovo.

15 Q. In your earlier answer, and this is page 78 of the realtime  
16 transcript, you said:

17 "The action was carried out as far as I know."

18 And my question to you is: How do you know that? How do you  
19 know that the action was carried out?

20 A. From various media. From the media.

21 Q. Do you recall any specific media that you saw this?

22 A. No. Honestly, I don't.

23 Q. Do you recall if the media that you saw at the time said it was  
24 a synchronised attack?

25 A. I don't recall.

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1 MR. HALLING: The document can be taken off the screen. And  
2 then in its place, if we could please put 099794 to 099797, and just  
3 the first page in English and Albanian.

4 Q. And, Witness, when this is on the screen, this is another item  
5 that was shown to you in your preparation session that I wanted to  
6 ask you a few questions about.

7 It says at the top:

8 "Interview given by Sokol Bashota to *Zeri i Kosoves* in Prishtina  
9 on 25 December 1998."

10 And my question for you is: Is this your interview?

11 A. It seems so, yes.

12 Q. In the course of giving this interview --

13 MR. MISETIC: Mr. President, just for the record -- I'm sorry to  
14 interrupt, and I apologise to counsel. But just to be clear that in  
15 the English it says what the counsel says but not in the Albanian.  
16 Right? So the witness does not see what the counsel says it says.  
17 Right? At the top, it doesn't say that at the top in the Albanian  
18 original.

19 MR. HALLING: I don't think that that affects the witness's  
20 answer to my question, but it's noted for the record.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 Go ahead.

23 MR. HALLING:

24 Q. Now, Witness, did you get an opportunity to review the contents  
25 of this interview in the preparation session?

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1 A. Yes.

2 Q. Was there any information that you saw that was false in your  
3 interview that you gave here?

4 A. Not false. But the writings published in the media, with them  
5 we aimed to present the military and political organisation of the  
6 KLA to the best possible light for the domestic public opinion and  
7 also for those abroad.

8 MR. HALLING: If we can scroll to the left-hand side in the  
9 Albanian version, just on this first page.

10 Q. There's some handwritten annotations in the margin. Is that  
11 your handwriting?

12 A. I don't know. I don't know.

13 MR. HALLING: If we can now take that off the screen and put in  
14 its place SPOE40000014. And it's one page in English and Albanian,  
15 or at least one ERN.

16 Q. Now, Witness, did you get an opportunity also to review the  
17 contents of this in the preparation session?

18 A. Yes.

19 Q. And what we have is by Haki Morina, and it's an interview with  
20 you in *Zeri i Kosoves*. This one is a date of 31 December 1998. Is  
21 this the same interview as the previous document?

22 A. I don't know. I cannot compare it. But if the text is the  
23 same, it could be so.

24 Q. Yes.

25 MR. HALLING: And if we could refresh the witness's recollection

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1 with paragraph 9 of Preparation Note 2.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. HALLING:

4 Q. Witness, I don't want to --

5 PRESIDING JUDGE SMITH: Yes, go ahead.

6 MR. HALLING: Thank you, Your Honour.

7 Q. I don't want to go through the full comparison in the courtroom,  
8 but last week you said that this document and the previous one are  
9 two versions of an interview that you gave to Haki Morina; is that  
10 correct?

11 A. Yes, yes.

12 Q. And is there -- it's the same question as the other one. Is  
13 there anything that you noticed in the contents of this that were  
14 false when reviewing it?

15 A. Not false. I don't think so. I don't think so.

16 Q. I wanted to ask you about something that you said, which is  
17 actually on page 2 of the PDF in English. You're asked a question by  
18 the interviewer. You said:

19 "What can you say about the early activities and the period up  
20 to the first introduction of the KLA to the public on ... November  
21 1997?"

22 And it may be difficult to see the answer on the screen given  
23 the small typeface, but I'll read to you the part of your answer I'm  
24 interested in so you can hear it through interpretation. When asked  
25 that question, you said:

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1            "We acted properly and efficiently in pursuing our case. All  
2 operations' action plans were accurate and the results were  
3 uncontested. In many cases, the operations we carried out were so  
4 well-synchronised that we managed to undertake actions in eight up to  
5 12 locations in Kosovo on the same minute. So, every passing day we  
6 were getting tempered, becoming more professional and structured up  
7 to standard military levels."

8            In relation to what you say here about the eight to 12 locations  
9 in Kosovo on the same minute, is that in reference to the  
10 synchronised attack on the Serbian police stations in 1997?

11        A.    Well, judging from the information I could receive from the  
12 media, I was referring to them precisely.

13        Q.    Thank you.

14            MR. HALLING: Your Honours, the Panel indicated in decision  
15 F01983 that the first of those two interview versions shown, which is  
16 099794 to 099797, needed further information on the origin and source  
17 of that document prior to its admission. The witness's evidence  
18 today connected with the newspaper version of this same article,  
19 which is again SPOE40000014, gives additional foundation to this  
20 interview and its underlying reliability. We would tender both  
21 versions of this at this time.

22            PRESIDING JUDGE SMITH: Any objection?

23            MR. MISETIC: Yes, it's unclear to us why a second version needs  
24 to be admitted if the first version -- the newspaper version is  
25 there.

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1           PRESIDING JUDGE SMITH: Thank you.

2           MR. MISETIC: Yeah.

3           PRESIDING JUDGE SMITH: 099794 to 099797 and SPOE40000014 are  
4 both admitted. They should be tagged together, though, as an exhibit  
5 number. They meet the standard of 138.

6           [Microphone not activated].

7                                 [Trial Panel and Court Officer confers]

8           THE COURT OFFICER: Thank you, Your Honours.

9           PRESIDING JUDGE SMITH: [Microphone not activated].

10          Is there any reason you would like them separated rather than  
11 tagged together as one exhibit? I know your objection stands, but I  
12 just want to know if there is a reason you would like to have them  
13 separate.

14          MR. MISETIC: Well, if they're going to be admitted, then I  
15 think they should be separate because there's obviously some  
16 unexplained reason why there's a distinction being made between the  
17 two. And going forward, if there is a reason that there is a  
18 distinction --

19          PRESIDING JUDGE SMITH: All right. We can accommodate that.

20          MR. MISETIC: -- it should be clear.

21          PRESIDING JUDGE SMITH: Mr. Court Officer, we'll do two separate  
22 statements -- two separate numbers.

23          THE COURT OFFICER: Thank you, Your Honours. In that case, ERN  
24 099794 to 099797 and corresponding English translation will be  
25 assigned Exhibit P01876. And this one is currently classified as



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1 confidential.

2 As for the SPOE40000014 and the corresponding English  
3 translation will be assigned Exhibit P01877. And this one is  
4 currently classified as public.

5 Thank you, Your Honours.

6 PRESIDING JUDGE SMITH: Can the first one be now public as well?

7 MR. HALLING: Correct, Your Honour.

8 PRESIDING JUDGE SMITH: Reclassify 1876 as public.

9 THE COURT OFFICER: Thank you, Your Honours. Will do.

10 MR. HALLING: Thank you. And I know we only have a couple more  
11 minutes, but I can at least start and use them till 1.00.

12 PRESIDING JUDGE SMITH: Yes. Go ahead.

13 MR. HALLING: Yes, so --

14 PRESIDING JUDGE SMITH: Use the time you have.

15 MR. HALLING: -- if the Court Officer could please put up on the  
16 screen now SPOE00209301 in both Albanian and English.

17 Q. Witness, while this is being put up on the screen, in the last  
18 interview question that I read to you they were asking you about  
19 early activities up to the first introduction of the KLA to the  
20 public on 28 November 1997. And I first wanted to ask you where was  
21 the first public appearance of the KLA in 1997?

22 A. First public appearance occurred on 28 November 1997 after a  
23 killing that had occurred in Llaushë, after Halit Geci's killing,  
24 during the funeral ceremony.

25 Q. And who from the KLA were present at that first public

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1 appearance?

2 A. Many could have been present, but I know the three that -- who  
3 appeared to read a political statement.

4 Q. Who are the names of the three people?

5 A. Muje Krasniqi, Rexhep Selimi, and Daut Haradinaj.

6 Q. And who spoke?

7 A. Rexhep Selimi spoke.

8 Q. Turning now to the document that's on the screen. I won't read  
9 all of it. This was shown to you in your preparation session. I can  
10 just read in part:

11 "It is four years since the KLA has been in the forefront of the  
12 struggle for the liberation of Kosovo. It carried out several  
13 liberation operations against the occupiers in sensitive locations as  
14 well as against their Albanian speaking collaborators,  
15 collaborationists."

16 From your review of this item last week, is this the speech of  
17 the KLA's first public appearance?

18 A. Well, now I cannot remember all of its content, but it was  
19 something similar.

20 MR. HALLING: And, Your Honours, this was originally denied  
21 admission in decision F01705, that it needed to be contextualised by  
22 a witness. We would say that it now is and we tender it for  
23 admission.

24 PRESIDING JUDGE SMITH: Any objection?

25 MR. ROBERTS: No objection, Your Honour.

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1           PRESIDING JUDGE SMITH: SPOE00209301 is admitted.

2           THE COURT OFFICER: It will be assigned Exhibit 01878.

3           Classified as public.

4           MR. HALLING: And, Your Honour, I see the time for the break.

5           PRESIDING JUDGE SMITH: Witness, it's time for the lunch break.

6           We will be out of the court for an hour and a half. You are excused  
7           now until 2.30.

8           Just so you know ahead of time, this afternoon from 2.30 to 4.30  
9           we will be in session, and then we will be finished for the day after  
10          that.

11          You may leave the courtroom with the Court Usher.

12                               [The witness stands down]

13          PRESIDING JUDGE SMITH: Thank you, Mr. Qerkini. You may leave  
14          as well.

15          We're adjourned until 2.30.

16                               --- Luncheon recess taken at 1.02 p.m.

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

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

20                               [The witness takes the stand]

21          PRESIDING JUDGE SMITH: We will continue now with the questions  
22          from the Prosecution.

23          Mr. Halling, you have the floor.

24          MR. HALLING: Thank you, Your Honour.

25          Q. Good afternoon, Mr. Witness.

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1 MR. HALLING: To start --

2 THE WITNESS: [Interpretation] Good afternoon.

3 MR. HALLING: -- we would ask the Court Officer to pull up  
4 SPOE00052992 to 00053035-ET Revised, and the Albanian corresponding  
5 version, the first page of which is SPOE00052989. And the page in  
6 both we would like shown would be SPOE00053010.

7 Q. And, Witness, as the next document is being put up on the  
8 screen, I can orient you a little bit as to what it is.

9 So this is an interview that Kadri Veseli gave with Baton Haxhiu  
10 in 2009. It was published in 2013.

11 MR. HALLING: For the record, other pages of this were recently  
12 admitted as P1859, but the page that I'm showing now is not yet  
13 admitted.

14 And so we have the item on both sides, but the specific page  
15 again would be SPOE00053010. Thank you.

16 Q. And so, Witness, I want to direct you to a particular response  
17 of Kadri Veseli and ask you a couple of questions about it.

18 So Mr. Haxhiu asks the question of:

19 "When did Kadri Veseli become chief of SHIK?"

20 But he gives a more general answer as follows. He says:

21 "In fact, we have had our responsibilities during the entire war  
22 time, in the period 92-98. We had our General Staff and the  
23 Operational Staff of the UCK. We did not have separate duties, but  
24 ... did whatever we could. We were engaged in leadership, logistics  
25 and intelligence, because the circumstances were such."

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1           Witness, my question is, is what Kadri Veseli's saying here  
2           about sharing responsibilities, does that reflect your own  
3           understanding of how the KLA leadership worked?

4           A.    If he's referring to the period 1992-1998, I don't think that  
5           this conclusion is correct due to the fact that there was no  
6           possibility to divide tasks in a specific and concrete manner.

7           Q.    Maybe I'll ask the question differently.  When Mr. Veseli is  
8           talking about as being engaged in various duties, did the KLA  
9           General Staff operate through collective or collegial decisions?

10          A.    The General Staff, yes.  But the operational staff are the  
11          directors or, rather, the zone commanders.

12          Q.    But focusing on the General Staff, did these collective or  
13          collegial decisions include decisions on punitive measures against  
14          collaborators?

15          A.    I don't remember any case of the General Staff taking decisions  
16          for such measures against collaborators.  I don't remember any such  
17          specific case.

18          Q.    Witness, I'd like to go then to part of your statement which is  
19          admitted into evidence.

20          MR. HALLING:  This would be P1870.6, and it's page 13.

21          Q.    It's short.  I can just read it to you.  You were asked:

22                "If a collaborator continued, would continue with his activity,  
23                was the zone commander authorised, was he right to order his  
24                killing?"

25          And you answered:

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1 "As I mentioned earlier, it was the General Staff that on  
2 collegial basis decided about the punitive measures against the enemy  
3 collaborators."

4 Is that your evidence?

5 A. Let me explain what I've stated in this statement given to the  
6 tribunal in the case of Mr. Haradinaj. Here, I had in mind when the  
7 communiqués of the General Staff came out for these specific  
8 categories, and in general what I understood was that these persons  
9 had to be punished or, rather, warned through communiqués, but there  
10 was no separate order by the General Staff for killing collaborators  
11 as stated here.

12 I always had in mind those who turned their guns against the  
13 KLA. Those who were caught in the act, I was referring to these  
14 specific cases, no other cases.

15 Q. Witness, that doesn't exactly answer my question. Was it the  
16 General Staff that decided on a collegial basis about the punitive  
17 measures against the enemy collaborators? It could be answered with  
18 a "yes" or a "no."

19 A. No, we didn't take any measures.

20 Q. When you were given an opportunity to correct your statements  
21 last week, why didn't you correct this part?

22 A. I had the punitive measures in mind, in the sense that we did  
23 not have any written document for specific cases. For general cases,  
24 there were appeals to everyone for them not to collaborate with the  
25 enemy. Then it was the responsibility of zone commanders for further

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1 actions.

2 Q. Now I follow you. And what you've just described, was that a  
3 collective decision of the General Staff?

4 A. I believe it was a collective decision.

5 Q. Thank you.

6 MR. HALLING: The document can be taken off the screen.

7 Q. You talk a lot about collaborators in your admitted evidence.  
8 There are certain aspects of your evidence on collaborators that I'd  
9 like to explore now. I actually have five distinct areas that I  
10 wanted to ask you about, and the first one I will call publicity.

11 Here's my question. Was the KLA General Staff's purpose when  
12 issuing communiqués against collaborators to make it clear that no  
13 one could behave that way?

14 A. Respected Prosecutor, in a time of war, the enemy focuses on its  
15 collaborators, for them to enter the territory of the opposing side.  
16 And, of course, they represented a great risk for the sacred war led  
17 by the KLA, and, therefore, they were dangerous.

18 Q. That's helpful. It's not exactly what my question is, though.  
19 My question is about the purpose of the communiqués in relation to  
20 collaborators. Did it have a deterrent purpose to discourage others  
21 from doing the same thing?

22 A. The main purpose was to deter them from collaborating with the  
23 occupying force. They were a warning.

24 Q. Understood. The second of the five areas I wanted to ask you  
25 about I'll call tasks. Was KLA intelligence -- oh, actually, scratch

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1 that.

2 Before moving on, there was something in your preparation  
3 session I wanted to ask you about. In P1873, at paragraph 16, you  
4 said:

5 "Communiqués were political statements directed at the  
6 population so they would be prepared."

7 Could you develop a little more what you meant by that, so the  
8 civilian population would be prepared?

9 A. Well, I was not able to follow all the communiqués or most of  
10 them. However, for those that I saw, they were an appeal to all the  
11 citizens, to inform them of the work and the war of the KLA. And, of  
12 course, they contained also a call addressed to those who were  
13 damaging to the war of the KLA and of the Albanian people so that  
14 they would be careful and so that the war would suffer no harm.

15 Q. Thank you. As I was just saying before, the second area I've  
16 called tasks. My question to you on this one is: Was KLA  
17 intelligence collecting information on persons of interest?

18 A. If you allow me, I would like to explain something before  
19 answering this question on the information service. Two, three  
20 sentences.

21 It was unclear then, nor it is now to me, what were the tasks of  
22 the intelligence service, counter-intelligence service. It is a  
23 field that was never something of my interest. It is something that  
24 I don't know much of. These are similar services, but they have  
25 specific tasks.



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1           And to answer your question, I do not know if Kadri Veseli  
2           carried out this task. The question was that he -- if he collected  
3           information on the ground.

4           Q.    You mentioned Kadri Veseli in your last answer, but that wasn't  
5           in my question. Why did you say Kadri Veseli there?

6           A.    Kadri Veseli, following the restructuring of the KLA, was the  
7           leader of the intelligence service.

8           Q.    And as to what you were saying about the limits of your  
9           knowledge on intelligence, I wanted to go again to part of your  
10          statement. This is another short extract.

11          MR. HALLING: This is P1870.2, and it covers pages 10 to 11.

12          Q.    And you were asked -- you talked about distributing FARK  
13          officers under the KLA, and you were asked:

14                "Did this work fine? Was it a smooth operation?"

15          And you answered:

16                "In general it went well. We had criticisms of the Dukagjini  
17          zone because Tahir Zemaj was established there. And on the basis of  
18          the intelligence service that we possessed within the KLA, we had  
19          been informed that he earlier had been a drug dealer and had been  
20          convicted in earlier years, years past."

21          So there was this officer or commander that you know the  
22          intelligence service looked into; isn't that right?

23          A.    Commander in the intelligence service? I didn't understand it.

24          Q.    Sorry, I was referring to Tahir Zemaj as the commander or the  
25          officer being looked into, if that clarifies my question.

1 A. Aha, I understood it now. Honoured Prosecutor, I try to give an  
2 explanation concerning the statement I gave. The problem I had when  
3 giving that statement was the problem with the translation. With the  
4 translator, when I was interviewed, there was a person who spoke  
5 Albanian but was not Albanian, and the terms got confused.

6 In this concrete case, I don't know who said it, but it was said  
7 that we learned from the services about Tahir Zemaj, but I do not  
8 know who said this to me.

9 Q. You were mentioning here that there was an issue with the  
10 interpretation in the Albanian. Witness, are you aware that the ICTY  
11 audio-recorded this interview?

12 A. Yes.

13 Q. Perhaps it would be helpful to play the tape then on this  
14 particular part.

15 MR. HALLING: The Court Officer is asked to pull up  
16 T000-5325-1-B, and the timestamp is 32:53 to 34:01.

17 Your Honours, we've asked the Court Officer if it's possible to  
18 have the transcripts up when these audios are played, and apparently  
19 that is possible. So just to make sure everything is clear, could we  
20 also have up on the screen P1870.2 in English and Albanian. And,  
21 again, the beginning of the quote, I think, is on page 10 in both  
22 languages.

23 Q. And, Witness, this is going to take a moment to set up, but we  
24 are able, we hope, to play your words to the ICTY on this point in  
25 2006.

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1 MR. HALLING: And the Court Officer can play the tape when  
2 ready. Again, the timestamp is 32:53 to 34:01.

3 [Audio-tape played]

4 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

5 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

6 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

7 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

8 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

9 [REDACTED] Pursuant to In Court Redaction Order F2753RED.

10 MR. HALLING:

11 Q. So, Witness, it was "intelligence service" that you said to the  
12 ICTY; correct?

13 A. Yes.

14 MR. HALLING: This can be taken off the screen.

15 Q. Going to the third of the five areas, I will call this one the  
16 definition of the term "collaborator."

17 As you understood the term, could a collaborator or a traitor,  
18 could that include someone who didn't stay loyal to the KLA cause?

19 A. In that interview, I only expressed my position, not that of the  
20 General Staff, because the word "collaborator" is not even Albanian.

21 It comes from a foreign word. It was a proposal of mine.

22 Collaborators, I believe, are not only those who did not respond to  
23 the cause, but also those who fought with their weapons against that  
24 cause, against the struggle of the Albanians for freedom.

25 Q. The fourth area that I wanted to explore is something that I

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1 would call necessity. And I believe you've addressed this to some  
2 extent already, but just to confirm, was it necessary for the KLA to  
3 seek out and find collaborators within the territory under its  
4 control?

5 A. I do not believe it was necessary. But in reality, at that  
6 time, Serbia had installed its local police within the territories of  
7 the KLA. In reality, although we say that the territories were under  
8 KLA control, that was not always the case. There were Serb local  
9 police in the villages, they were armed and uniformed, and they were  
10 at the service of the Serbian military and police forces; that is, at  
11 the service of the Serbian apparatus.

12 Q. Witness, I'd like to go back to another part of your prior  
13 statements that's been admitted.

14 MR. HALLING: This would be P1870.3. And it's a longer quote on  
15 pages 15 to 16.

16 Q. And you say the following:

17 "A collaborationist, and we know that this word means an active  
18 collaborator with the enemy, in general these did much more damage to  
19 us as individuals than any individual Serbian policeman or soldier  
20 because they would be able to," and it's indiscernible, "in zones  
21 under the control of the KLA too. And by a decision of the  
22 General Staff -- and the decision of the General Staff, these people  
23 were considered they were being instruments of the Milosevic police  
24 and military regime. And the steps, measures taken against them were  
25 intended to convey the message that nobody should behave in this way

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1 again."

2 So, Witness, collaborators were especially dangerous, weren't  
3 they?

4 A. Well, they could cause greater damage than the Serb police and  
5 military forces themselves, because the police and military could be  
6 faced frontally; whereas they carried out their activities within the  
7 positions of the KLA in a camouflaged, so to say, manner.

8 Q. Now, Witness, I notice in your last answer there you make a  
9 distinction between collaborators and police and military. So  
10 collaborators were more than just fighters, weren't they?

11 A. Collaborators -- not more than just fighters. It was the local  
12 police that posed greater danger than the others because they were  
13 armed.

14 Q. You also said on page 99 of the realtime transcript that:

15 "Collaborators ... are not only those who did not respond to the  
16 cause, but also those who fought with their weapons against that  
17 cause ..."

18 Witness, doesn't that also mean that those who did not respond  
19 to the cause could also be called collaborators?

20 A. Not those who did not respond to the cause. To tell you the  
21 truth, in the KLA war not every citizen of Kosovo was active  
22 participant in the war, and we cannot call those citizens who did not  
23 respond to the cause collaborators.

24 Q. But, Witness, you said in this courtroom five minutes ago:

25 "Collaborators, I believe, are not only those who did not

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1 respond to the cause, but also those who fought with their weapons  
2 against that cause ..."

3 Isn't that right?

4 A. Collaborators, those who fought armed, yes. Those  
5 collaborationists or those policemen who were installed -- or even if  
6 they were collaborators of the enemy, they were no risk for us as  
7 long as they did not carry out activities against the KLA or uncover  
8 our positions or our weapons.

9 Q. Maybe it would be helpful here, and we're going back into the  
10 question of definition, to go to exactly how you define this term in  
11 your ICTY statement. And it may be helpful to play the tape here as  
12 well.

13 MR. HALLING: Could the Court Officer please pull up  
14 T000-5326-1-B. And the timestamp will be from the 00:45 mark to the  
15 02:04 mark. And the corresponding --

16 [Trial Panel and Court Officer confers]

17 MR. HALLING: I'll just wait a moment.

18 PRESIDING JUDGE SMITH: The Court Officer reminds us that there  
19 might be some confidential information on that and we should go into  
20 private session.

21 MR. HALLING: Very well.

22 PRESIDING JUDGE SMITH: So we will go into private session for  
23 the playing of this, just for the audio.

24 JUDGE METTRAUX: Mr. Halling, it's apparently the status of the  
25 document which is still confidential. And if the sound goes out, it

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1 goes out to the public.

2 MR. HALLING: Very well. Happy to proceed as the Court  
3 requires.

4 PRESIDING JUDGE SMITH: All right.

5 Into private session, please.

6 JUDGE GAYNOR: Sorry, Mr. Halling. One question. Is there any  
7 reason why the audio of the ICTY interview should remain confidential  
8 from your perspective?

9 MR. HALLING: It is not different from the -- from the  
10 statements itself. There may be a situation where certain redactions  
11 may need to be applied to the tape, but it is intended and is  
12 supposed to be the same as the statement which we were discussing  
13 earlier today, you know, is not entirely confidential.

14 JUDGE GAYNOR: Thank you.

15 PRESIDING JUDGE SMITH: Well, let's go ahead and do it in  
16 private session. And if we need to then later make it public or to  
17 redact, we will.

18 MR. HALLING: Understood.

19 [Private session]

20 [Private session text removed]

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1 [Private session text removed]

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25 [Open session]



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

2 Thank you.

3 MR. HALLING: Thank you.

4 Q. And, again, to reorient to where we are, we've talked about  
5 publicity, tasks, definition, necessity. The last area I wanted to  
6 ask you about was on killings.

7 Could KLA units take measures to kill spies and traitors  
8 following a decision of the General Staff?

9 A. I need to clarify again. There were no specific orders from the  
10 General Staff of the KLA to kill somebody in particular. What was  
11 published through public communiqués is where I got this definition  
12 that I gave during the interview. Those who faced armed persons who,  
13 caught in the act, turned their weapons against the KLA, the order  
14 was to resist until the killing.

15 We had such cases where our co-fighters were killed just because  
16 they passed by the house of a local policeman or a Serb  
17 collaborationist. Our soldiers were wounded just because they walked  
18 by or passed by the house of that person, without having had any  
19 problems with that person. We have the case of the commander of the  
20 KLA Muje Krasniqi who was wounded in such a case. We have also  
21 people who -- people -- soldiers of ours who were arrested by such  
22 people.

23 Q. The beginning of your answer is talking about specific orders,  
24 which is not exactly the question that I asked. I'll ask it again:  
25 Could KLA units take measures to kill spies and traitors following a

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1 decision of the General Staff?

2 A. Every zone commander in every zone had the right to decide on  
3 these matters personally. But, again, I reiterate, at least I do not  
4 remember that there was an order, a specific order addressing such  
5 cases.

6 MR. HALLING: And if we could now go to your statement on this.  
7 I think the audio is not necessary for this one. But if we could  
8 have on the screen P1870.6, page 14 in the English, and pages 15 to  
9 16 in the Albanian.

10 Q. And, Witness, just one moment while we get the words of your  
11 prior statement on the screen. So if we scroll down the page in the  
12 English, and I'll start with line 11, you were asked the following:

13 "But whose right was it to take the decision that a highly  
14 valued collaborator who carried on with his work could be killed."

15 And then there's a little back and forth, but then you're asked  
16 again:

17 "But who, who was it that gave them that right? I mean, who  
18 did?"

19 And you said:

20 "The General Staff."

21 Is that your evidence?

22 A. I always referred to the public communiqués.

23 Q. I understand that, but that's not my question. Is it your  
24 evidence, and it's said here, that the General Staff had the right to  
25 make a decision that a collaborator be killed?

1 A. I say it again: In an interview given at the time, during which  
2 I didn't have the possibility to clarify further because I wasn't  
3 called to testify, I am not aware of the existence of any document in  
4 which the General Staff has given an order to kill somebody. An  
5 appeal was made through the public communiqués. This is how I viewed  
6 that the orders were issued. Through the communiqués, not a specific  
7 order.

8 The legal jargon is unknown to me. I didn't really pay much  
9 attention to the weight of the description in the legal sense or  
10 perspective.

11 Q. Yes. And I'm not asking for your description in the legal  
12 sense, but I am asking now when you were given an opportunity to  
13 correct your prior statements in the preparation session, there is no  
14 clarification indicated on this page. So is what's said here  
15 correct?

16 A. This is correct. We had three documents during those days, and  
17 we also had the problem of determining the pages which we went  
18 through, and I do not know why this was not corrected, but I am  
19 saying it again, with my full responsibility, that here I only  
20 referred to the political statements made by the General Staff in  
21 relation to these categories.

22 Q. And if we go to the previous page in both versions of the  
23 statement, so this would be page 13 in the English and page 14 in the  
24 Albanian, this is a quote that we saw earlier and when you were  
25 asked:

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1           "... was the zone commander authorised, was he right to order  
2 his killing?"

3           And then you said:

4           "As I mentioned earlier, it was the General Staff that on  
5 collegial basis decided about the punitive measures against the enemy  
6 collaborators."

7           You mentioned punitive measures in response to a question about  
8 killings because killings were the punitive measures; isn't that  
9 right?

10          MR. DIXON: That's a very leading question, Your Honours.

11          MR. HALLING: This is already in evidence.

12          PRESIDING JUDGE SMITH: Sustained.

13          MR. HALLING:

14          Q. I'll ask it differently. Why did you mention punitive measures  
15 in this context decided by the General Staff in answer to a question  
16 about killings?

17          A. For the same reason I mentioned before, always referring to  
18 these communiqués for these same categories which acted armed against  
19 our soldiers. This is the whole context of this.

20          Q. We keep talking about what you've learned from the communiqués.  
21 Why don't we look at a couple of them before we continue.

22          MR. HALLING: Can we please put up on the screen P273 in English  
23 and Albanian. This is Communiqué No. 28.

24          Q. Witness, this is a communiqué that is talking about decisions  
25 that were made by the Central Staff in December 1996 and January

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1 1997. It talks about the killing of two collaborators. I wanted to  
2 just focus on the second one for a moment, and I can read to you the  
3 relevant portion:

4 [As read] "The second assassination was against Maliq Sheholli,  
5 who was an SSP member of parliament and an old UDBA collaborator. He  
6 had taken part in the funeral of anti-Albanian Serbian criminal Milos  
7 Nikolic, executed by our units on 25 October 1996, and read the  
8 obituary on that occasion."

9 Witness, my question is why was it relevant in this communiqué  
10 to talk about reading an obituary at a funeral of another  
11 collaborator?

12 A. I cannot comment on this because this is the first time I see  
13 this communiqué. I do not know about this. This was issued outside  
14 Kosovo, and I do not know the reasons related to this. I do not know  
15 this, and I have not seen this document.

16 Q. These events were from December 1996 and 9 January 1997  
17 according to the first line of the communiqué. Were you in the  
18 Central Staff at that time?

19 A. Yes, I was part of it, but this communiqué is unknown to me, and  
20 the cases referred to in it are unknown to me. Because for a citizen  
21 who participated in a burial ceremony, that person should not have  
22 been considered to take measures indicated here against him. But  
23 this is not a document that I know.

24 Q. Are you aware of the Central Staff ever issuing a correction or  
25 a retraction to this communiqué?

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1 A. No.

2 Q. We'll look at one more.

3 MR. HALLING: If we could go to P274 in Albanian and English.

4 Q. And, Witness, just to orient you, this is Communiqué 29. So  
5 this is the one immediately after the one I just showed you. It also  
6 begins:

7 "By a decision of the KLA Central Staff, in the operational zone  
8 no. 1, our armed units carried out a number of liberating actions."

9 It then talks about killing two -- multiple people. I want to  
10 focus on the second one, where it says the following:

11 "The second liberating action was carried out on 16 January  
12 1997, around 8:00 am, against the sworn enemy of the Albanian people,  
13 the Rector of the Serb University in Pristina, Radivoje Papovic. His  
14 personal driver, Nikola Lalic was severely wounded during this action  
15 too. The consequences of his anti-Albanian activities, especially  
16 within the educational system, are well known to all."

17 Witness, was someone engaged in anti-Albanian education  
18 activities fighting the KLA?

19 A. No.

20 Q. Why did the Central Staff issue a communiqué or take a decision  
21 to execute this person with this being part of the basis?

22 A. Again, I do not know this communiqué either. At the time of the  
23 Central Staff, I know that it was said that communiqués were written  
24 abroad and that Xheladin Gashi and Nait Hasani were those who dealt  
25 mostly with these.

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1 Q. Are you aware of the Central Staff issuing any correction or  
2 retraction to this communiqué?

3 A. No, I am not aware. I am seeing it for the first time here.

4 Q. Thank you.

5 MR. HALLING: It can be taken off the screen.

6 Q. So, Witness, now that we've covered these areas that I was  
7 describing earlier - publicity, tasks, definition, necessity,  
8 killings - I would like to show you a document.

9 MR. HALLING: Could we please pull up on the screen 0189-1161 to  
10 0189-1309 in Albanian, and that can just stay on one side of the  
11 screen. I'm going to call up different English translation extracts  
12 with this. The first one being 0189-1161 to 0189-1163.

13 Q. And, Witness, we'll just wait a moment for this document to be  
14 put on the screen.

15 So, Witness, I showed you this at the beginning just to orient  
16 you as to what the document is that I was about to discuss with you.  
17 You can see here it says "Top Secret," and then it's the same  
18 Albanian words of the LPK we saw earlier, "*Levizja Popullore e*  
19 *Kosoves*," "The Popular Movement of Kosovo." And it's called "Liridon  
20 Kosova, A Study, Questions of the strategy and tactics of the  
21 patriotic war in Kosovo, Volume 1." And if we scroll down to the  
22 bottom, just to see the -- it says "Prishtina 1993."

23 Now, Witness, as I understand it, you have not seen this  
24 document before; is that right?

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

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1 Q. And just to orient you a little further.

2 MR. HALLING: If we go to the next page in each version.

3 Q. It says that it is on "Intelligence and counter-intelligence."

4 MR. HALLING: And if you scroll down. If the Court Officer  
5 could scroll down on the page.

6 Q. You see it says "Volume 1, Prishtina 1993."

7 MR. HALLING: And then going to the last page. Not of the  
8 entire book, just the last page of the English transcript. So this  
9 is page 3. And then one more in the Albanian.

10 Q. Just to see here there's also an oath for the LPK on this page.

11 This study has certain comments within it that I wanted to show  
12 you to see how it compares to your evidence, and I'd like to start  
13 with the question of publicity.

14 MR. HALLING: So in the Albanian, if we could go to page  
15 0189-1286, and in the English pull up the extract with that same  
16 page, which is 0189-1286 to 0189-1287-ET. So the page in Albanian is  
17 correct. The English extract is a different ERN. So this document  
18 can be closed. And the one opened is 0189-1286 to 0189-1287-ET.

19 Q. And so -- yes. Why don't we stay on this page [Microphone not  
20 activated].

21 THE INTERPRETER: Microphone, please.

22 MR. HALLING: Thank you.

23 Q. We are not talking about the publicity here. We're actually  
24 talking about the definition here. So why don't we start here with  
25 the definition.



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1 MR. HALLING: If we scroll down to the bottom of the page where  
2 it says: "The betrayal of collaborators ...". So if the Albanian is  
3 scrolled to the bottom.

4 Q. This is how this LPK intelligence study defines the word  
5 "traitor":

6 "A 'traitor' is someone who comes out against the fatherland,  
7 the people, the movement, etc., who joins with the enemy,  
8 collaborating with him or doing his work, divulges important secrets,  
9 doesn't stay loyal to the principles and ideas of a great cause,  
10 spies on his comrades, the one who violates his oath."

11 Witness, isn't this similar to the definition of a collaborator  
12 you gave to the ICTY in 2006?

13 A. There might be similarities, but this is not the source of what  
14 I said there. This doesn't mean that what I -- what I said was taken  
15 from this or that document of the LPK. It might be a mere  
16 coincidence. That was my personal proposal. And I think that in any  
17 country in the world there's the same definition referring to these  
18 categories.

19 When I said it then, I did not refer to any documents of the  
20 movement or to the General Staff. I just attempted to give an  
21 explanation based on the knowledge I had at the time.

22 MR. HALLING: Your Honour, I note the time. Would you like to  
23 take a break? Yes.

24 PRESIDING JUDGE SMITH: Witness, we'll give you a ten-minute  
25 break at this time. You can leave the courtroom with the Court

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1 Usher. Please -- thank you.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: We are adjourned for ten minutes.

4 --- Break taken at 3.31 p.m.

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

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

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: All right. Mr. Bashota, we continue  
10 with questions from the SPO. Please give them your attention.  
11 Mr. Halling.

12 MR. HALLING: Thank you, Your Honour.

13 Q. And, Witness, we'll stay on this study for a bit more.

14 MR. HALLING: If we could now go to page 0189-1252 in the  
15 Albanian and English. This one, the English extract can be found at  
16 0189-1251 to 0189-1256-ET.

17 Q. And, Witness, we'll just wait a moment for the next page to be  
18 put on the screen.

19 Now, we just talked about definitions just before the break.

20 MR. HALLING: If we can go to the next page in the English.

21 Q. We can now talk about publicity. And it's the second paragraph  
22 on this page. Liridon Kosova says the following:

23 "At the appropriate time it should be made clear to the entire  
24 population that no one should think that the criminals will be spared  
25 or that they would remain undiscovered."

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1           And my question is: Isn't this also the reason you have given  
2           for why the KLA General Staff publicised collaboration in the  
3           communiqués?

4           A.    Honoured Prosecutor, I'm not here to dispute the materials that  
5           you're showing me. I don't know who this Liridon Kosova is and what  
6           study he conducted, but this does not correspond with the war of the  
7           KLA and the work of the KLA and the General Staff. This looks to me  
8           more like a material of the People's Movement of Kosovo than of the  
9           General Staff.

10          Q.    Yes. And, Witness, to be clear, I understand that you've not  
11          seen the study before. I'm just asking you to compare propositions  
12          drawn from it to what you know about the KLA. And so you said that  
13          this does not correspond with the war of the KLA and the work of the  
14          General Staff. Explain why.

15          A.    Simply, these were not our visions. These are not documents  
16          that came from us. If a document came from General Staff, that  
17          document would not be referring to this document or to this study.  
18          This is what I'm trying to say. They may be similar, certain  
19          excerpts and fragments. I don't know what this study is, in what  
20          year it was written.

21          Q.    The information that we have is 1993 from what I showed you  
22          earlier. But let's focus then on similarity and turn to tasks.  
23          That's on this same page, actually.

24          MR. HALLING: If we could just scroll up to the top of the page.

25          Q.    The study says the following:

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1           "The intelligence service gathers news from the people about the  
2 main people of the reaction; for example, about the officers,  
3 commanders, schismatics of the movement, police wardens, judges, and  
4 other people to be handed over to the national-liberation combat  
5 units. Investigations are also conducted into those elements  
6 suspected of having collaborated with the reaction, in order to  
7 discover the camouflaged traitors and spies."

8           Witness, here it's talking about officers, commanders, other  
9 such people. Isn't this similar to what KLA intelligence was doing  
10 with Tahir Zemaj?

11       A.    I cannot say that. It seems to me an inadequate comparison.  
12 Tahir Zemaj - and, excuse me, from my knowledge - when he was  
13 convicted for drug dealing, I think that was public knowledge, and  
14 therefore it cannot be compared in this context.

15       Q.    If the intelligence services derived their information about  
16 collaborators from public knowledge, what would have been different  
17 in what you said about Tahir Zemaj versus any other collaborator?

18           Forgive me, I think that question might be unclear. I'll ask it  
19 again. Why does the information being publicly available affect the  
20 similarity in what is on the page here to what you know about the KLA  
21 General Staff?

22       A.    I don't see any similarity between this and the General Staff.  
23 I simply don't see it.

24       Q.    Was Tahir Zemaj a commander at the time the intelligence service  
25 looked into him?

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1 A. Commander? In what sense? Can you please be more clear? KLA  
2 commander or commander in former Yugoslav ranks?

3 Q. Did he have a position of leadership coming from the FARK to the  
4 KLA?

5 A. This I don't know.

6 Q. Do you know --

7 A. Excuse me. I know that he was a professional officer from the  
8 Yugoslav time. As to what his duty in FARK or by FARK was, that I  
9 don't know.

10 Q. Yes. And officers and commanders are in the sentence I read to  
11 you.

12 Focusing now on necessity.

13 MR. HALLING: We need now page 0189-1260 of the study. This is  
14 a different extract in English, 0189-1260 to 0189-1261-ET, and it's  
15 the first page in the English extract.

16 Q. So now it says just under the heading:

17 "After liberating the zones, regions, villages and cities, the  
18 intelligence service devotes itself intensively to the work of  
19 seeking out, finding, pursuing, and eliminating the criminals, spies,  
20 and traitors."

21 And my question, Witness, is didn't the KLA feel the same need  
22 to find collaborators within the territory it controlled?

23 A. I said that it was within the competence of the zones to secure  
24 the going well of affairs within their own zones. What I know, that  
25 up until 1993, and during the period I was at the Central Staff,

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1 there was no intelligence service. For whom this study was meant,  
2 the study of this person, which from this name I can say is a  
3 pseudonym, but from what I can see from this document, it seems to me  
4 it was created for the needs of the LPK, of the movement.

5 Q. I follow your answer. But just to be clear, when you say "which  
6 from this name I can say is a pseudonym," just to be clear, why do  
7 you think Liridon Kosova is a pseudonym?

8 A. I have not heard it as a name of someone who's carried out a  
9 study. Without this name passing by our ears, so to say, I have not  
10 heard this name in the capacity of somebody who did a study.

11 Q. Just for my understanding, in Albanian is Liridon Kosova means  
12 something equivalent to "freedom for Kosovo"; is that right?

13 A. If we pronounce it correctly, it's composed of two words:  
14 "*Liri*," which means freedom, and "*don*," which means loving. This is  
15 the meaning.

16 Q. Thank you.

17 A. Two words joined in one.

18 Q. Understood. Now to go to the last of the five areas on  
19 killings.

20 MR. HALLING: We now need page 0189-0188 in the Albanian. That  
21 same page can be found within English extract 0189-1172-0189-1197-ET.

22 Q. And, again, Witness, we'll put this page on the screen, I'll ask  
23 you a question, and this will be the last of the quotes from the  
24 study I wanted to show you.

25 MR. HALLING: So it's 0188 in the Albanian. Or I guess to be

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1 correct it would be 1188. Yes. Thank you, Mr. Court Officer. We'll  
2 just wait one more moment for the English. So we've gone a little  
3 too far. Just a few pages back. Two more. There. And it's the  
4 paragraph towards the bottom of the page, if we can scroll down in  
5 the Albanian, beginning with: "The clandestine units ..."

6 So, Witness, here is what the study says on this:

7 "The clandestine [squads] can carry out various [actions] such  
8 as [the] killing of spies and traitors, officers, [and]  
9 policemen ..."

10 And my question is this: Isn't this in general terms what the  
11 KLA General Staff authorised KLA units to do with spies and traitors?

12 A. Again, I do not want to prejudice why you're referring to this  
13 document. Maybe there are similarities. But here it refers to LPK  
14 activity. And in real terms, I cannot make any comparison. We did  
15 not refer to this document for anything. I'm not saying that this is  
16 not a written document, that the LPK didn't use it in the past, and I  
17 do not have any information to that effect, but I am not able to  
18 establish a link with the KLA.

19 Q. Thank you, Witness.

20 MR. HALLING: Your Honours, this witness has been engaging with  
21 this study for a while now and mentioning the word "similarities" on  
22 repeated occasions. This study was recovered by the Serbian forces  
23 in Kosovo and given to the ICTY. The LPK, as is established in the  
24 evidence, is a historical precursor to the KLA. This item says it's  
25 an LPK study on intelligence tactics, and these tactics remarkably

1 overlap with the charged joint criminal enterprise and how this  
2 witness describes KLA anti-collaborator efforts.

3 We would say that this study is *prima facie* admissible, and we  
4 would tender the English translated pages within 0189-1161-0189-1309  
5 for admission as one exhibit.

6 MR. MISETIC: Mr. President, before Mr. Dixon begins the  
7 objections, Mr. Halling just said that he knows it was recovered from  
8 Serbian forces in Kosovo. I don't believe we have that information,  
9 so I'd like a proffer as to where that comes from.

10 MR. HALLING: Perhaps it's best to continue this outside the  
11 presence of the witness and his counsel.

12 PRESIDING JUDGE SMITH: Witness, you'll be excused for just a  
13 few minutes.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. QERKINI: Should I leave?

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 Should we be in private session?

19 MR. HALLING: I think for what I'm going to say, this can be  
20 said in open session. I was expecting, perhaps, the objections may  
21 take on more details than just this one. So --

22 MR. MISETIC: [Microphone not activated].

23 PRESIDING JUDGE SMITH: Yes.

24 We will go into private session.

25 [Private session]



1 [Private session text removed]

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19 [Open session]

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

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. MISETIC: Just for the Prosecutor's benefit. We've taken a  
23 quick look at the document he's cited, and the document he's cited  
24 doesn't cite this document that's he's attempting to tender as a  
25 document that was subject to that inquiry to the Serbian authorities,

1 which would explain why we don't have any information about it.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. MISETIC: Yes. Since we're not going to deal with it until  
4 Monday, then that's fine. Yeah.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. MISETIC: Oh, okay.

7 PRESIDING JUDGE SMITH: Mr. Dixon still wants to look at the  
8 document. I don't blame him.

9 MR. MISETIC: All right. Sorry.

10 PRESIDING JUDGE SMITH: Yeah. Okay. We'll be adjourned for  
11 five minutes.

12 --- Break taken at 4.06 p.m.

13 --- On resuming at 4.13 p.m.

14 PRESIDING JUDGE SMITH: Let's go back into private session.

15 [Private session]

16 [Private session text removed]

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1 [Open session]

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

3 Thank you.

4 MR. DIXON: Thank you, Your Honours. We do object. We say that  
5 this document doesn't hasn't even come anywhere near to the threshold  
6 for admissibility.

7 We have been able to confirm that, as far as we know, this  
8 document was part of documents recovered by Serbian forces in Kosovo,  
9 but that's the extent of it. We don't know the circumstances, and we  
10 certainly don't know anything about the source of the document itself  
11 - who was the author, what the circumstances were in the production  
12 of that document. This witness is not able to assist with that at  
13 all.

14 I appreciate that Mr. Halling went through an exercise in his  
15 five categories of doing a comparison. That's on the record.  
16 There's no objection to that. We did object in parts because it was  
17 very leading, but that's a separate matter. But that exercise cannot  
18 allow for this document then to come in through the back door of  
19 that.

20 This witness was not able to recognise anything about the  
21 document that gives it any indicia of authenticity or shows where it  
22 came from as part of that and what the circumstances were of the  
23 creation of it to be able to use the document.

24 Mr. Halling's submission that there's a remarkable overlap as a  
25 basis between what the witness said and what's in the document is

1 also, in our submission, not true. The witness was able to say there  
2 may be some sort of similarities and simply to talk about the fact  
3 that collaborators, for example, may be dangerous. And therefore, to  
4 say because the document says that collaborators are dangerous,  
5 therefore that document can come in is not enough. That is clutching  
6 at straws, in our submission. It's a desperate attempt to get in a  
7 document when there are other ways to do it properly according to the  
8 rules.

9 So that's our objection, Your Honours.

10 PRESIDING JUDGE SMITH: Thank you. And we are going to mark it  
11 MFI merely because we want to go back over the transcript of the  
12 questioning before to make sure that there isn't any other  
13 information that we haven't discussed. So we will mark it MFI,  
14 Mr. Court Officer, and we will try to rule on it Monday before you  
15 cross-examine.

16 MR. DIXON: [Microphone not activated].

17 MR. MISETIC: Mr. President, I would just add on top of what  
18 Mr. Dixon said that in addition to agreeing that there actually  
19 weren't similarities, there was one point where Mr. Halling compared  
20 the issue of Tahir Zemaj with what was written here concerning  
21 commanders, et cetera.

22 The proffer is that this is written in 1993. There were no FARK  
23 commanders, and I think the witness himself tried to suggest that he  
24 would have understood this, if it's 1993, to be referring to Yugoslav  
25 officers, right? So we don't think that there's a similarity between

1 Tahir Zemaj's case and what's written here purportedly in 1993.

2 In addition, I just wish to note that, as far as we can tell,  
3 based on what's been disclosed to us, there's been no one in the KLA  
4 or the LPK who's been interviewed by the SPO who's claimed any  
5 knowledge of this document. And so putting it in this way through  
6 this witness for purposes of similarity is not proper. Thank you.

7 MR. HALLING: Can we just respond to that?

8 PRESIDING JUDGE SMITH: Yes, certainly.

9 MR. HALLING: Because that's not entirely true.

10 We interviewed Emrush Xhemajli who, indeed, did not comment on  
11 this, or really any other thing, in his SPO interview, but he is the  
12 author of the LPK history timeline that's currently under MFI  
13 designation. He gave an interview in a -- in an interview that's a  
14 Rule 102(3) document, SPOE00361031 to 00361044, and on page  
15 SPOE00361034, and there are footnotes worth following, he did say:

16 "The theoretical work on the LPK strategy and tactics of this  
17 war is reflected in a four-volume body of work put together by  
18 military experts overseen by the LPK leadership. The introduction of  
19 each volume has the oath of the LPK fighter, which became the oath of  
20 the KLA fighter later on. Thus, the LPK military programme in 1994  
21 had the platform of national unification in its political section.  
22 The unification of all Albanian territories in the former Yugoslavia  
23 with Albania was embodied in the KLA goal and expressed with the oath  
24 of the KLA soldier."

25 And one of the footnotes in that sentence is to Liridon Kosova,

1 four volumes, a military study of the LPKJ, so far unpublished  
2 archived material on LPK and KLA, and that is disclosed.

3 PRESIDING JUDGE SMITH: It's disclosed but it's not of record.  
4 It's not admitted.

5 MR. HALLING: Correct. We reserve the right to seek to add it  
6 to the list of exhibits, but counsel said that there is no one in the  
7 case record that has been interviewed that comments on this, and  
8 there is someone who was interviewed that comments on this.

9 MR. MISETIC: May I respond, Mr. President?

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. MISETIC: I think that's misleading. He was interviewed by  
12 the SPO and did not say he had knowledge of this document, which is  
13 what I said. And they've also interviewed other witnesses, some of  
14 whom have been dropped, who we have a pending motion with you about,  
15 who also have claimed no knowledge of this document.

16 So I stand by what I said, and I think Mr. Halling has confirmed  
17 that in his SPO interview Mr. Xhemajli did not say he had knowledge  
18 of this document.

19 PRESIDING JUDGE SMITH: Thank you. It's an interesting,  
20 intriguing question, and we will try to give it our attention  
21 hopefully by Monday morning.

22 MS. V. ALAGENDRA: Your Honours, I just have one issue. It  
23 refers to the document that Mr. Halling has cited. And it's at  
24 page 5009538 of the document. I see at paragraph 12, there was a  
25 request to the Serbian authorities to provide further specific



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1 details.

2 I'm not aware of any response that has been disclosed. Perhaps  
3 my learned friend could assist us whether or not there was a response  
4 received and if that has been disclosed to us.

5 MR. HALLING: I think I have now given all of the information  
6 that I'm aware of as to the provenance of this document.

7 PRESIDING JUDGE SMITH: Thank you.

8 Bring the witness in, please, Madam Usher.

9 You can go ahead and mark that MFI.

10 THE COURT OFFICER: Your Honours, it will be marked with --  
11 as -- MFI'd as P01879. Thank you, Your Honours.

12 PRESIDING JUDGE SMITH: How are you doing on time, Mr. Halling?

13 MR. HALLING: The procedural discussions are causing delays. I  
14 still hope to finish in the first session on Monday.

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: All right. Mr. Bashota, we just have a  
17 few more minutes yet today. I'm sure you'll be glad to hear that.  
18 So we will begin once again with Mr. Halling.

19 MR. HALLING: Thank you, Your Honour.

20 Q. And, Witness, in what time we have left today I did want to move  
21 on to a different topic. Was there a General Staff meeting in Negroc  
22 that you attended in around the middle of 1998?

23 A. I cannot call it a meeting of the General Staff, but there was a  
24 meeting.

25 Q. Understood. Who were the attendees at the meeting?

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1 A. Jakup Krasniqi, I, Lahi Brahimi, Rexhep Selimi, Kadri Veseli,  
2 and I remember Hashim Thaci. Yes, these were. No one else.

3 Q. Were all the people you just mentioned, including yourself, KLA  
4 General Staff members?

5 A. Later on, yes.

6 Q. What was discussed in this meeting?

7 A. At the time, the civilians started mobilising and taking up  
8 weapons, joining voluntarily the ranks of the KLA, and there was an  
9 impression created that -- when various propaganda was spread in the  
10 public opinion referring to the objectives or aims of the KLA. So it  
11 was thought reasonable to speak with one single voice and transmit  
12 the aims and objectives of the sacred war of the KLA.

13 Mr. Jakup Krasniqi was on this occasion appointed as a spokesperson  
14 of the KLA.

15 Q. So just to be clear if I understood your answer, on the occasion  
16 of the Negroc meeting, that was when Jakup Krasniqi was appointed the  
17 spokesperson of the KLA; is that right?

18 A. Yes. As I remember, yes.

19 Q. Were there any other appointments discussed at this meeting?

20 A. They were discussed but they remained on paper only. People  
21 could not be assigned the duties because of the circumstances,  
22 because at the time there were only small groups, like points, and  
23 these functions could not be exercised.

24 Q. Do you remember what the functions were, even if they weren't  
25 exercised at that time?

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1 A. I do not recall them exactly.

2 Q. Were KLA directorates established on or before this Negroc  
3 meeting? To be clear, I mean General Staff directorates.

4 A. The directorates were created later on as I remember. I do not  
5 know exactly when, but later on.

6 Q. Are you familiar with the NATO terminology of G1, G2, and G3,  
7 and so on, for naming things like directorates?

8 A. When Bislim Zyrapi came, he dealt mostly with the restructuring  
9 of the KLA and set up these G1, G2, G3s.

10 Q. You talked about the appointments being on paper and becoming  
11 effective later. Was Bislim Zyrapi's arrival when the appointments  
12 started to become effective?

13 A. To tell you the truth, when Bislim Zyrapi arrived in Kosovo, he  
14 created a completely new dynamic with respect to the restructuring of  
15 the KLA. I do not know if he referred to the NATO organisational  
16 structure or any other army, but in effect, he managed to make it  
17 functional and standardise the whole structure, starting with the  
18 company up to the General Staff.

19 Q. Did Bislim Zyrapi arrive in Kosovo near in time to the  
20 occurrence of this meeting?

21 A. I do not remember. I do not remember. I think. I'm not sure.

22 MR. HALLING: And, Your Honour, if we could just go to paragraph  
23 48 of Preparation Note 2 to probe a potential inconsistency.

24 PRESIDING JUDGE SMITH: Yes, go ahead.

25 MR. HALLING: Thank you.

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1 Q. Witness, this is from what you said last week in your  
2 preparation session talking about the appointments and Negroc:

3 "These appointments only started to take effect after the  
4 arrival of proper officers like Bislime Zyrapi. To [your]  
5 recollection, Bislime Zyrapi arrived in Kosovo a short time after this  
6 meeting."

7 Is that correct or at least to the best of your recollection  
8 correct?

9 A. And I said it, I do not remember exactly, but I think yes. I  
10 wouldn't know how to define "shortly after." But, yes, he arrived in  
11 those days, I think.

12 MR. HALLING: Your Honour, I see the time. We'll continue with  
13 this subject on Monday.

14 PRESIDING JUDGE SMITH: All right. Thank you.

15 Witness, that is the end of your testimony for today. We'll be  
16 back here Monday at 9.00. Thank you for being here with us.

17 Thank you, Mr. Qerkini, for your presence. We will see you on  
18 Monday.

19 [The witness stands down]

20 PRESIDING JUDGE SMITH: We're adjourned until 9.00 a.m. Monday.

21 --- Whereupon the hearing adjourned at 4.30 p.m.

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