

1 Tuesday, 30 April 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

6 PRESIDING JUDGE SMITH: Good morning. I note that the
7 accused -- I'm sorry, please call the case, Mr. Court Officer.

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

12 PRESIDING JUDGE SMITH: I note that all the accused, except
13 Mr. Krasniqi, are present in court. Mr. Krasniqi is appearing by
14 videolink with permission.

15 Before we continue hearing the evidence of Prosecution W03865, I
16 note that so far the versions of W03865's statements, which have been
17 admitted as P01136.1 to P01136.4, do not contain the corrections
18 discussed *inter partes*.

19 The Panel understands that the Thaci Defence reviewed all of the
20 corrections proposed by the SPO yesterday and agreed with all of them
21 save for the corrections proposed to P01136.3-ET, page 20, lines 21
22 to 23.

23 This morning the SPO provided a new revised version of the lines
24 that the Thaci Defence disputes.

25 Mr. Misetic, do you agree with the new revised version?

1 MR. MISETIC: We do not. And how I was going to proceed,
2 Mr. President, was to simply go to the Albanian with the witness and
3 ask the witness to clarify what he meant by it.

4 PRESIDING JUDGE SMITH: Thank you. That will work.

5 One other thing. We, I believe, are seized with an application
6 by the Veseli Defence, although we weren't too clear about that,
7 whether it had actually been requested or not, but we will assume
8 that it was, to redact part of the proofing note of Witness W03865 on
9 which SPO does not seek to rely for the truth of its content.

10 Objections of a similar nature focusing on the party's
11 obligation to not place before the Panel information known or
12 believed to be false were made by the Thaci Defence.

13 Proofing Note 1 was admitted as Exhibit P01137.

14 The Panel will put forth a proposal which we believe can deal
15 with this matter in fairness to all parties. In light of Mr. Pace's
16 indication that the SPO is not seeking to rely on proofing note of
17 W03865's paragraph 5, starting from the word "P.SITF0032817" until
18 the words "KLA uniforms and insignia," for the truth of its content,
19 the Panel will only rely upon that sentence, if at all, to assess the
20 credibility of 3865 and not for the truth of its content.

21 The same ruling applies to the last sentence of that paragraph
22 which starts with the words "during readback" and ends with the words
23 "in Budakove." In those circumstances, it is therefore unnecessary
24 to redact sections of paragraph 5 or sections thereof from the
25 Exhibit P01137.

1 I ask you to make any submissions on this matter. After
2 considering your comments, we will attempt later today to fashion an
3 oral order to deal with this issue.

4 Mr. Misetic.

5 MR. MISETIC: Mr. President, I just need a moment to see which
6 sentences we're talking about.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 I wanted to say which sentence it was, but unfortunately that's
9 a long paragraph with a bunch of commas and semicolons, so it's just
10 part of the very first sentence and then towards -- at the end.

11 MR. MISETIC: My initial reaction, Mr. President, is that that
12 would reverse the situation. So the witness's evidence is whatever
13 he says it is.

14 PRESIDING JUDGE SMITH: And you can still ask him about that on
15 cross-examination. In other words, we're just saying those
16 sentences, as far as the Panel would be concerned, cannot be used for
17 the truth, only for credibility. But what you do with it is up to
18 you.

19 MR. MISETIC: Yeah, but -- and that's where I'm saying it's
20 reversed. It should be that the sentences in the original SPO
21 interview can't be used for the truth because he's sworn under oath,
22 under Rule 154, that the proofing note paragraph 5 is his evidence.

23 PRESIDING JUDGE SMITH: Okay. Well, that's your submission.
24 You go ahead --

25 MR. MISETIC: No, I mean, it is under the rule. It's if he

1 can't swear under oath that what he said in the SPO interview is the
2 truth, then you can't admit it and it couldn't be admitted.

3 PRESIDING JUDGE SMITH: But he did swear it was the truth.

4 MR. MISETIC: Subject to the corrections in paragraph 5.

5 PRESIDING JUDGE SMITH: Yeah.

6 MR. MISETIC: So if you take out the corrections in paragraph 5,
7 then the oath he took is not proper. He couldn't swear under oath,
8 and then it's inadmissible.

9 PRESIDING JUDGE SMITH: Well, let's see what everybody else
10 thinks first. Thank you. I understand your submission.

11 MR. EMMERSON: Without derogating in any way from Mr. Miseti's
12 submission, we would respectfully suggest that the second passage to
13 be disregarded ought to include the previous sentence, which contains
14 what I think the Prosecution admits is not evidence at all; namely,
15 Mr. Pace's opinion of the witness's testimony. That is:

16 "Pace noted W03865 seemed to be providing information
17 inconsistent with his prior statements, in particular in relation to
18 Sadik Halitjaha."

19 Now, if you were redacting, obviously I would say that sentence
20 should never have been in there in the first place because I don't
21 think, in the correspondence, it makes clear that even the
22 Prosecution would suggest that the opinion of a Prosecutor is
23 evidence for the purposes of a submission in front of the Court.

24 But if Your Honours are taking the position that it should be --
25 the remaining passage should be used only for credibility and not for

1 truth of content, which, I respectfully agree with Mr. Misetic, is
2 rather to put it the other way around because this is what he's
3 saying is his testimony and what he swore on oath in response to
4 repeated questions was his testimony. So we're left with the rather
5 artificial situation where we're left in a comment from counsel as to
6 his opinion followed by an explanation that the witness has repeated
7 on oath but not for the truth of its contents even though the witness
8 is saying that is exactly the truth and has said so and repeated it
9 on oath.

10 PRESIDING JUDGE SMITH: Thank you. We're a little hesitant to
11 start redacting these statements because it's somebody's statement.
12 Somebody said it.

13 MR. EMMERSON: Yes, Mr. Pace said it.

14 PRESIDING JUDGE SMITH: Well, both parties, Mr. Pace and the
15 witness.

16 Mr. Roberts, you want to wade into this?

17 MR. ROBERTS: No, I'm quite happily stepping out of this one,
18 Your Honour. Thank you.

19 PRESIDING JUDGE SMITH: I don't blame you.

20 [Microphone not activated]. The whole concept of 154 is a bit
21 foreign to me also, so, I mean, it's part of these rules, and we do
22 our best to use them, but sometimes there's confusion.

23 MS. ALAGENDRA: I've nothing to add, Your Honour.

24 PRESIDING JUDGE SMITH: Nothing? Okay. Thank you.

25 All right. I understand your submissions. We'll try to make

1 some sense with it.

2 Mr. Pace, your submission.

3 MR. PACE: Thank you, Your Honour. Just at the outset I'll say
4 we seem to be creating a distinction between Rule 54 and the direct
5 examination when we don't need to create one. The Rule 54 mechanism
6 in this respect is no different than when we elicit information
7 *viva voce*. Had we called this witness *viva voce*, as suggested by
8 Your Honours, I would have -- I can guarantee you I would have
9 100 per cent sought to impeach his credibility based on prior
10 statements. So what we're doing here is no different from that. And
11 the proposal by the Panel seeks to solidify this distinction.

12 In terms of the proposal put forward, we certainly disagree with
13 the Veseli submission that the excerpt should not have been included
14 there in the first place. That is where I tell the witness that he
15 seems to be providing inconsistent information.

16 I can also guarantee that had we not put that in there and then
17 the witness made that allegation on the stand, I would have been in
18 trouble. As Your Honour and the Defence knows, a preparation note
19 doesn't only contain clarifications or corrections, it also serves to
20 memorialise what happened during the preparation session. Now, of
21 course, nobody here is saying that my opinion is evidence, but
22 there's certainly no reason to start redacting information of this
23 nature there. The same would apply to transcripts in the courtroom
24 when somebody impeaches a witness or in the multiple Rule 154
25 statements we admitted where we confront witnesses.

1 Turning to Your Honours' proposal, we also disagree that there
2 is, as I said, any need to rely -- or to state now that we only can
3 rely on the excerpts you mentioned for a limited purpose. In
4 particular, if we do have to go down that road, some of what the
5 witness said there is not entirely or solely related to the issue
6 that we sought to impeach him on or that we sought to obtain clarity
7 on yesterday.

8 For example, there is one sentence which I believe would have
9 been included by Your Honour concerning the unwritten order from the
10 battalion staff to check people. That is something we would
11 certainly intend to rely on and that would be useful not only for
12 this incident but for others as well.

13 Similarly, the last sentence of the paragraph, which, again, if
14 I understood correctly, would be for a limited purpose, according to
15 Your Honour, is also relevant to other information. The witness is
16 there saying that when they said Sadik Halitjaha, they meant to refer
17 to the battalion. We would like to be able to rely on that and doing
18 so would not be inconsistent with our position that the version the
19 witness provided which was truthful was the one in his 2002 and SPO
20 statement.

21 So in sum, we disagree with any need for redaction and we
22 disagree with any need to rely on this for a limited purpose.

23 PRESIDING JUDGE SMITH: Thank you.

24 Judge Mettraux had a question.

25 JUDGE METTRAUX: Thank you. And it's a question for you,

1 Mr. Pace.

2 Speaking candidly, when I received the preparation note, I had a
3 bit the same reaction as Mr. Misetic, in the sense that there was a
4 rather clear indication that the account that was then given was not
5 consistent with earlier accounts. And perhaps we, the Panel, should
6 have inquired with you at the time, and maybe we should take some
7 responsibility for that.

8 But looking forward to what could happen again, what is your
9 suggestion when in preparation session you receive versions from a
10 witness that are inconsistent with earlier accounts, and you offer
11 those, both the earlier version and the new version, so to say, as
12 truth of its contents so that both, in fairness to the Defence, they
13 are alerted to it and to the Panel what you intend to do with that?
14 Because, of course, you can't offer one version and its opposite for
15 the Panel to accept.

16 So what would be your suggestion in the future if this were to
17 recur as to how you alert the opposing side, the Defence and the
18 Panel, to such a situation? And I don't mean to put you on the spot,
19 so if you need to consult on this question, you can give us an answer
20 this afternoon. But if you are prepared to, I will welcome your
21 submissions.

22 MR. PACE: Thank you, Your Honour.

23 To be honest, I don't think we would propose to proceed any
24 different than how we did. The sentence at issue in particular about
25 me telling the witness that we believe he's being inconsistent --

1 JUDGE METTRAUX: I don't have a problem with that, but --

2 MR. PACE: No, no, but what I'm saying is that that certainly
3 sends the signal to the Defence that we disagree with the prior
4 version of events. So what happened in court I don't think was
5 surprising to anyone. And as I repeated, and I said yesterday, I
6 repeated again, to us what is the most important thing is that we
7 provided all the information to the Panel and that you have all of it
8 to be able to assess the credibility of the witness at the end of the
9 day; i.e., when you're drafting the judgment. And that purpose is
10 served by having the statements under 154 and a detailed account of
11 what happened there.

12 As I said a little earlier today, in terms of approach on the
13 stand, once the witness is here, like I said, proceeding under 154
14 with the preparation note or live would be no different. Again, I
15 guarantee you, had this witness -- had you told me to -- ordered me
16 to examine the witness live, I guarantee you I would have -- and he
17 said the information which differs to the prior statement, I would
18 have, as I'm authorised to do under the Order on Conduct of
19 Proceedings and the Rules, have sought to refresh his recollection or
20 even confront him, with your leave, pose leading questions in
21 relation to the inconsistencies. So I don't see what we gain by
22 changing the game.

23 Now, I note that, in this case, the inconsistency came out for
24 the first time during the witness preparation and that differs to
25 certain other instances. For example, there is a witness, I won't

1 even mention the code since we're in public session, but in a recent
2 154 decision Your Honours, over Defence objections, admitted that --
3 the witness's prior statements under 154, at least in theory, but you
4 ordered us to elicit certain information from that witness *viva voce*
5 because of such inconsistencies. That case was different to this one
6 because in our proposed 154 statement there were these
7 inconsistencies, and we're happy to proceed that way and elicit that
8 *viva voce*.

9 Now, if from time to time, should this arise again, Your Honours
10 were to take a similar approach and say, in your view, the most
11 expedient way to proceed would be to redact, for example, the parts
12 of the prior statement, the 154 statement, where the witness said
13 things which are now -- he's now providing different information on,
14 to do that *viva voce*, we can certainly do that. In terms of
15 preparation or anything like that, that's not going to be an issue.

16 What I'm trying to get at, though, is what is the added value.
17 The witness will come here. Unless something changes overnight, the
18 witness will repeat what they said in the prep note, which is
19 inconsistent with the prior statements. I will then seek to use his
20 prior inconsistent statements against him. So in terms of either
21 notice or added value or efficiency to the proceedings, we don't see
22 the gain. But, of course, it's completely your prerogative. And as
23 long as we have some degree of notice in terms of your preference to
24 elicit certain aspects *viva voce*, we will do so. We don't see the
25 need to, but, of course, that's in your hands.

1 PRESIDING JUDGE SMITH: To ask the question that Mr. Misetic
2 might ask if he stood up is how do you differentiate between what was
3 stated now and stated then? Were you promising that both of them
4 were true, both statements were true? Because you have to attest
5 that the statement is true. Now you've attested that both statements
6 are true.

7 MR. PACE: And with respect, Your Honour, we disagree --

8 PRESIDING JUDGE SMITH: Your witness has.

9 MR. PACE: Yes. So to be clear, as I think Your Honour has
10 said, when the witness attests to the accuracy of the statements,
11 he's attesting to the accuracy subject to the corrections in the
12 preparation note. So there's no mystery there. The witness is
13 saying that: Apart from what I corrected --

14 PRESIDING JUDGE SMITH: So one of them was false. Right? It
15 has to be false. One of those two versions has to be false. Which
16 one did he -- was he attesting to?

17 MR. PACE: He was attest -- so he --

18 PRESIDING JUDGE SMITH: Only the false -- only the true one.

19 MR. PACE: Yes, Your Honour. Correct. He was saying that
20 what's in the preparation note essentially overrides what is in his
21 statement. It remains our prerogative, as we did, to confront him
22 with his prior statements because we want to know the reasons why.

23 But there is no mystery as to what our position is. My
24 indication in this preparation note and my confronting the witness
25 yesterday makes it very clear to everyone what the Prosecution's

1 position on this matter is.

2 PRESIDING JUDGE SMITH: So you're not putting forth false
3 information?

4 MR. PACE: Your Honour, when we submit witness evidence, be
5 it -- first of all, if we were talking about a *viva voce* witness, we
6 have no control over what the witness says in response to us.

7 PRESIDING JUDGE SMITH: No, but this is different. This is a
8 154 witness.

9 MR. PACE: Similarly, when -- and, I mean, correct me if I'm
10 wrong, or maybe my colleagues will correct me if I'm wrong, but when
11 we propose a Rule 154 statement, it does not come with a rubber stamp
12 from us saying that 100 out of 100 facts in that statement are the
13 Prosecution's position. It is always a mixed bag with witnesses.
14 The Prosecution only has to give a clear indication of what we're
15 relying on at the end of the day, like you, after having heard all
16 the evidence. What we are putting our stamp of approval on is we are
17 following the procedure that the witness comes here and confirms the
18 account.

19 Now, when, as I did yesterday, we choose to highlight certain
20 aspects which in our view are material divergences, that remains in
21 our prerogative to do so.

22 PRESIDING JUDGE SMITH: Go ahead, Mr. Miseti. I didn't mean to
23 speak for you.

24 MR. MISETIC: No, no, that's fine.

25 PRESIDING JUDGE SMITH: I know you're capable of it.

1 MR. MISETIC: You can speak better than I can, so that's fine.

2 I do want to address two points. One, nor are we saying that a
3 154 statement is 100 out of 100 they have to accept. But where the
4 Prosecution believes that there is a material part of the statement
5 such that they need to impeach it is being tendered and the witness
6 is not giving truthful testimony, you can't submit it. And I will
7 give you one example.

8 If I were to call a witness *viva voce* knowing that the witness
9 is not going to tell the truth on the stand, I'm ethically prohibited
10 from putting that witness on the stand, as you know. And so whether
11 it's under a 154 or whether it's *viva voce*, I can't do that. So
12 doing it under 154, you're not allowed -- if you know that the
13 witness is going to give false testimony in affirming the 154, I
14 again submit you can't -- the proper thing to do is withdraw the 154
15 and to proceed *viva voce* with the witness.

16 Thank you.

17 PRESIDING JUDGE SMITH: Thank you. I think we've run through
18 this as much as we can. We will try to make some sense of it and
19 make an order later today.

20 Everyone ready to proceed?

21 Madam Court Usher, please bring the witness in.

22 How much more time do you need, Mr. Misetiç?

23 MR. MISETIC: Mr. President, I anticipate about an hour.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: Good morning, Witness. Today we're

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1 going to continue your testimony. I remind you to please try to
2 answer the questions clearly with short sentences. If you don't
3 understand a question, feel free to ask counsel to repeat the
4 question or tell them that you don't understand and they will
5 clarify.

6 Also, please remember to try to indicate the basis of your
7 knowledge of the facts and circumstances upon which you will be
8 questioned.

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

11 Please also remember to speak into the microphone and to wait
12 five seconds before answering so the translators can catch up.

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

15 Are you ready to proceed?

16 THE WITNESS: [Interpretation] Yes, I am.

17 PRESIDING JUDGE SMITH: Go ahead, Mr. Misetic.

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

19 WITNESS: NUREDIN ABAZI [Resumed]

20 [The witness answered through interpreter]

21 Cross-examination by Mr. Misetic: [Continued]

22 Q. Good morning again, Witness. I'd like to start this morning by
23 asking you to help us with understanding a portion of the interview
24 you gave to the SPO, and I'll put it on the screen for you.

25 MR. MISETIC: Mr. Court Officer, it's P01136.3, beginning at

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1 page 17, line 8 in the English, and page 20, line 17 in the Albanian.

2 If we could scroll to the bottom in the Albanian. Thank you.

3 Q. So, Witness, beginning at line 17 in the Albanian, I'm going to
4 read the question there and then ask you to read out loud, in
5 Albanian, the answer you gave. So the question was:

6 "What role, if any, could that General Staff have in relation to
7 allegations ..., for example, somebody was a spy?"

8 And could you read out loud your answer there, please.

9 And I'm now being told that the question for you in Albanian
10 says:

11 "What role could the General Staff in Klecke have in relation to
12 allegations that, for example, somebody was a spy?"

13 Can you read out loud the answer you gave beginning at line 21?

14 A. "No. Initially there was, as we said, the battalion, the entire
15 brigade, the entire zone, and then the General Staff."

16 So this is a chain. So apparently this sentence doesn't have
17 any meaning. It has lost its meaning.

18 Q. Are you able to tell us, when you refer there to the
19 General Staff, what General Staff are you referring to?

20 A. I meant the battalion staff in Budakove.

21 Q. So is the reference there to the overall, the top General Staff,
22 or you're saying that it's the battalion General Staff that you're
23 referring to there?

24 A. I'm referring to the General Staff of the Budakove battalion,
25 the staff number 1.

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1 Q. Okay. All right. Thank you. Let me turn to a different topic
2 now and this is the issue of military courts. When you were in
3 Battalion 2 in Budakove, were there any other legal professionals
4 other than you?

5 A. No.

6 Q. Was there anyone with a law degree in your battalion?

7 A. Not to my knowledge.

8 Q. So as far as you know, did the battalion rely on anyone other
9 than you for legal advice or drafting legal documents or regulations?

10 A. Not to my knowledge.

11 Q. Did you have a military court in your battalion?

12 A. There were no military courts anywhere and of course not in the
13 battalion. I've never heard of any military court existing at the
14 time, nor is one today, 25 years after the war.

15 Q. Okay. So you didn't hear of a military court being set up at
16 the brigade level, at the zone level, or at the overall General Staff
17 level?

18 A. No, I did not hear, and I don't think there was one.

19 Q. Do you recall when you met with the Prosecutor they showed you a
20 book by Ilaz Kadolli called "The Eye of the Eagle"?

21 A. Yes, I saw the book on that day for the first time.

22 Q. And you know who Ilaz Kadolli is?

23 A. Yes.

24 Q. Were you in contact with him during the war?

25 A. Rarely.

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1 Q. Do you recall any specific times you encountered Ilaz Kadolli
2 during the war?

3 A. I don't recall, but we did have contacts.

4 Q. I want to show you some excerpts from his book.

5 MR. MISETIC: And if we could please call up Exhibit P12 at page
6 058009 in the English and the same in the Albanian. And if we could
7 increase the section that says "Military court."

8 Q. Witness, I'm going to read out to you what Mr. Kadolli wrote.
9 He said:

10 "At the beginning of 1999, the base of the ... /Eagle's
11 Eye/ unit was moved to the house of Ilmaz Popaj from Vneshta to the
12 village of Kastra near Suhareka, around 100 metres from the Pashtrik
13 Operational Zone. One of the soldiers on guard duty informed me that
14 an officer from the General Staff was asking for me. I asked him who
15 it was. He told me ... it was an elderly man who ... introduced
16 himself as Baca Kole. Baca Kole was Sokol Dobruna's pseudonym, who
17 was from Gjakova."

18 Do you see that?

19 A. Yes, I do.

20 Q. Did you know Sokol Dobruna in the war?

21 A. No. I happened to travel only on one occasion with him.

22 Q. And when was that?

23 A. That was in 1999.

24 Q. And do you recall the month?

25 A. Could be sometime in May.

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1 Q. And do you recall why you were travelling together?

2 A. We just coincided. We were getting somewhere and then we
3 travelled together.

4 Q. Do you recall where you were going?

5 A. No, this was not an important trip.

6 MR. MISETIC: If we could turn the page, please.

7 Q. In the second paragraph there, it says:

8 "Kole informed me that the General Staff had decided to create
9 the KLA Military Court and that he had been assigned the task to
10 establish court branches in all military zones. Initially, they
11 would function as legal services and, where conditions existed, as
12 courts, which would be linked with the General Staff. Kole informed
13 me that I was assigned to organise the military court in the Pashtrik
14 Operational Zone and that a written order would be delivered later by
15 courier. Kole had had me in mind because of our earlier acquaintance
16 and because of my profession as a lawyer. We also talked about other
17 soldiers who could serve in military courts. The names of lawyers
18 such as Nuredin Abazi, Emri Gashi were mentioned, who would join to
19 establish a legal service in the zone and later in the military
20 court."

21 Do you see that?

22 A. Yes, I do.

23 Q. Were you contacted to serve as a legal service in the military
24 court?

25 A. No, never.

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1 Q. You say that no military court, as far as you know, was
2 established. Do you have any reason or explanation as to why a
3 military court wouldn't or couldn't be established?

4 A. There has never been a military court and there was never any
5 military court established, to my knowledge. There were no military
6 courts in Kosovo because in order to establish a military court, one
7 needs to have specific conditions available, which we did not have at
8 the time. And we were unable to establish such a court because the
9 successive offensives wouldn't allow us to prepare for such thing,
10 and we were participating in military actions.

11 Today, as we stand here, 25 years after the war, we still are
12 unable to establish a military court, let alone at the time in war
13 conditions. Again, to my knowledge, there was no military court at
14 the time.

15 Now, if Ilaz Kadolli knows about this or Baca Kole knows about
16 this, then you could ask them. I have never seen any such document.
17 I saw the book for the first time a week ago when it was introduced
18 to me by the Prosecutor. There was an ambition for it, because it's
19 in the book, but having the desire to do something is one thing and
20 doing it in actual fact is a different thing.

21 Q. You say there was an ambition for it. Were you aware at the
22 time that there was an ambition to set up a military court?

23 A. We had the ambition to liberate the country and do much greater
24 works and things, but we did not manage to achieve that. We didn't
25 have the structures, the proper structures that any military needs to

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1 have.

2 Q. But my question is very specific, so let me rephrase it. Do you
3 recall any discussion at all during the war about setting up a
4 military court?

5 A. No.

6 Q. I want to ask you about your testimony concerning the military
7 police. You told the SPO -- and this is at your SPO interview,
8 Part 1, beginning at page 31 in the English. You said as far as you
9 were concerned or as far as you knew, all the military police were
10 attached to the battalion in 1998 in the summer; is that correct?

11 Let me rephrase. The military police that was with you in the
12 battalion, is it your evidence that they were attached to the
13 battalion?

14 A. The military police at the time was a special squad which we
15 called rapid intervention unit. That's why it took the name as a
16 military police. It was meant to be used for rapid intervention
17 actions.

18 Q. Okay. But my question is to whom did they report? Was it to
19 the battalion commander or to someone else?

20 A. I have no idea. I have no idea.

21 Q. These people in the military police. Do you know if they had
22 training?

23 A. They were a little bit more trained than the other soldiers.

24 Q. And who trained them?

25 A. They trained themselves. There was their leader who trained

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1 them for rapid interventions.

2 Q. And their leader was Muse Kololli; is that correct?

3 A. Yes.

4 Q. Did you give them legal advice on how to treat civilians?

5 A. Yes.

6 Q. Do you recall specifically any details? Do you recall when you
7 gave them legal advice on how to treat civilians and where?

8 A. We were in the battalion in Budakove, and we met often. Every
9 time we met, we discussed the rules, the regulations, what to do, how
10 to behave, to conduct themselves with the civilians. This was how we
11 did it.

12 Q. Concerning Muse Kololli, do you know who appointed Muse Kololli
13 to his position as the commander of the military police in your
14 battalion?

15 A. I don't know who, but I do know that Muse Kololli was more
16 trained, was at a more -- at a higher -- I mean older age. He worked
17 in the police also before the war. He was a member of the former
18 Yugoslav police, so he was more knowledgeable and trained. He was a
19 local from Budakove. He knew the terrain better than the others.

20 Q. Well, on that point, Muse Kololli was a former member of the
21 Yugoslav police; correct? Okay.

22 Let me just refresh your recollection or see if I can refresh
23 your recollection about who appointed him. You told the SPO --

24 JUDGE METTRAUX: Mr. Misetic, I don't think we got a response
25 recorded on your last question.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 MR. MISETIC:

2 Q. Let me repeat the question then, Witness, because it wasn't
3 recorded on the transcript.

4 Let me just reaffirm -- or, sorry. On that point, Muse Kololli
5 was a former member of the Yugoslav police; correct?

6 A. Yes, I already said that.

7 Q. Okay. Let me continue on there. Did you have any discussions
8 or do you recall any discussions with Muse Kololli about maybe any
9 information he may have about people who could be suspected as
10 collaborators given his prior role in the Yugoslav police?

11 A. No.

12 Q. On the issue of who appointed Muse Kololli. This is P1136.1,
13 page 31 in the English. I'm going to read the question and then your
14 answer to the SPO in the interview. The question was:

15 "Do you know who appointed him as the commander of the military
16 police?"

17 And your answer was:

18 "It was -- they were all assigned by the commander."

19 Does that refresh your recollection as to who appointed Muse
20 Kololli?

21 A. It may be so. You may ask him. I don't know. What I don't
22 know for sure I cannot acknowledge.

23 Q. Okay. But just to confirm, the commander there you were
24 referring to was Sadik Halitjaha?

25 A. Yes.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Q. Did the other soldiers respect Muse Kololli?

2 A. Yes, there was respect among all of us not only for Muse.

3 Q. Do you know why he was respected?

4 A. Because, first of all, he was older. He was very well behaved
5 and understanding. He was professionally at a higher level. And he
6 was looked upon as a police leader and appreciated for that.

7 Q. Do you recall anybody being suspicious of him because he had
8 been in the Yugoslav police?

9 A. No, never.

10 Q. Witness, is it correct that you never met with Hashim Thaci or
11 anyone from the General Staff during the war?

12 A. It is. I never met them. I don't believe they know of me or
13 me. I only have seen them on television.

14 Q. Do you know whether members of the General Staff met with zone
15 commanders?

16 A. I don't know. You have to ask the zone commanders, not me.

17 Q. At the time, did you know what Mr. Thaci's role was during the
18 war, what his duties were?

19 A. Yes, he was a political member of the staff or a political
20 leader of the KLA.

21 Q. You knew that during the war?

22 A. Yes.

23 Q. Would that be because of the Rambouillet negotiations?

24 A. Yes, definitely.

25 Q. Let me turn your attention now to a different topic. When you

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 served in your battalion in Budakove, did you deal with detentions?

2 A. We never dealt with detention issues. We have only issues of
3 identification of persons who entered the war zone and nothing else.

4 Q. When you say identification of people who entered the war zone,
5 can you explain that a little more? Was it your job as legal adviser
6 to identify people who entered the war zone?

7 A. No, sir. This was the duty of the guard who kept guard of the
8 zone. It was their duty to know and identify who entered and who
9 left the war zone, not myself.

10 Q. Okay. Well, let me ask you, for example, if a KLA soldier was
11 detained for some disciplinary infraction, who would question the
12 soldier?

13 A. It was myself. But I didn't question them. I had a
14 conversation, a talk with them.

15 Q. And what was your objective in talking to them? What was the
16 purpose of you talking to them?

17 A. To discuss the infraction, something that the person shouldn't
18 have done, an improper conduct.

19 Q. And then after the conversation, what would you do with the
20 results of that conversation? Would you report it to anyone?

21 A. If it was necessary, I reported to the commander. Otherwise, we
22 might have issued a reprimand or -- that's it. There wasn't anything
23 else we could do.

24 Q. Okay. And the commander you're referring to is Sadik Halitjaha?

25 A. Yes.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Q. You were asked by the SPO about the case of Latife and Rushe
2 Kololli. Do you recall that?

3 A. Yes.

4 Q. You did not know these two women before the time they were
5 brought to your battalion; correct?

6 A. No, I never knew them before.

7 Q. It was not within your competency to order their detention; is
8 that correct?

9 A. I already said that. I don't know if you understood me. I had
10 never detained anyone. I don't know if you misunderstood me or
11 failed to understand me or you want me to repeat.

12 Q. No, I understand. I understand. I'm trying to establish,
13 though, that -- who detained them. And as I understand your
14 testimony, they were brought in by Muse Qerkini; is that correct?

15 A. Yes.

16 Q. And as I understand your testimony, you are not sure whether
17 they were brought in by an order of Sadik Halitjaha; correct?

18 A. Sadik Halitjaha didn't know them. He came from Switzerland.
19 How could he have known them? He didn't know even 10 per cent of the
20 population because he was away in Switzerland for 15 years.

21 Q. Well, you told -- as far as the prep note of your meeting with
22 the Prosecutor last week, and I'm going to read it out loud. It's
23 Prep Note 1, paragraph 6. It says:

24 "It could have been Sadik Halitjaha who issued the order for the
25 transfer of [these] two women, but [you do] not know whether

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Halitjaha did issue that order; those who transported the women would
2 know."

3 Is that your testimony?

4 A. Yes.

5 Q. And then at some point in time you did have a conversation with
6 these women; correct?

7 A. Yes.

8 Q. And why did you decide to speak with them?

9 A. Because they were brought in as suspects.

10 Q. Who determined that they were suspects?

11 A. The persons who identified them. Respectively, in this case,
12 Muse Qerkini.

13 Q. And did he tell you what they were suspected of?

14 A. Yes. They were suspected of collaborating with the Serb police.
15 They were seen going in and coming out of the police station and so
16 on.

17 Q. "Of the police station," meaning the Serbian police station?

18 A. Yes.

19 Q. And can you explain why that would be suspicious?

20 A. Because it was wartime, and we were fighting against Serbian
21 police and army. So any collaboration with them would be immoral,
22 irregular. It was a wartime.

23 Q. I understand that part. But can you explain to the Court why an
24 Albanian going into a Serbian police station would be suspicious?

25 A. I don't know what you are getting at. In a wartime, to

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 collaborate with an occupier that is killing you, is it normal for
2 you?

3 Q. No, no, I understand the part about collaboration. But, for
4 example, how do you -- let me rephrase my question. How do you know
5 that someone didn't go to the police station to get a new ID card or
6 to report a crime or to otherwise what citizens normally do when they
7 enter a police station?

8 I'm asking you to explain to the Court why in that particular
9 time period, in that particular circumstance, it would be viewed as
10 suspicious to go to the police station.

11 A. Sir, we had cut off any dealings with the Serb army and police.
12 We didn't get ID cards. We didn't engage in any conversation. We
13 didn't report any crimes or whatever. We had nothing to do with
14 them. How can you cooperate with the occupiers at a wartime? You
15 consider that normal?

16 Q. Okay. Tell us, this conversation you had with these women, what
17 did you discuss and what did they say?

18 A. We discussed what it was believed related to them. But in the
19 course of the conversation, I was convinced that there was nothing to
20 suspect them of. So unless they -- we talk about those low actions
21 or immoral.

22 Q. Okay, well --

23 A. Base motives, you know, underlying their actions.

24 Q. Why did they go to police station?

25 A. I don't know.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Q. Well, if they were brought in on suspicion because they went
2 into the police station, you must have asked them, "Why are you going
3 to the police station?"

4 A. I asked them, but they were ignorant persons. They didn't have
5 even primary, elementary education, and everybody where they lived
6 labelled them as such. So they themselves weren't aware of what they
7 were doing.

8 Q. Did you ever find out, though, even with their lower level of
9 education, why they were going into the police station?

10 A. No, I couldn't. Because from what they said, I couldn't deduce
11 that they were doing something illegal. Only things that had a moral
12 character, base things.

13 Q. Okay. You told the SPO that you stayed with the women to ensure
14 that they wouldn't be harmed; is that correct?

15 A. Yes.

16 Q. And tell the Court why you feared that they might be harmed.

17 A. I wasn't -- I didn't fear anything. I don't know what you are
18 putting me. I was just afraid that somebody might maltreat or
19 mistreat them.

20 Q. Yes, and that was my question. Why did you think that they
21 might be mistreated?

22 A. Because the soldiers were young, inexperienced. They heard
23 rumours about them. And something untoward might happen. That's
24 why.

25 MR. MISETIC: Mr. President, this might be a good time for a

Witness: Nuredin Abazi (Resumed) (Open Session)
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1 break.

2 PRESIDING JUDGE SMITH: How much time do you think you have
3 left?

4 MR. MISETIC: Ten minutes. 10 to 15.

5 PRESIDING JUDGE SMITH: Why don't you just go ahead and finish
6 then if you can do it in ten.

7 MR. MISETIC: Okay. All right.

8 PRESIDING JUDGE SMITH: Then we'll take our break at that point.

9 MR. MISETIC: Okay.

10 Q. Witness, these soldiers that you thought might take action
11 against these women, is there a reason that, for example, an order by
12 Sadik Halitjaha couldn't have simply prevented these soldiers from
13 taking any action against these women?

14 A. Sadik Halitjaha was not aware of every single thing that
15 happened within the battalion. He had other matters to deal with -
16 organising the war, supplies, food, weapon supplies. All these
17 matters were under the battalion commander responsibility. He was
18 not in a position to deal with an individual soldier and his actions
19 or individual civilian actions connected to that.

20 Q. After you had this conversation with these women, did you report
21 on your findings back to Sadik Halitjaha?

22 A. No, there was no need to report. There was absolutely no need
23 to.

24 Q. Okay. I asked you a few minutes ago in terms of your duties
25 about if a soldier was detained because of a disciplinary infraction.

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Cross-examination by Mr. Misetic (Continued)

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1 You said you would have a conversation with them and then report your
2 findings to the commander. And now I would like to know why you
3 wouldn't, in this case, report your findings to the commander.

4 A. We were not able to contact the commander every time we needed
5 to because they had other tasks to tend to. Sometimes it was not
6 necessary. As a result of all this, certain things would not be
7 reported or would go unreported, unimportant things.

8 Q. Well, if you concluded that there was no reason for them to be
9 detained, to whom did you transmit that conclusion so that the women
10 could be released?

11 A. I spoke with Agim and Naim Kadolli.

12 Q. And what did you tell them?

13 A. I told them that these two women should be released because
14 there is nothing prohibited that comes out of the conversation I had
15 with them. This was all about base motives which weren't even worth
16 discussing. Moral matters. They were there because of moral
17 behaviour or matters.

18 Q. And Agim Zyba and Naim Kadolli were members of your battalion?

19 A. Yes.

20 Q. Did they take the women away?

21 A. I don't know. I proposed for them to be released. I don't know
22 what happened any further.

23 Q. Well, do you know if Agim Zyba and Naim Kadolli escorted these
24 two women anywhere?

25 A. You can ask them. I don't know any more about this.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Q. Now, you're aware that the bodies of these two women were later
2 found on the main road between Prizren and Suhareke; is that correct?

3 A. No. I learned after the war that their bodies had been found at
4 a junction which was constantly patrolled on by the Serbian police
5 and military using armoured vehicles.

6 Q. And you do not know who killed these women; is that correct?

7 A. No, no, I don't. I believe that they were killed by the Serbian
8 forces because it was impossible for us as an army to enter that
9 area. It was extremely dangerous. It was extremely dangerous for us
10 to approach that area. It was constantly covered by armoured
11 military vehicles.

12 Q. What area are you specifically referring to?

13 A. To my knowledge, they were found close to Leshan on the main
14 road Suhareke to Prizren, and there is a road leading to Leshan, to
15 the village of Leshan, there is a road junction there. This is what
16 I heard. This is only based on what I heard, that allegedly they
17 were found there.

18 Q. And is it your testimony that that area was under Serb control
19 in August 1998?

20 A. Yes, 100 per cent. And the asphalted road from Prizren to
21 Suhareke was constantly under their control.

22 Q. Do you know how they could have gotten into Serb territory after
23 being held by Agim Zyba and Naim Kadolli?

24 A. I don't know.

25 Q. Witness, I want to ask you just a couple of questions about

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 Fetah Rudi. You recall discussing the case of Fetah Rudi with the
2 SPO?

3 A. Yes.

4 Q. Did you meet Fetah Rudi during or after the war, immediately
5 after the war?

6 A. I met on one occasion with Fetah Rudi and that was during the
7 war.

8 Q. When exactly during the war?

9 A. It was in 1998. Yes, 1998.

10 Q. And do you recall the circumstances of that encounter?

11 A. Yes. There was a case alleging that Fetah Rudi was misusing
12 food supplies which were provided by the foundation Mother Teresa to
13 support the civilians. So these were food supplies, sugar, flour,
14 oil, and others. And he was in charge of managing the food supplies
15 and distribute them equally to the civilians. Because there were
16 suspicions that he was not doing this properly, he was suspected. I
17 had a conversation with him, and this issue was sorted out.

18 Q. Who asked you speak to him?

19 A. Commander Sadik Halitjaha asked me to do that.

20 Q. And is it possible that this happened in 1999 and not 1998?

21 A. I don't think, as to my knowledge it was 1998, but I'm not sure.

22 Q. Do you recall whether Sadik Halitjaha told you there was a
23 suspicion he was engaged in espionage?

24 A. There were rumours, but they were absolutely untrue. They were
25 not true.

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Cross-examination by Mr. Misetic (Continued)

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1 Q. Okay. But did Sadik Halitjaha repeat those rumours to you?

2 A. No. Now, the civilians who lived there viewed him as such. In
3 the -- I found out in the course of our conversation that he was a
4 decent man, supporter of Rugova, and obviously we were not enemies
5 with Rugova. He had his own approach or beliefs as to the peaceful
6 resistance and achieving goals through peaceful means. We had a
7 different stance and we took a different direction, which was that we
8 could not obtain our freedom through peaceful means, because we had
9 seen that during ten years of talks and negotiations nothing was
10 achieved. It only resulted in maltreatments, displacements,
11 killings. Some agreements were reached with Rugova at the time, but
12 they were not implemented at all. As a result of which, the
13 population got frustrated, irritated, and took the decision to
14 organise the resistance, because we did not believe that anything
15 could be achieved through different means.

16 With respect to Fetah Rudi, I had a normal conversation with
17 him. And after the war, he was grateful and thankful to me for the
18 conversation we had, and that newspaper article can be found.

19 Q. In the course of the conversation, did you discuss the rumours
20 about him engaged in espionage?

21 A. Yes, we discussed this, but they were not true. In my opinion,
22 there was nothing true there.

23 Q. Okay. And when you discussed it, do you recall what he said in
24 response?

25 A. He obviously denied those things, and it turned out to be true.

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 He said that his idol was Ibrahim Rugova, and there was nothing wrong
2 with that.

3 Q. Was Ilaz Kadolli present for this conversation?

4 A. I think he was, yes. I remember this vaguely but -- because
5 it's been a long time since. But, yes, Ilaz Kadolli was present.

6 Q. Do you recall why he was present?

7 A. We were together. We went there together as co-fighters and as
8 a man who knew the legal rules, he was a lawyer, so we did this
9 together.

10 Q. Well, you were the legal adviser to Sadik Halitjaha. Did
11 Sadik Halitjaha also tell Ilaz Kadolli to go with you?

12 A. I don't remember.

13 Q. What was Ilaz Kadolli's role in having a conversation with Fetah
14 Rudi?

15 A. No specific role. We just wanted to have this conversation with
16 him. I think Ilaz was in charge of something about the morale and
17 politics within the brigade.

18 Q. And is it your testimony that after you and Ilaz Kadolli
19 interviewed him, Fetah Rudi was released?

20 A. We neither released him or detained him. We just had a normal
21 conversation. He was an ordinary citizen. What -- I don't
22 understand how do you understand the detaining someone or anything or
23 imprisoning someone? He was in his home. He was not even a soldier.

24 Q. Witness, I'm asking you because there is evidence that you told
25 Fetah Rudi that he had been convicted and sentenced in that

Witness: Nuredin Abazi (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

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1 conversation. And I just want to give you an opportunity to tell the
2 Trial Panel whether that's true.

3 A. There's nothing true in there. These are all lies. We never
4 sentenced him.

5 Q. Thank you, Witness.

6 MR. MISETIC: Thank you, Mr. President. That concludes my
7 cross-examination.

8 PRESIDING JUDGE SMITH: Thank you.

9 Witness, we will give you a ten-minute break. You may go with
10 the Court Usher. We'll see you back here in ten minutes.

11 THE WITNESS: Okay.

12 [The witness stands down]

13 PRESIDING JUDGE SMITH: Yes, Mr. Pace.

14 MR. PACE: Thank you, Your Honour. I'm taking up
15 Judge Mettraux's initial offer this morning, and with your leave, the
16 SPO would like to file a very short submission on the issues raised
17 by the Panel this morning, and we can do so by 4.00 p.m. today, with
18 your leave.

19 PRESIDING JUDGE SMITH: Thank you.

20 We will take a ten-minute break.

21 --- Break taken at 10.17 a.m.

22 --- On resuming at 10.29 a.m.

23 PRESIDING JUDGE SMITH: Mr. Emmerson, you have some questions?

24 I'll get him in. I'm just asking you in general if you have
25 some questions.

1 MR. EMMERSON: [Microphone not activated].

2 PRESIDING JUDGE SMITH: Okay.

3 THE INTERPRETER: Microphone, please.

4 MR. EMMERSON: I do but very, very few.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Please bring the witness in.

7 Mr. Roberts, are you going to have questions, do you believe?

8 MR. ROBERTS: It's unlikely at this stage, Your Honour.

9 PRESIDING JUDGE SMITH: Okay.

10 Ms. Alagenda.

11 MS. ALAGENDRA: I do, Your Honours, but I might be a lot shorter
12 than 45 minutes.

13 PRESIDING JUDGE SMITH: Okay.

14 MR. EMMERSON: And, Your Honour, may I make it clear that,
15 having spoken to Mr. Pace, there is one person who has testified in
16 open session in this court whose name I will be referring to in
17 cross-examination in open session as somebody who has testified.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 There's no objection, so thank you.

20 MR. EMMERSON: No, I was simply letting you know.

21 PRESIDING JUDGE SMITH: Thank you for letting us know. We
22 appreciate that.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right. Witness, Mr. Emmerson,
25 representing Mr. Veseli, will have some questions for you at this

Witness: Nuredin Abazi (Resumed) (Open Session)

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Cross-examination by Mr. Emmerson

1 point.

2 Cross-examination by Mr. Emmerson:

3 Q. Good morning, I will be very short with you. I just want to
4 ask --

5 A. Good morning.

6 Q. -- one or two questions about your role in drafting various
7 documents with Mr. Sadik Halitjaha.

8 First of all, I think you've said already when you were
9 interviewed by the SPO that there had been some collaboration over
10 the drafting of legal documents, is that right, between you and
11 Sadik Halitjaha?

12 A. Yes.

13 Q. And these were generally documents which were intended to become
14 the basis of rules and regulations of one kind or another; is that
15 correct?

16 A. There was only one regulation, a single rules. We didn't have
17 any others. We didn't have time to work on other regulations. We
18 were at a wartime. What we did was indispensable and elementary,
19 basic. We didn't have planes or tanks or to work on more elaborate
20 rules. We were simple soldiers who were keeping -- with one weapon
21 on our shoulder, you know.

22 Q. No, I understand that. But Mr. Halitjaha had some military
23 experience; is that right?

24 A. No. He had a military kind of inclination, I would say. But,
25 no, in a military expertise. At least this is what I know.

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Cross-examination by Mr. Emmerson

1 Q. But he had studied, is that right, the military rules and
2 regulations of regular armies in trying to put together a formulation
3 of rules that, with your help, could form the basis of future
4 regulations? Is that correctly understood?

5 A. They were kind of *ad hoc* regulation. Now, of course, we have
6 laws. We have laws adopted by the parliament. What we did, better
7 than having nothing, we had, like, kind of -- even makeshift, I would
8 say, rules based on the experiences we had.

9 Q. You said you had one set of rules that you kept in your drawer;
10 is that right?

11 A. Yes. Yes, that's right.

12 Q. Do you remember roughly how long they were?

13 A. I don't remember now. I haven't seen that regulation for almost
14 30 years. It was a short brochure, I would say.

15 Q. So a few pages or a booklet?

16 A. It was a few pages. It was like booklet.

17 Q. Is this a document that had been drafted within the Pashtrik
18 zone or one that had been more widely circulated?

19 A. I believe it was only for the Pashtrik zone.

20 Q. Did you play any part in drafting that set of rules?

21 A. Yes. Yes, I did.

22 MR. EMMERSON: Now, first of all, could I please call up on the
23 screen, Mr. Registrar, P716, first of all, which I think was shown to
24 you during your proofing session.

25 Q. And am I right in saying that when you saw this document in the

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Cross-examination by Mr. Emmerson

1 proofing session, you had never seen it before?

2 A. It is correct.

3 Q. Thank you. We can see this one is dated 8 February 1999, and
4 it's headed "Information in the units of the KLA about exceptional
5 cases." And if we look to the bottom right, we can see that it is
6 signed by the deputy commander for morale, Sadik Halitjaha. Do you
7 see that?

8 A. Yes, I do.

9 Q. Looking at some of the content, if we could look at number 1,
10 point 1, it refers to the wounding of a soldier from the 122 Brigade,
11 Bashkim Kryeziu, by one of his comrades in the Pashtrik zone. At the
12 last sentence, Mr. Sadik Halitjaha is saying that in addition to
13 physical injury suffered, I think, by the assailant, "he will also
14 answer to the court of second instance."

15 And the same reference is made in point 2; in other words, that
16 a case is "awaiting the determination of his responsibility by the
17 same court."

18 Now, looking at those two, in the second incident, the soldier
19 concerned is said to be "serving a sentence and is awaiting the
20 determination of his responsibility by," and we can read it back, the
21 court of second instance.

22 First of all, what do you understand by the term "the court of
23 second instance" or "a court of second instance"? In general terms.

24 A. Are you asking me about civil cases? If we are talking about
25 civil cases, you know very well what the first and second instance

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Cross-examination by Mr. Emmerson

1 court might be. But at the time of war, I don't know that there was
2 such a court. But what you are putting to me and what Sadik is
3 alluding, I don't know because I wasn't there. It's Sadik who should
4 know.

5 There wasn't even a well-organised army. It was the second
6 month. I joined in the third month. I don't know what he wanted to
7 say by this. It was, in my opinion, kind of propaganda to scare, to
8 frighten soldiers not to do a similar act. This is just my
9 assumption. I saw this document a week ago when the Prosecutor
10 showed it to me.

11 Q. But in any event, there was never at any time, as you've told
12 us, any court, let alone a court of second instance. Is that correct
13 to your knowledge?

14 A. No, there wasn't any court. As I said, this was more a wishful
15 opinion, you know? To have such an organisation. It's shown in
16 forms or transcripts, but it's another thing to wish for something
17 and another thing to have that something. We wanted to have a court.
18 The ambition was there, but the possibility to enforce it wasn't
19 there.

20 We joined the war to fight a Balkan superpower, and it is known
21 how it ended. But it was with the NATO support that we waged and won
22 that war, otherwise we would be still fighting in the mountains.
23 Because we were fighting an unscrupulous enemy who had been
24 oppressing us for hundreds of years, driving out of the country for
25 almost 1 million inhabitants. They tore our ID papers and drove the

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1 people out of Kosovo in order for them not to return back.

2 Q. I'm not intending to cut you short. But coming back to your
3 observation that this is by Mr. Halitjaha some sort of propaganda,
4 was that a feature, in your opinion, of some of these documents that
5 were drafted that they referred to institutions that just did not
6 exist?

7 A. I wouldn't say anything as I don't know. If I don't know
8 something, I can't speak about it.

9 Q. Is this the first time you've seen in the entirety of your time
10 in Kosovo, is this the first time you've seen a KLA document refer to
11 an institution that's pure propaganda? Have you come across
12 propaganda-laden documents before?

13 A. Yes. And there have been others. I haven't seen them, but I've
14 heard about them. But we know very well that propaganda is part of a
15 war. Even if things aren't really what they are made out to be, in
16 times of war they are presented as such, you know. But we knew how
17 capable we were or how strong we were. But propaganda helped.

18 Q. I want, if I may, to ask you about another document. Now, when
19 he first testified, Mr. Halitjaha said that he drafted this document
20 with your assistance. I don't think it was shown to you during your
21 proofing session. He subsequently reflected on his evidence and came
22 to the conclusion that it was a different document that he had
23 drafted with your assistance. So we have two different answers from
24 Mr. Halitjaha about this particular document, but I'd like to show it
25 to you if I may.

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1 MR. EMMERSON: So the Albanian is at U009-1596 to 1662. And if
2 we could have it side by side with the English translation, which is
3 1596 to 1641-ET.

4 Q. If you look at, obviously, the front page, you can see the way
5 it is described: "Disciplinary Regulations for the Kosovo Liberation
6 Army, Pristina, 1998."

7 Now, you were a part of and a legal adviser to the KLA in 1998,
8 weren't you?

9 A. In the 1st Battalion, Budakove Battalion, from 26 June 1998.

10 Q. Yes. So what I want to do, first of all, is to go through one
11 or two passages in this document with you.

12 MR. EMMERSON: And, Mr. Registrar, we're going to need at this
13 stage to follow by paragraph number rather than page number. If we
14 could start, please, at paragraph 2. 2, 2a. and b. In the English,
15 it's the first page, it begins on the first page and goes on to the
16 second page. And if you would kindly follow the enumeration in the
17 Albanian. I think it's all on one page. Perfect. Well, I see, in
18 fact, it's the same.

19 Q. Here it describes or defines a military person who serves in the
20 ranks of the Kosovo Liberation Army or performs duties assigned by
21 the Regulations of the KLA, and then at 2 it says:

22 "Personnel of the KLA are:

23 "a. The officers in the active service of the KLA and of the
24 Territorial Forces of the KLA, of the public order body established
25 by the KLA and of the KLA Intelligence Service ..."

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1 And if we go over the page:

2 "... and their reserve officers when they are in the direct
3 service of the KLA."

4 As well as b.:

5 "The non-commissioned officers ... on obligatory service, active
6 and in the reserve, when they are serving in the KLA."

7 And then c., we can see:

8 "The soldiers on obligatory service when they are performing
9 military service."

10 And so on.

11 Do these categories mean anything at all in the context of the
12 KLA in 1998 or 1999 as you knew it to be? Do they mean anything
13 within the KLA?

14 A. No.

15 Q. You've told us there was no such thing as obligatory service; is
16 that correct?

17 A. That is correct. No, there wasn't any. Everything was done on
18 a voluntary basis.

19 Q. No such thing as Territorial Forces of the KLA?

20 A. No. Everything was within the battalion, the brigade, other
21 lower sectors. This is what should be the case in terms of
22 structures.

23 Q. In a conventional army?

24 A. Yes.

25 Q. So we look at paragraph 3, for example, paragraph 3(1):

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1 "The KLA has a hierarchical structure."

2 Do you see that?

3 A. Yes.

4 Q. Now, let me ask you this: When you arrived in the middle of
5 1998, did the KLA have, in your view, a hierarchical structure or was
6 its structure horizontal?

7 A. No. In 1998, there wasn't any hierarchical structure. Only at
8 the level of battalion, yes, we had a squad, the platoons, the
9 companies, and the brigades.

10 Q. Can we move on, please, to paragraph 13 as the heading which
11 deals, under Chapter III, with awards that can be made by various
12 ranks in the Kosovo Liberation Army. Do you see the heading? It
13 will be with you in a second.

14 And if we look to -- you can see the heading. These are the
15 various levels of rewards that different ranks can bestow upon
16 soldiers beneath them in this hypothetical hierarchy.

17 Could we look at paragraph 15 and 16 briefly.

18 As you can see on paragraph 15, for non-commissioned officers on
19 obligatory service, the awards range from being thanked to having a
20 personal photograph taken in front of the unfurled unit combat flag,
21 down to decorations with orders and medals, proposal.

22 Now, were there orders and medals in the KLA? Were there medals
23 made to award non-commissioned officers?

24 A. No. We didn't have bread to eat let alone medals. There were
25 no awards. I am repeating. This expresses our wishful thing for it

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1 to be that, but it was impossible for us to realise it in our
2 specific circumstances. We were living under extraordinary
3 circumstances.

4 Q. Paragraph 16. For the senior officers, there are various levels
5 of award that can be given by a section commander, a platoon
6 commander, a company commander, a battalion commander. Again, is
7 that something that is potentially an accurate description in 1998 of
8 how the KLA was organised?

9 A. In our battalion, yes, that was the case. From the squad,
10 platoon, company, and brigade. This is what happened. I am talking
11 about Budakove Battalion.

12 Q. And did you have a platoon commander above you in Budakove
13 Battalion?

14 A. What do you mean above me?

15 Q. Well, if we look at the various ranks, are they a realistic
16 description of the way things were in Budakove and across Kosovo in
17 1998?

18 MR. PACE: Objection, Your Honour. Asked and answered very
19 clearly.

20 PRESIDING JUDGE SMITH: Overruled.

21 Go ahead.

22 THE WITNESS: [Interpretation] We didn't have grades. We didn't
23 have any military grades. We only had the squad, platoon, and
24 brigades. Nobody had any military grades.

25 MR. EMMERSON:

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1 Q. If we turn over, please, to point 6 under paragraph 16, there's
2 a list of awards that can be made by the Corps, it is described as,
3 the Division, MKA, FLD, which I think I'm right in saying is the
4 Albanian navy or aviation; is that right?

5 A. Yes, but it doesn't apply to us.

6 Q. I was going to ask you how many --

7 A. It's not our roles.

8 Q. How many ships and planes did the KLA have at its disposal in
9 1998? How many battleships and planes did the KLA have at its
10 disposal?

11 A. 500.

12 Q. I think we'd probably better make --

13 A. Don't make jokes, please. Do you know Kosova's terrain? Do you
14 know where it is situated? Do you know how big its area is? We are
15 serious people. We have to ask and answer serious questions. These
16 are questions which are not realistic. Please.

17 Q. No, no, that is exactly the point of my questions is that this
18 document as a whole is not realistic, I'm going to suggest to you.

19 A. It is not. It is not.

20 Q. And can you clarify for us whether Sadik Halitjaha's first
21 answer, namely that he drafted this with your assistance, or his
22 second answer was correct? Did you have anything to do with the
23 drafting of this document?

24 A. No, this is not our document. This applies to Albania. We
25 don't have any fleet, any aviation. And I saw from the beginning it

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1 was about military obligation for the reservists and things like
2 that, which we never had.

3 Q. Yes.

4 A. I am repeating for the umpteenth time. We are talking of a
5 voluntary army. You cannot obligate anyone. You didn't have any
6 grades. I don't know what you have in mind.

7 Q. No, I'm --

8 A. I asked you a simple question: Do you know where Kosovo is
9 situated and its territory?

10 Q. No, my -- my simple question was, was this an aspirational
11 document that you helped draft or did you have nothing to do with it?
12 Have you seen it before?

13 A. No. No, we have nothing to do with it.

14 Q. Thank you very much.

15 MR. EMMERSON: Those are my questions.

16 PRESIDING JUDGE SMITH: Thank you, Mr. Emmerson.

17 Judge Mettraux had a question for Mr. Pace.

18 JUDGE METTRAUX: Yes, Mr. Pace. It's simply to renew a request
19 I made yesterday to Mr. Capin for the SPO to verify whether you have
20 a non-redacted or lesser redacted version of Exhibit P987. Could you
21 please come back to us before the end of the day today with a
22 response if you are able? Thank you.

23 MR. PACE: Certainly.

24 PRESIDING JUDGE SMITH: Thank you.

25 Mr. Roberts, any questions?

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1 MR. ROBERTS: No, Your Honour.

2 PRESIDING JUDGE SMITH: Ms. Alagendra, I know you have some
3 questions, so we will take the morning break at this time so that you
4 will not be interrupted.

5 Witness, we take a half-hour break at this time, so please leave
6 the room with the Court Usher. Remember not to speak to anyone about
7 your testimony outside of the courtroom.

8 THE WITNESS: [Interpretation] I won't.

9 [The witness stands down]

10 PRESIDING JUDGE SMITH: We are adjourned until 11.30.

11 --- Recess taken at 10.59 a.m.

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

13 PRESIDING JUDGE SMITH: Please bring the witness back.

14 Yes, Mr. Pace.

15 MR. PACE: Thank you, Your Honour.

16 In relation to Judge Mettraux's query, I'm told that an
17 unredacted version of P987 can be found at SPOE00248598 to 00248641,
18 pages 4 to 34, and that item is 102(1)(b) disclosed in disclosure 64.

19 JUDGE METTRAUX: I'm very grateful. Thank you.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: All right. Witness, Ms. Alagendra, who
22 represents Mr. Krasniqi, will be asking you questions next. She's to
23 your far right.

24 Cross-examination by Ms. Alagendra:

25 Q. Good morning, Witness. I'm Venkateswari Alagendra, and I am

1 counsel for Mr. Jakup Krasniqi. I don't have many questions.

2 MS. ALAGENDRA: If I could first take you to P01136, Part 1,
3 please, page 27 to 28. And the Albanian translation is at pages 33
4 to 34.

5 Q. Witness, that's part of the interview you gave to the
6 Prosecution, and I'll ask you some questions relevant to that part of
7 your evidence.

8 You said you're a lawyer, Witness; correct?

9 A. Correct. I've stated this at the very beginning.

10 Q. Yes. And you also say you're an expert and you advised the
11 soldiers on how to treat civilians - men, women, children, and the
12 sick; correct?

13 A. Correct.

14 Q. Now, your message was clear, wasn't it? You told the soldiers
15 not to mistreat and maltreat people, because you knew that sometimes
16 civilians may make a mistake or say something that could be
17 misinterpreted; correct?

18 A. Correct.

19 Q. And your advice was, you were telling them not to misunderstand
20 people because you were in their houses; correct?

21 A. Correct.

22 Q. And you said this because you're an expert, you're a lawyer, and
23 it was part of your research; is that correct?

24 A. Correct.

25 Q. And you knew that one day after the war there would be liability

1 for everyone that had been implicated or was close to a suspected
2 activity; correct?

3 A. Correct. Everything that starts has an end.

4 Q. Right. And you were quite aware that each one would be liable
5 for your own actions, weren't you, Witness?

6 A. And that's also the practice.

7 Q. And you were trying to make sure that soldiers behaved as
8 soldiers and that they behaved humanely to civilians; yes?

9 A. That was my duty, indeed.

10 Q. And those were your efforts to ensure that they respected the
11 law because there would be accountability one day; correct?

12 A. Correct.

13 Q. And yesterday you testified that your tasks as a legal adviser
14 beginning in April 1999 did not differ from your tasks as legal
15 adviser prior to the end of September 1998. Do you recall that?

16 A. Correct, they were the same.

17 Q. Yes. So it's right, isn't it, that the KLA in the Pashtrik zone
18 wanted soldiers to comply with the law and behave humanely to
19 civilians, particularly the women, the children, and the sick?
20 That's right, isn't it?

21 A. Yes. Well, educated persons based on the circumstances and the
22 conditions of war, if you understand me.

23 Q. Yes. And it was difficult because you were dealing with people
24 that were not schooled, that had not carried a weapon, so you had to
25 prepare them to be aware of what they might not have been aware of;

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1 yes?

2 A. I cannot say that they were not educated, but they lacked
3 knowledge in this regard.

4 Q. Fair enough. You've also testified that you didn't advise
5 commanders; that's correct?

6 A. Correct.

7 Q. And in answer to Mr. Misetic's question, yesterday you testified
8 that you usually were reporting to Tahir Sinani who was the commander
9 of the zone staff. Do you recall saying that?

10 A. Correct.

11 Q. And Tahir Sinani and Sadik Halitjaha knew what your role was and
12 what you were doing; is that correct?

13 A. Tahir Sinani appointed me to that position,
14 Commander Tahir Sinani did.

15 Q. Yes. And they did not try to undermine you, did they?

16 A. Is this meant to be a joke? How would the commander undermine
17 their own staff?

18 Q. Yeah. The advice that you were giving to the soldiers, they
19 didn't try to undermine that, did they? I mean, they weren't trying
20 to tell you -- tell the soldiers, "Go and target civilians, terrorise
21 them, threaten them, take advantage of them"? They weren't doing
22 that, were they?

23 A. The word "undermine" was very hard. Maybe it was a question of
24 interpretation. It's a bad thing to do. No one would want to
25 undermine their people or their staff. I was appointed by them. I

1 was appointed by the commander. And every commander wants and wishes
2 for what they have undertaken to be conducted successfully. So that
3 wouldn't make sense if they were to undermine their own staff. That
4 would be self-contradicting.

5 Q. Right. And they wanted you to tell the soldiers to behave
6 properly; correct?

7 A. Correct.

8 Q. Now, your role of legal adviser was not a regular position in
9 every battalion or brigade, was it, to your knowledge?

10 A. No, there couldn't be one.

11 Q. Neither was it a regular position in every zone, to your
12 knowledge; am I correct?

13 A. I don't know about the other zones. I can only speak about the
14 zone I was part of.

15 Q. Right. And moving to another topic. Witness, you were
16 stationed in Kosterc in April and May 1999; is that correct?

17 A. Correct.

18 Q. Kosterc village is part of the municipality of Suhareke?

19 A. Yes.

20 Q. And at the time, in Suhareke, the town was controlled by the
21 Serbian forces; correct?

22 A. At any time the town was controlled by the Serbian forces.
23 Constantly. Not only during a specific period of time but throughout
24 the time.

25 Q. And Albanians living there and other villages close to the

1 Serbian bases, they left their houses and were seeking shelter in the
2 mountains; correct?

3 A. Correct. Some went to the mountains. Others, when the pressure
4 and NATO bombardments intensified, were then expelled outside the
5 borders of Kosovo, some to Albania, others to Macedonia, and others
6 to Montenegro.

7 Q. Right. And the KLA was trying to hold those villages because
8 they feared that the Serbian forces would enter and massacre the
9 civilian population; correct?

10 A. Correct.

11 Q. Now, do you know at the time approximately how many refugees
12 were sheltered in the villages around Kosterc?

13 MR. PACE: Your Honour, I object as to relevance. When it comes
14 to this topic of questioning, I believe counsel has a duty to explain
15 the relevance as to why we're getting into this kind of detail.

16 PRESIDING JUDGE SMITH: Yes, this is beyond the scope of the
17 direct examination, so please state your case to the witness before
18 going further.

19 MS. ALAGENDRA: Your Honour, the witness has testified that
20 nearly 1 million inhabitants were driven out. I'm just trying to get
21 an estimation of what the refugee population was in those villages.

22 PRESIDING JUDGE SMITH: For what purpose?

23 MS. ALAGENDRA: To show the situation at the time, Your Honours.
24 He was operating in those villages. The witness is able to answer
25 those questions.

1 PRESIDING JUDGE SMITH: Go ahead. You may, but please try to
2 make it relevant to the case.

3 MS. ALAGENDRA: Right.

4 Q. Could you answer the question, Witness? At the time,
5 approximately how many refugees were sheltered in the villages around
6 Kosterc?

7 A. They were in thousands. However, I said that over a million
8 civilians from the entire Kosovo were driven out, having in mind that
9 the population of Kosovo at that time was approximately 1 and a half
10 million. So a part of this 1 million were expelled to Albania,
11 others to Macedonia, Montenegro. So these are facts. But I'm
12 referring to the entire Kosovo not specifically and only to the
13 Pashtrik zone.

14 Q. And what about the number of refugees that were sheltered in the
15 villages around the Berisha mountains? Approximately.

16 A. We didn't count them. Where -- these are estimates, so they
17 were in thousands.

18 Q. Right. Now, Witness, you explained that the LDK started as a
19 popular movement and it was embraced by every Kosovar. That's
20 correct, isn't it?

21 A. That's correct. Before the war, when the LDK was established in
22 the 1990s, everybody in Kosovo supported the LDK. However, we did
23 not think that we could achieve anything through peaceful means,
24 negotiations, through this approach. Initially, this was the
25 approach. When we realised that this was not bringing any results,

1 the need for a different, another movement arose, which was the
2 Kosovo Liberation Army. Because the previous one did not produce any
3 results, the theory supported by Ibrahim Rugova.

4 Q. Right. But it's correct, isn't it, that many LDK members joined
5 the KLA?

6 A. Certainly. The entire people were in the KLA. There was no
7 political party in the KLA. When the arms struggle started, the
8 political parties ceased to exist.

9 Q. Right. And many served the KLA honourably, faithfully, and were
10 well respected; correct?

11 A. Yes, certainly.

12 Q. Yes. Now, the KLA were drawn from and supported by the local
13 villages, weren't they?

14 A. From the people. Villages, towns supported it. It's a
15 different matter that towns were under the enemy control. We could
16 not enter towns because that would have resulted in massacres. If a
17 Serb soldier or policeman had been killed, they would have massacred
18 an entire population. This was seen previously in Bosnia, the ratio
19 1:100, when they declared that if one Serbian soldier or police
20 officer is killed, a hundred civilians will be killed regardless of
21 the fact they are men, women, children. Things that had not been
22 written anywhere. People, husbands and wives had been killed in
23 their bed, burned alive.

24 Q. Right. And after the Jashari massacre and other massacres,
25 there was a constant fear among the Kosovan population that the

1 Serbian military and paramilitary forces were going to enter villages
2 and massacre their families; right? That's the fear you describe?

3 A. I didn't understand the question.

4 Q. There was a constant fear among the people that the Serbian
5 military and paramilitaries were going to enter villages and massacre
6 their families, wasn't there?

7 A. Certainly. There was no one to prevent them from doing this.

8 Q. Right. And in your experience, was it the case that the
9 villagers spread rumours based on their suspicions of some people
10 passing information to the Serbian forces?

11 A. Now, there were lots of things happening in the war but these
12 were not relevant matters.

13 Q. And you'll agree with me that the risk to civilians was even
14 greater in the villages where it was known that the KLA was sheltered
15 or was operating; correct?

16 A. There was a greater danger. However, we tried our best to
17 protect them, until we were defeated. The resistance lasted for
18 months and months before they could enter KLA territory. But at the
19 end, seeing that this was dangerous, being under constant attack, we
20 had to withdraw. And the entire territory of Kosovo was in this
21 situation.

22 Q. Thank you very much, Witness.

23 MS. ALAGENDRA: Those are my questions.

24 PRESIDING JUDGE SMITH: Thank you, Ms. Alagendra.

25 Mr. Pace, any redirect?

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1 MR. PACE: Yes, Your Honour, briefly.

2 Re-examination by Mr. Pace:

3 Q. Witness, earlier today, and you were referring to the actions of
4 Agim Zyba and Naim Kadolli, we heard the following. I'm reading from
5 page 30 of today's transcript, lines 15 to 17. Witness, the question
6 was:

7 "Did they take the women away?"

8 "They," as I said, referring to Agim Zyba and Naim Kadolli.

9 And you answered:

10 "I don't know. I proposed for them to be released. I don't
11 know what happened any further."

12 Now, Witness, do you remember stating in your 2020 SPO interview
13 that after Agim Zyba and Naim Kadolli had transferred Latife and
14 Rushe Kololli, they told you they had taken them to the brigade? Do
15 you remember stating that or do you not remember stating that?

16 A. No, I don't know where they took them to. I didn't have any
17 information.

18 MR. PACE: In that case, Court Officer, I would like to please
19 call up P1136.3-ET side by side with P1136.3-AT. And in the English
20 I will be reading from page 18, line 17, to page 19, line 6. And
21 this corresponds in the Albanian to page 22, line 17, to page 23,
22 line 16.

23 Q. So, Witness, as you can see, this is from your SPO 2020
24 interview. I'm going to read an excerpt and then I'm going to ask
25 you if that refreshes your recollection.

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1 "Q. In your 2002 statement, you said that on Sadik Halitjaha's
2 order Agim Zyba and Naim Kadolli escorted Latife and Rushe to the
3 brigade. You said Agim and Naim were military police in Budakove and
4 that you don't know what happened to Latife and Rushe after that.
5 Were you present when Sadik gave that order to Agim and Naim?

6 "A. No.

7 "Q. How did you know that there was such an order?

8 "A. Yes, I heard because when the police, after they had
9 transferred them there or taken them there, when they returned or
10 they came back, they mentioned that they had taken them there.

11 "Q. Where did they mention they had taken them exactly?

12 "A. I don't know. You can ask them. I don't know. They said
13 that we sent them to the brigade.

14 "Q. And this was Agim Zyba and Naim Kadolli said that to you?

15 "A. Yes, correct."

16 Witness, can you tell the Judges if the excerpt I just read out
17 here is correct?

18 MR. MISETIC: Objection. Again, this is the paragraph 6 of
19 Proofing Note 1 that was tendered for the truth of its contents, and
20 now he's being taken back to the uncorrected version of the
21 statement. I just want my objection for the record.

22 PRESIDING JUDGE SMITH: Objection's in the record and overruled.

23 Go ahead.

24 MR. PACE:

25 Q. Witness, my question is whether you remember stating that to the

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1 SPO and whether what I read out is correct?

2 A. I think I answered this question before.

3 PRESIDING JUDGE SMITH: Witness, just answer the question now.

4 THE WITNESS: [Interpretation] I said it earlier, that you can
5 ask the relevant persons as to who gave the order. I have also
6 stated that Agim Zyba and Naim Kadolli, they know themselves who
7 advised or instructed them to take persons anywhere. I was not
8 involved in the escort or transport, so I have no knowledge.

9 MR. PACE:

10 Q. Witness, what I'm trying to obtain clarity on is whether, as you
11 said in your SPO interview, Agim Zyba and Naim Kadolli told you that
12 they sent Latife and Rushe to the brigade. Is that correct or is
13 what was said in your SPO interview not truthful?

14 A. I have no idea where they took them to. However, I know that
15 they took them somewhere because they had this task. They took this
16 task on them.

17 Q. And to clarify, you know that they took them somewhere because,
18 as you said in your SPO interview, they - Zyba and Kadolli - told you
19 that they did so or some other way?

20 A. Zyba and Kadolli.

21 Q. Just a last question. To be clear, you're saying that Zyba and
22 Kadolli told you that they transferred Latife and Rushe Kololli
23 somewhere; correct?

24 A. I can't see where would that other place be. They transported
25 them. I don't know where because I was not with them. It was only

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1 those two.

2 Q. Witness, it's a very simple question which you're not answering.

3 I would like you to focus on the words.

4 MR. PACE: I'll repeat it again, Your Honour, with your leave.

5 I believe the question is simple enough.

6 PRESIDING JUDGE SMITH: Go ahead.

7 MR. PACE: Thank you, Your Honour.

8 Q. Witness, can you confirm that your testimony today is that Agim
9 Zyba and Naim Kadolli told you that they transferred Latife and Rushe
10 Kololli somewhere?

11 A. Yes.

12 MR. PACE: No further questions.

13 PRESIDING JUDGE SMITH: Thank you.

14 Judge Mettraux.

15 JUDGE METTRAUX: Thank you, Judge Smith.

16 Questioned by the Trial Panel:

17 JUDGE METTRAUX: And good morning, Witness. I have questions
18 for you in relation to some matters that you already touched upon
19 with the parties.

20 The first one I want to ask you about is about your relationship
21 to other members of the battalion, and I want to be sure that I have
22 understood it properly. My first question is I understand your
23 evidence to be that you had a good general relationship with other
24 members of the 2nd Battalion. Would that be right?

25 A. That's right. We were on good terms.

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1 JUDGE METTRAUX: And in particular, from your evidence I
2 understand that you had a relationship of trust with Sadik Halitjaha;
3 correct?

4 A. Correct.

5 JUDGE METTRAUX: Whom I think you described as a friend to the
6 SPO; is that right?

7 A. Correct.

8 JUDGE METTRAUX: And you indicated as well during the
9 preparation session that you followed at least part of his testimony
10 in this Court; is that right?

11 A. Some parts.

12 JUDGE METTRAUX: And I understand you to tell us that you also
13 had a generally good relationship with members of the military police
14 from the battalion in the summer of 1998. I think you used the word
15 a relationship of respect. Is that correct?

16 A. Correct.

17 JUDGE METTRAUX: And would that be the same with Mr. Sadri
18 Emerllahu? You had a good professional relationship with him during
19 your time in the KLA?

20 A. Yes, we had good relationships with everybody, not only with
21 Sadri.

22 JUDGE METTRAUX: Now, I want to ask you about two incidents that
23 you were asked about by the parties. One has to do with Latife and
24 Rushe Kololli and the other one has to do with Fetah Rudi. I'll
25 start with the Kolollis.

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1 You indicated, and simply to go back to what you said, that you
2 are aware of that case and that you, in fact, met the Kolollis while
3 they were in KLA detention; is that right?

4 A. That's right. I had a conversation with them.

5 JUDGE METTRAUX: And you indicated that you questioned them in
6 particular about allegations that they were Serbian spies; is that
7 right?

8 A. That's right.

9 JUDGE METTRAUX: And to your knowledge, did anyone other than
10 you interrogate Latife and Rushe Kololli about those allegations or
11 were you the only one?

12 A. No, I was the only one. As far as I know, no one else
13 questioned them or had any conversations with them.

14 JUDGE METTRAUX: And maybe I put the proposition to the lawyer
15 in you, but this would be the practice when you detain someone
16 suspected of a crime that someone will be put in charge of
17 interrogating that detained person, right, and that person was you;
18 is that fair?

19 A. I was a legal adviser and I knew the rules better. That's the
20 reason.

21 JUDGE METTRAUX: And you told us that already, that you were a
22 legal adviser, but in what capacity were you then interviewing
23 someone suspected of a crime? Because there you were not providing
24 legal advice to Ms. Latife and Rushe Kololli, so in what capacity
25 were you intervening in that process? If you can help us with that.

1 A. I don't understand. Because I was not an investigator, I was
2 not a judge there. Do you mean that I was supposed to give them
3 legal advice? I was there, I had a conversation with them and asked
4 questions about these allegations. That's it. I said it before,
5 because there is much talk about the supposed military court, there
6 was no military court. There were no resources, conditions, people
7 to establish such a court. This was only an ambition to set up such
8 a structure at the time.

9 JUDGE METTRAUX: Well, when you say "conversation," you were
10 actually asking them questions; right? They were not asking you
11 questions. You were the one putting questions to them and they were
12 answering; is that right?

13 A. Yes.

14 JUDGE METTRAUX: And they were not free to leave; correct?

15 A. After this talk, they were free to leave. Nobody ordered them
16 to stay. But they were merely identified by certain persons, brought
17 there, and then we had this interview or conversation. That was it.

18 JUDGE METTRAUX: I'll come to what happened to them in a moment.
19 But during the time when you interrogated them, they were not free to
20 leave; is that right?

21 A. When you have a conversation with somebody, nobody can just
22 stand up and leave. It was a conversation, so nobody could leave of
23 the two parties that are conversing. I don't know if I made myself
24 clear, Your Honour. A conversation involves two persons. If one
25 leaves, then there is no conversation.

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1 So we had that conversation, both parties willing, discussed
2 some issues, and then I came to the conclusion there was nothing to
3 worry about.

4 JUDGE METTRAUX: So let me ask you this: Is it your evidence
5 that Latife and Rushe Kololli were free to stand up during your
6 conversation, leave the room, and go back to their home? Is that
7 your evidence?

8 A. No. After this -- having this conversation, no. After the
9 conversation, they were free.

10 JUDGE METTRAUX: I see. We'll come back to that.

11 Now, who assigned you that responsibility, if any one, to talk
12 to the Kolollis?

13 A. I had that responsibility once I was appointed as a legal
14 adviser.

15 JUDGE METTRAUX: And you were appointed to that position, you
16 told us, by Sadik Halitjaha; correct?

17 A. Correct.

18 JUDGE METTRAUX: So, in effect, you were exercising his
19 authority. Would that be fair?

20 A. Yeah, I think so. It may be put in that way.

21 JUDGE METTRAUX: Now, I want to ask again the lawyer in you.
22 You are conducting the interrogation of someone who is suspected of a
23 pretty -- or two persons who are suspected of pretty serious criminal
24 offences. What legal authority did you have, you personally, to
25 interrogate these people? What did you understand to be the legal

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1 instrument or the document or the authority that entitled you to do
2 that?

3 A. It was based on the decision appointing me legal adviser by the
4 battalion.

5 JUDGE METTRAUX: And what authority did you understand
6 Mr. Halitjaha to have to give you that power? In other words, where
7 did the authority of Mr. Halitjaha come to designate you to
8 interrogate suspects?

9 A. Mr. Halitjaha was the battalion commander. I mentioned it
10 several times.

11 JUDGE METTRAUX: I understand that, sir. What I'm trying to get
12 at, and I'm asking again the lawyer in you, in that particular
13 context, on what basis, in your understanding, could Mr. Halitjaha
14 tell you that you have the power to interrogate people suspected of
15 crimes? Surely, in order to issue an order to that effect, he must
16 have authority to do that. Or did he have no such authority?

17 A. He had authority. There was no one else in that brigade who had
18 that authority -- in that battalion, I meant.

19 JUDGE METTRAUX: So again back to my question. Who gave him
20 that authority?

21 A. I don't know. I have no idea.

22 JUDGE METTRAUX: So in summary, you were interrogating people
23 based on Mr. Halitjaha's order without any idea where he drew his
24 authority from; is that fair?

25 A. Yes.

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1 JUDGE METTRAUX: And would your answer be the same if I asked
2 you about the authority to detain someone? Where did he get that
3 authority from?

4 A. I already said it's not a detention. It's an identification of
5 someone who enters a war zone. It's an identification of an unknown
6 person who enters a war zone under our control and such persons
7 considered suspicious --

8 JUDGE METTRAUX: Well, I'll stop you there. I'll stop you
9 there, sir. The Kolollis, they did not enter anyone's territory.
10 They were there, right? They did not come from somewhere else. They
11 were in territory controlled by the KLA; is that right?

12 A. No, they weren't.

13 JUDGE METTRAUX: And you are saying that they were free to
14 leave. So if they are not detained, they were free to leave while in
15 the hands of the KLA. Is that your evidence?

16 A. No. After our conversation, I meant.

17 JUDGE METTRAUX: So back to my question. Where did you
18 understand the authority to detain civilians, suspected spies in this
19 instance, came from, if you know? If you don't know, say so.

20 A. This authority was given to him by the battalion staff, Budakove
21 Battalion staff. So this order, or how I may put it, it's a general
22 unwritten order that every person who tries to enter a territory
23 under the control of the battalion had to be -- or to leave that area
24 had to be identified.

25 Myself, when I entered, when I had been home and so on, was

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1 stopped and asked who you are. So it was part of their authority.
2 There was a general order of the staff that anyone who was unknown
3 should be identified, legitimised. And --

4 JUDGE METTRAUX: Stop there, Witness. I want to be clear and
5 get short answers.

6 Is it your evidence that Latife and Rushe Kololli were arrested
7 because they entered a territory under the control of the battalion?
8 Is that your evidence, that's why they were detained?

9 A. They were not detained. They were identified, I'm saying,
10 because they entered the territory, and there were rumours that they
11 were not morally clean.

12 JUDGE METTRAUX: Thank you. Now, the allegations, as I
13 understand your evidence, is that they were accused of espionage for
14 the Serbs, and that after you had interrogated them, it was your view
15 that there was no merit to the allegation and that they had simply
16 engaged in what you believed was prostitution; is that right?

17 A. Yes.

18 JUDGE METTRAUX: Now, my question is did the KLA have
19 legislation prohibiting prostitution? Assuming, of course, that this
20 is what happened.

21 A. No.

22 JUDGE METTRAUX: So that would not be a basis on which to detain
23 someone, correct, in the KLA?

24 A. But as I said, to identify someone who is entering a war zone is
25 something that could be done. There was nothing wrong. Then there

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1 were rumours that they are not good persons, that they might be
2 engaged in some suspicious activity, but it was not that we banned
3 prostitution. That's why I said they can leave. They are free.

4 MR. EMMERSON: Excuse me.

5 THE WITNESS: [Interpretation] Prostitution is not banned even
6 now.

7 MR. EMMERSON: Your Honour, I wonder if I might just interrupt
8 briefly, because it occurs to me that there may be some confusion
9 between domestic legislation and the international humanitarian law
10 on right to detain for imperative reasons of security.

11 JUDGE METTRAUX: Well, Mr. Emmerson, don't make these
12 submissions in front of the witness. I've given him a chance. If
13 you want, I will -- have asked him what the legal basis. You can go
14 back to it in your question and ask him whether in his understanding
15 there was another legal basis.

16 MR. EMMERSON: I see.

17 JUDGE METTRAUX: I believe it might be more an issue of
18 submissions, but it's for you to decide, Mr. Emmerson.

19 [Microphone not activated].

20 THE INTERPRETER: Microphone, please.

21 JUDGE METTRAUX: I'll put the question which I understand
22 Mr. Emmerson to be interested in.

23 When you arrested or detained people, and put aside the one case
24 we have been decided, did you understand that you were complying with
25 international humanitarian law when you were doing so?

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1 A. Yes, certainly.

2 JUDGE METTRAUX: And what provision of international
3 humanitarian law did you understand to be relying upon for that
4 purpose?

5 A. Do I need to refer to the provision?

6 JUDGE METTRAUX: If you can. If you can't, you can say so.

7 A. The right to a proper conduct, to equal treatment, all these
8 rights that are guaranteed under international and domestic law. We
9 didn't have domestic laws then, so we had to rely on international
10 conventions, war conventions, and so on. We have in a way
11 incorporated them because they have a good intention when they're
12 implemented.

13 JUDGE METTRAUX: Thank you.

14 Now, back to the Kolollis. Now, in your SPO interview and in
15 your UNMIK statements - it's SPO interview Part 3, page 15, which is
16 now P1136; and UNMIK statement P1135, at page 2 - you said that once
17 you had determined, in your view, that there was no basis for the
18 suggestion that the Kolollis were spies, you went to Sadik Halitjaha,
19 brigade commander, and told him that, in your view, you proposed,
20 your words, to the battalion commander to release them or send them
21 to the brigade. Do you recall that?

22 A. I talked with these two persons --

23 JUDGE METTRAUX: No, no, no. No, Witness. No. I'm putting to
24 you what you said in the SPO interview. In the SPO interview, I'll
25 read it to you:

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1 "And what led you to believe that they were prostitutes?"

2 That's the question:

3 "On the basis of the opinions expressed by their co-villagers or
4 co-citizens, neighbours that lived next -- next door to them.

5 "Q. And when you proposed to the battalion commander to release
6 them or send them to the brigade, did you do so in writing or
7 verbally?

8 "Yes, to the brigade -- to the battalion commander.

9 "And that was Sadik Halitjaha?

10 "... that's correct."

11 So that's your SPO statement.

12 And in your UNMIK statement, P1135, at page 2, you said:

13 "At the end, I concluded that they were only prostitutes of the
14 lowest level, for what I proposed to the commander of the battalion
15 to release them or to send them for further procedure to the
16 brigade."

17 So in your SPO interview and in your UNMIK interview, you
18 clearly stated that once you had determined that there was no merit
19 to the allegation of spying, you went to Sadik Halitjaha to make that
20 proposition. Do you stand by these accounts or do you wish to change
21 them?

22 A. I talked with the SPO last week as well. Whenever I refer to
23 Halitjaha, I meant the battalion staff, because he in a way embodied
24 the staff. The staff had several members and, of course, they must
25 have decided together.

1 JUDGE METTRAUX: So let's be clear. When you talk about the
2 battalion commander, you are now changing that account to suggest
3 that this wasn't to Mr. Halitjaha personally but to someone in the
4 staff. Is that the account you're giving us today?

5 A. Yes. Yes, I meant the staff.

6 JUDGE METTRAUX: Because then you also continue, and that's your
7 SPO interview, Part 3, page 17, and in your UNMIK interview, you
8 say -- that's the question of the SPO:

9 "Going back to Latife and Rushe specifically, what did
10 Sadik Halitjaha say to you when you proposed to release them or send
11 them to the brigade?

12 "Okay. Okay, let's continue like that."

13 That was your response. And then the SPO asks:

14 "Like ... what? Release or send [them] to brigade?

15 "To send them down there at the brigade."

16 So here your SPO interview that suggests that it was again what
17 Mr. Halitjaha said to you. Do you agree with that?

18 A. I don't recall at this moment that I talked with him, but it was
19 my proposal to release these two women, and there was no other
20 procedure. My opinion was that they had nothing to do with the
21 charges of espionage as was claimed by the local population. They
22 knew them. They were from that area. So their going and coming out
23 of police station raised suspicion. But later, after we had this
24 conversation, I found out that they didn't have any aim to conduct
25 espionage activity.

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1 JUDGE METTRAUX: I stop you there. You now say you can't
2 remember having had that conversation with Sadik Halitjaha; correct?

3 A. Sadik wasn't always present at the battalion. He was on the
4 move. He had to cover the entire territory. He had other
5 obligations, in supplies --

6 JUDGE METTRAUX: That's another --

7 A. -- and so on.

8 JUDGE METTRAUX: That doesn't answer my question, sir. Is your
9 evidence now that you don't remember having had that conversation
10 with Sadik Halitjaha?

11 A. I don't remember. I may have had but I don't remember, because
12 you couldn't meet Sadik every time you wanted to. He was engaged in
13 other things as well.

14 JUDGE METTRAUX: So let's see what information we have on this.
15 Can the Registry please bring up SITF00032782.

16 So what you will have in front of you, sir, is a statement of
17 Naim Kadolli, whom you've mentioned several times as one of the two
18 KLA members who escorted the Kolollis, Latife and Rushe; correct?

19 A. Yes.

20 JUDGE METTRAUX: And at the time, Naim Kadolli was a member of
21 the military police at battalion level; is that right?

22 A. Yes.

23 JUDGE METTRAUX: And if you know, later in 1998, early in 1999,
24 he would become deputy head of ZKZ, S-2, at battalion level. Are you
25 aware of that?

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1 A. No, I never heard of that.

2 JUDGE METTRAUX: Now, the statement here is dated 6 October
3 2002, so it was only a few years after the events. And I want to
4 take you to some of the things that Mr. Kadolli recalled and were
5 recorded there to see if they mirror or are inconsistent with your
6 own recollection.

7 Can we scroll down a bit.

8 And, sir, I apologise, I don't think we have an Albanian
9 translation of this, so I'll read the passages for the record.
10 First, he explained what his role was in the summer of 1998. So he
11 says:

12 "I started in KLA since the beginning of June 1998 and I served
13 till to the end of the war.

14 "I served on second Battalion of Brigade 123 in the village of
15 Budakova.

16 "Commander of the Battalion was Sadik Halitjaha.

17 "We had only one uniform but one time I served as Military
18 Police."

19 And then he said:

20 "In the beginning I served as Military police and later I served
21 as ordinary soldier."

22 Now, I'll stop there for a second. Is that consistent with what
23 you know about Naim Kadolli up to that point?

24 A. I don't know. I knew that he was a military police, which was a
25 rapid intervention unit. People more capable, kind of elect. That's

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1 why we call them military police. As far as what he says here, that
2 "afterwards I was an ordinary soldier," this I don't know. I can't
3 answer that for him.

4 JUDGE METTRAUX: Then he's being asked:

5 "Do you know the names of Latife and Rreushe Kololli?"

6 And he says:

7 "Now I remember for what case are you talking about. I remember
8 the case but I don't know them by name."

9 And then he's being asked:

10 "When did you see them or hear about them and the conditions
11 when you saw or hear about them?"

12 And his answer is this:

13 "For the first time I saw them when the order was given by the
14 commander of the Battalion (it was document order), to me and Agim
15 Zyba to escort them from Budakova to the Brigade."

16 Do you understand what he's saying?

17 A. Yes, he has explained it. He had an order, apparently. I can't
18 interpret it otherwise.

19 JUDGE METTRAUX: And that order, he says, came from the
20 battalion commander just as you had said to the SPO when they
21 interviewed you, right, that the order to arrest Latife and Rushe
22 Kololli had come from Mr. Halitjaha; is that right?

23 A. No, not to arrest them. They were not arrested. I am
24 emphasising. They were identified. And Sadik didn't issue any
25 order. It was a general order in the battalion that everyone who

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1 enters the war zone had to be identified. They were also identified.
2 Sadik Halitjaha didn't know them. The general order applied to the
3 battalion for anyone entering the war zone, to ask them to identify
4 themselves.

5 If there were suspicions related to someone, then you had to
6 talk with them. Sadik didn't know them, I didn't know them, but the
7 local population people knew them.

8 JUDGE METTRAUX: So here is what you said in 2002 to UNMIK.
9 It's P1135, page 2. It's about the middle of the page. You're being
10 asked about the arrest of Latife and Rushe Kololli, and the question
11 is:

12 "Who gave the order for arrest and what was the reason for
13 arrest?"

14 And your answer is:

15 "Order for the arrest gave Sadik Halitjaha commander of
16 Battalion. Was suspicion that they cooperate with enemy forces
17 (Serbian Police)."

18 So do you stand by that account that the order for arrest for
19 Latife and Rushe Kololli came from Sadik Halitjaha as you had said in
20 2002, or do you wish to change that account?

21 A. No, I am not changing it, but I don't know how that is said like
22 that. I am saying again that Sadik didn't know them. Halitjaha
23 didn't know them. I didn't know them. Naim Kadolli didn't know
24 them. Personally. It was the population, local population there in
25 Budakove who knew them. We had no idea who they were.

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1 Specifically, Sadik came from Switzerland after 15 years. It
2 was impossible for him to know anyone. I said he might have known
3 10 per cent of the population. But there was a general order, as I'm
4 saying --

5 JUDGE METTRAUX: You've already said that, Witness. I don't
6 think it's useful to repeat it.

7 A. Yeah, I said.

8 JUDGE METTRAUX: So let's go back to SITF00032782, the statement
9 of Naim Kadolli, and we'll continue from there.

10 At the bottom of that page he's being asked:

11 "Do you know who arrested them ..."

12 Talking about the Kolollis.

13 "... and brought to Budakova?"

14 And his answer was:

15 "I heard that Muse Qerkinaj arrested them."

16 Is that consistent with your account, that it was Muse Qerkinaj
17 who --

18 A. Yes, this is what I heard too. But I didn't talk with Muse.
19 But I was told that Muse was the one that detained and identified
20 them.

21 JUDGE METTRAUX: And Muse was military police; right?

22 A. Yes.

23 JUDGE METTRAUX: And if we turn to the next page, please, in
24 that document. I'll start just to go into a small detail. He's
25 being asked, Mr. Kadolli:

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1 "Do you know how long the women were kept in Budakova?"

2 And he says:

3 "As far as I know about 24 hours."

4 Is that consistent with your own recollection of how long they
5 spent in Budakove before being taken away?

6 A. I think less than that.

7 JUDGE METTRAUX: Then if you go further down, he's being asked:

8 "How many people you escorted to the H.Q. of the Brigade in
9 Nishor and who was," I think it meant "expecting," "expecting you?"

10 And his answer is:

11 "For first I want to clarify to you one thing that we didn't
12 send them to the H.Q. in Nishor but we left them to Semetishte
13 village. On that village we sent three persons, among two ladies was
14 and Sylejman Kokollari. Together with me was Agim Zyba. On village
15 Semetishte we were stopped by a group of soldiers where I recognised
16 Naim Berisha. We asked him about the H.Q. of the Brigade and told
17 him that we have three prisoners to send there. He answered to us
18 that we have no rights to know where is [the] H.Q. of the brigade.
19 Then he took the prisoners on his responsibility to send them to the
20 H.Q. of the Brigade. He signed the document that he accepted the
21 prisoners on his responsibility. After that we returned to Budakova.
22 I want to say that Naim had the sign of M.P. on his shoulder. He was
23 together with 3-4 other soldiers but I did not recognise none of
24 them."

25 Now, do you know who is Naim Berisha of the brigade?

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1 A. No, I never stayed with him, I never saw him, but I heard of
2 him.

3 JUDGE METTRAUX: And did you hear from Agim Zyba and Naim
4 Kadolli, when you talked to them, that particular account that they
5 had left the Kolollis and Mr. Kokollari to Naim Berisha of the
6 brigade?

7 A. No, I have no information in this regard. They certainly know
8 better since they have given their own statements.

9 JUDGE METTRAUX: So let's see what the other escort, Agim Zyba,
10 had to say about this at the time in 2002. It's SITF00032792.

11 And what you will see again is an UNMIK statement of this one of
12 24 August 2002 of Agim Zyba. And just to check with you that you can
13 confirm that Agim Zyba was a member of the military police in your
14 battalion in June and July 1998; correct?

15 A. Correct.

16 JUDGE METTRAUX: Are you aware that he became ZKZ, S-2, deputy
17 head -- or, wait, I'm sorry, he became the head. Mr. Kadolli became
18 the deputy head. Are you aware that he was later promoted at
19 battalion level to ZKZ? Are you aware of that?

20 A. No, I'm not. I never heard this.

21 JUDGE METTRAUX: Now, let's see what Mr. Zyba had to say at the
22 time about this matter.

23 He said:

24 "At the beginning I was a soldier. Later on, I became military
25 police. I was active on the village Budakova. It was not brigade.

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1 It was battalion. And the commander was Sadik Halitjaha. At the
2 time, at the beginning, the brigade commander was Blerim Kuqi from
3 Suhareke."

4 And he says:

5 "In Budakova we were acting as battalion, means that there was
6 no such court in Budakova."

7 I mean, up to that point, do you agree with the account Mr. Zyba
8 is saying about his role and whereabouts?

9 A. He knows better. But as far as I know and I can see, there is
10 no contradiction in this, because Sadik was there, Blerim Kuqi was
11 the brigade commander in Suhareke.

12 JUDGE METTRAUX: Then he says that -- he's asked if he knows
13 you. He's being asked:

14 "Did you know Nuredin Abazi and what was his duty?"

15 And here is his answer:

16 "Nuredin Abazi was in Budakova. He was also a member of the
17 military police because he was the highest educated person amongst
18 us. He also worked as an adviser. He's graduated in law in
19 Prishtina university."

20 Now, my question is this: Do you have an idea on what basis
21 Mr. Zyba would have understood you to be a member of the military
22 police?

23 A. I have no idea. I have never been a military police member. It
24 is true, though, that I was a legal adviser, and I had a law
25 graduated. I was first a soldier, an ordinary soldier, and then I

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1 was made legal adviser.

2 JUDGE METTRAUX: Well, we'll come back to your role in a minute.
3 But can we first turn to page 3 of this document. That's
4 SITF00032794, please. Thank you. And if we can scroll down a little
5 bit further down -- further up, please. A bit up. Further up.

6 I don't have the same page. It would be SITF00032794.

7 MR. ROBERTS: Your Honour, if it helps, I think it's the wrong
8 document on the screen at the moment. We're still on the previous
9 one that was being shown to the witness.

10 JUDGE METTRAUX: I think you are right again, Mr. Roberts, and
11 I'm grateful. This is -- the first page of the document is
12 SITF00032792 is the first page. And if we can please go to the third
13 page.

14 And I'm grateful, Mr. Roberts.

15 If we can scroll down a little bit.

16 Here Mr. Zyba is being asked:

17 "What do you know about the disappearing of two persons Latife
18 Kololli and her daughter Rrushe Kololli?"

19 And he says:

20 "I know that they were arrested somewhere outside village
21 Budakova between 19 - 22 August 1998. After the arresting they were
22 brought in Budakova and they were held for 24 hours."

23 So first let me ask you this about the date: Is that consistent
24 with your recollection, that this incident occurred between 19 and 22
25 August 1998?

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1 A. I don't recall the date.

2 JUDGE METTRAUX: And do you agree that, at least as far as this
3 record is concerned, Mr. Zyba, like Mr. Kadolli, is recorded as
4 saying that the Kolollis, Latife and Rushe, are being held and --
5 that they were arrested and that they were held in Budakove? Do you
6 see that?

7 A. I am listening to the interpretation because this is in English.
8 But, again, they were identified. Now, he seems to have stated here
9 that they were arrested. I wouldn't know how he understood this or
10 the terms. However, this is his statement.

11 JUDGE METTRAUX: Can we please go to the next page. That would
12 be SITF00032795. And if we can scroll down a little bit. Thank you.

13 Now, he's being asked, Mr. Zyba:

14 "Who gave the order to you to transport Latife, Rrushe Kolollis
15 and Sylejman Kokollari from the village Budakova?"

16 And his answer is:

17 "Naim Kadolli and me were given the order by commander Sadik
18 Halitjaha to send the three of them in Brigade, because there was no
19 reason to keep them in Budakova. On the way we met a KLA MP,"
20 military police, "whose name is Naim Hair Berisha in village
21 Semetishte. There we handed over them to him."

22 So do you agree, first, that this account appears to be
23 consistent with the account of Naim Kadolli about what happened in
24 terms of them taking these two ladies and handing them to Naim
25 Berisha in Semetishte; yes?

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1 A. Their statements are the same because they were together, so I
2 would assume it is as they have stated. But, again, I cannot comment
3 on his statement, but it would appear that this is the same thing
4 being stated because they were together.

5 JUDGE METTRAUX: And it's also consistent, isn't it -- and I
6 will read the passages to you if necessary. It's also consistent
7 with what you had told UNMIK and the SPO, that the order to take them
8 to the brigade was given by Sadik Halitjaha; right?

9 A. They certainly know because they have discussed this and stated
10 this.

11 JUDGE METTRAUX: And you don't recall yourself telling that it
12 was, and I quote, the commander of the battalion, Sadik Halitjaha,
13 gave the order while they were escorted by Agim Zyba and Naim
14 Kadolli? You don't recall saying that in your SPO interview, Part 3,
15 page 18, that it was, in fact, Mr. Halitjaha who gave that order?

16 A. I mentioned this earlier. Maybe this was a mistake. I, again,
17 do not remember. I don't see how this is relevant knowing that they
18 were directly involved in this procedure.

19 JUDGE METTRAUX: And then you have, of course, no reason to
20 dispute the account of Mr. Zyba and Mr. Kadolli on this; correct?

21 A. I cannot comment other people's statements. I don't have the
22 authority to comment on other people's statements, writings,
23 decisions. They know better what they were doing.

24 JUDGE METTRAUX: And then do you agree that after what appears
25 to have been a handover of Latife and Rushe Kololli to Naim Berisha

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1 of the military police, they were never seen alive again, these two
2 women? Do you agree with that?

3 A. It's unclear to me, the question, please. What do I agree with?

4 JUDGE METTRAUX: Do you agree that after the handover to Naim
5 Berisha, these ladies were never seen alive again? Do you agree with
6 that?

7 A. The only occasion I saw them was the one I mentioned. I never
8 heard or saw them until after the war. This was an extraordinary
9 circumstance and situation. We were in war. We didn't have time to
10 think of our families. Our families were in danger. My family was
11 in the village of Mushtisht surrounded by 250 Serb families. I could
12 not even get information about them, so let alone being in a position
13 to obtain information about other things. This was extremely
14 difficult. The situation was very severe.

15 JUDGE METTRAUX: You told us repeatedly that you had some
16 concerns about their security; correct?

17 A. Yes.

18 JUDGE METTRAUX: You never made any inquiry as to where they had
19 gone and what happened to them; correct? You never asked
20 Sadik Halitjaha or, you say, the staff of the battalion, "Where have
21 they gone? What happened to them?" You never made such inquiries?

22 A. No, Your Honour, I did not make any inquiries because, as I
23 said, we were worried and busy with the war, how this would be
24 conducted further, how this would end, and then our families, which
25 was our main concern.

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1 JUDGE METTRAUX: And since you told us that you applied
2 international humanitarian law, do you know what are the obligations
3 of a party to an armed conflict when handing over a detainee to
4 another individual? Do you know what those obligations are under
5 international humanitarian law since you were telling us that you
6 were trying to comply with it?

7 A. I simply assessed that there was nothing in relation to the
8 claims or allegations raised against them as a result of which I
9 proposed for them to be released. And based on that proposal, they
10 took them most probably to a location which was preferred by some
11 specific individual. And that was not the only matter we had to deal
12 with. We had a lot of other things to do.

13 JUDGE METTRAUX: With respect, sir, it's not an answer to my
14 question. You told us, in answer to my question which had been
15 prompted by Mr. Emmerson, that you, which I understood to be at least
16 the battalion, if not beyond the battalion, were trying to comply
17 with international humanitarian law.

18 Now, my question is: Do you know what the obligations of a
19 party to an armed conflict when it transfers a detainee under
20 international humanitarian law are? Do you know what those
21 obligations are? If you don't know, say so.

22 A. Hand them over and transfer them to a place where they can be
23 treated with dignity and where they are not subjected to any verbal
24 or other forms of mistreatment. And I believe this is what happened.

25 JUDGE METTRAUX: My question is did you take any of these steps

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1 yourself to hand them over to a place where they can be treated with
2 dignity and where they were not be subject to any verbal or other
3 forms of mistreatment? Did you take any step to ensure that this was
4 the case with them?

5 A. No, we did not have the possibility, the conditions to do that.

6 JUDGE METTRAUX: Now, let's look at another statement. It's
7 SITF00032827. And it's the statement of Mr. Musli or Muse Kololli
8 that he gave to UNMIK on 20 April 2002. And thankfully, sir, we have
9 an Albanian translation of that document for you.

10 Now, the first thing I want to ask you to reiterate, if you
11 haven't said so already, is that again Muse Kololli was a member of
12 the military police within the 2nd Battalion in the summer of 1998;
13 correct?

14 A. Correct.

15 JUDGE METTRAUX: Then let's look at what he said back in 2002 as
16 recorded here. He says in the end of June 1998 they established the
17 HQ in Budakove, "but as far as I know the main HQ was opened two
18 months before in Semetishte village, but I'm not sure in that."

19 He says:

20 "The local HQ were established on the order of the main HQ.
21 Commander of the Main HQ was Blerim Kuqi. The commander of the local
22 HQ in Budakovo village was Sadik Halitjaha."

23 And he says:

24 "I joined [the KLA] on 15 July 1998."

25 "After the murder of the local" -- I skipped a sentence.

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1 "After the murder of the local Commander of Military Police in
2 Budakova Xhemajli Rexha in the middle of August 1998 I took over that
3 duty."

4 Now, as far as this part of his account is concerned, do you
5 have any issue with it or can you confirm that, as far as you know,
6 that account is correct?

7 A. When you say it's based on the order of the commander of the
8 General Staff, it's a misinterpretation, mischaracterisation. Blerim
9 Kuqi was commander of the zone main staff. We had no connections to
10 the General Staff. In my opinion, Blerim Kuqi was the commander of
11 Brigade 123. He was a commander of the brigade. Because it reads
12 everywhere General Staff, General Staff, but it has nothing to do
13 with the General Staff.

14 JUDGE METTRAUX: I see.

15 Now, the next paragraph he is recorded as saying this:

16 "On 24 [August 1998] was a big battle in the region of the
17 village of Semetiste and some other villages also."

18 And you've testified to that already. He said:

19 "One week before approximately 15 - 17 August 1998 a military
20 police Mus Qerkini who lived in the Village of Savrovo in the morning
21 approximately 0900 - 1000 hours" --

22 A. Mus Qerkini.

23 JUDGE METTRAUX: Qerkini. I'm grateful, sir.

24 "... Mus Qerkini who lived in the Village of Savrovo in the
25 morning approx 0900 - 1000 hours detained Sylejman Kokollari. Mus

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1 Qerkini informed me that he detained Sylejman Kokollari."

2 And that again I think is consistent with your earlier account
3 that it was indeed Mus Qerkini who detained Mr. Kokollari.

4 A. Correct.

5 JUDGE METTRAUX: Then he says or he's recorded as saying:

6 "On my question why he said he had the order from Commander
7 Sadik Halitjaha, Musa Qerkini also informed that he had order from
8 Sadik Halitjaha to arrest Latife and Rrushe Kololli. Approx two
9 hours after that also he arrested those two ladies. Probably Mus
10 Qerkini informed Sadik Halitjaha about it."

11 So do you agree that again we have an account here from another
12 member of the military police of the battalion that the order to
13 arrest Latife and Rushe Kololli was, as you had told the SPO, an
14 order from Sadik Halitjaha? Do you agree with that?

15 A. I don't know about this. Now, if Muse Qerkini knows about this,
16 he can give a statement. I can't see, I don't -- I have no idea that
17 Muse Qerkini would have received an order to arrest or detain
18 someone, as I said earlier.

19 JUDGE METTRAUX: Because in your SPO interview, Part 3, page 4,
20 you are asked this:

21 "Mr. Abazi, in your 2002 statement that we were discussing
22 earlier, you said that you heard that Latife and Rushe Kololli were
23 arrested in August 1998 by Mus Qerkini possibly in Savrova following
24 an order from Sadik Halitjaha on suspicion they cooperated with the
25 Serbian police; is that correct?"

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1 And your answer is:

2 "It is exactly like I said it there."

3 So do you recall saying that not once but twice?

4 A. And I explained what I thought and how I assessed this. I said
5 it very clearly. They seemed to have the information that somebody
6 ordered them. I personally did not receive any order nor did I need
7 to receive any order to do something. I was not the type of person
8 who needed to be ordered to do his job.

9 Now, since they were military police members, they probably were
10 ordered to do something. I still don't know. I have no idea.

11 JUDGE METTRAUX: If we turn the page, please.

12 Mr. Musli Kololli goes on to say this. It's the top of the
13 page:

14 "According to Sadik Halitjaha's order above-mentioned three
15 persons were taken to main HQ. I do not know the exact location.
16 The names of the persons who escorted them are: Agim Zyba and Naim
17 Kadolli."

18 I don't think you have -- do you have an issue with that
19 statement, sir?

20 A. This is the information I have as well.

21 JUDGE METTRAUX: Then, in the next paragraph, he says:

22 "For the time when they stayed in Budakovo I know that Mus
23 Qerkini and Nuredin Abazi had a conversation with them. I know that
24 Nuredin Abazi is working in the Court in Suvareka as a Judge."

25 Now, do you recall that when you talked to the Kolollis that

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1 Muse Qerkini was also present? Can you confirm that or not?

2 A. Maybe he was. I don't recall it. It is possible he was,
3 though.

4 JUDGE METTRAUX: And if we go to the bottom of that page,
5 please. If we can scroll up the English. Thank you.

6 He's being asked:

7 "When were you deployed as a Military Police ... Commander in
8 Budakovo during the war, how many were arrested/detained during this
9 period?"

10 And he says:

11 "During period I was UCK Military Police Commander in Budakova
12 in the period 15-17, August 1998 to the end of September 1998 the
13 only persons arrested was Sylejman Kokollari, Latifa and Rrushe
14 Kololli. This arrest was on the orders of Sadik Halitjaha not mine.
15 I do not know why they were arrested. I did not make question about
16 Sadik Halitjaha's order."

17 So do you agree there that at least as far as Mr. Kololli's
18 understanding of what he was doing there is that he was arresting
19 Latife and Rushe Kololli and Sylejman Kokollari? They were not just
20 there for conversation. They were being arrested. Do you see that?

21 A. Was this about Muse Qerkini or Muse Kololli? Muse Qerkini?

22 JUDGE METTRAUX: That's an account from Muse Kololli, sir.

23 A. Muse Kololli. I see.

24 JUDGE METTRAUX: So you see that like Agim Zyba, Naim Kololli,
25 Muse Kololli, they all have the same understanding that the Kolollis,

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1 Latife and Rushe, were arrested and detained; yes?

2 A. They are in a position to comment their own statement, not -- I
3 have no right to do that.

4 JUDGE METTRAUX: Now let's turn to the next page in this
5 statement.

6 A. I wish to add one more thing. There were also two Serbs
7 mentioned earlier for identification purposes. They also were in
8 Budakove. Now they're not being mentioned anymore. There was an old
9 man with a minor child. He was also identified for entering the war
10 zone. So this identification of person applied to everybody,
11 everyone who would set foot in the war zone, the area where our
12 battalion operated. They were also brought to Budakove. We had a
13 conversation with them --

14 JUDGE METTRAUX: No, no, you're -- stop, sir. You've --

15 A. Actually, it was another person who had a conversation with
16 them, and when I joined in it was already over.

17 JUDGE METTRAUX: You're repeating yourself, sir.

18 If we can turn the page, please. That's a good page.

19 Now, Mr. Muse Kololli, he's being asked about a house. He's
20 asked:

21 "Who was the owner of the house where [the] missing persons were
22 held in August 1998?"

23 And he's talking about Latife and Rushe Kololli. And he says:

24 "The owner of the house was Palushi Bajram."

25 And he's asked:

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1 "Can you recognise from the pictures shown, Palushi Bajram's
2 house?"

3 And he says:

4 "Yes I recognise Palushi Bajram's house on one of the pictures."

5 Now, were you aware that there was a detention facility within
6 your area of responsibility, and I mean the 2nd Battalion of the
7 123rd Brigade, where people were being held and detained? Were you
8 aware of the existence of such a place?

9 A. No, I don't know of any detention facility or location having
10 been there. I don't know about this Bajram or Palush, but Muse might
11 know because he's from the same village. I don't know which house
12 he's referring to, but he most probably knows.

13 In general, the houses were destroyed, so I don't know what
14 house is he referring to exactly. I don't know any Bajram Palushi.

15 JUDGE METTRAUX: I just want to ask you about a last statement
16 briefly before the break, and it's SPOE00201346. And it's a
17 statement of Sadri Emerllahu with whom you told us you had a good
18 relationship.

19 And can you, while it's coming up, just tell us what his role
20 was in the summer of 1998, if you can recall?

21 A. Is this a question for me?

22 JUDGE METTRAUX: Yes, if you know -- or can you confirm maybe
23 that he was the -- can you say what --

24 A. Yes.

25 JUDGE METTRAUX: -- his role was in the summer 1998?

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1 A. Sadri Emerllahu was the chief of staff of the 1st Battalion in
2 Budakove.

3 JUDGE METTRAUX: It says the 1st Battalion. Did you mean the
4 2nd Battalion?

5 A. I know we called it the Budakove Battalion. Now, 1st or the
6 2nd -- maybe I'm wrong. This is the battalion we're referring to.
7 It may be there might be a misunderstanding. I don't know.

8 JUDGE METTRAUX: Then I'll go briefly through it. He is being
9 asked about, again, Latife and Rushe Kololli. He's being asked
10 whether there was military police during that time.

11 If we can scroll down a little bit.

12 And he confirmed that:

13 "Yes, military police existed during that time and mostly of
14 them were in black uniform but also some members of the unit were in
15 different uniforms because of financial matters."

16 He's being asked who the commander of the military police was,
17 and he says initially Xhemajl Rexhaj and then Musli Kololli replaced
18 him in August 1998.

19 And if we can turn the page, please. Then he's being asked:

20 "Was any judge who worked together with [military police] and
21 gave decisions according to the court?"

22 And his answer is:

23 "Yes, on that time was one jurist for juridical consul inside
24 Battalion II, his name was Nuredin Abazi from Mushtisht village."

25 So, again, like Mr. Naim, Agim Zyba, it was Mr. Emerllahu's

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1 understanding that you were working closely with the military police.

2 Is that a correct understanding of your role?

3 A. I've stated this. They knew I was a lawyer within the
4 battalion, but I think the word "judge" was mentioned as there was a
5 judge. There were no judges. I had not worked before the war as a
6 judge. I had never worked as a judge. I was not a judge. I only
7 worked as a judge after the war.

8 So they say there was a judge, a lawyer. It is true I'm from
9 the village of Mushtisht. And he's -- Sadri is from the village of
10 Mushtisht also. So we know each other.

11 JUDGE METTRAUX: Because in your statement of 2002, that's
12 P1135, page 1, you said:

13 "Because I had highest education among other soldiers, I start
14 to cooperate with military police. During that time, I used to be as
15 adviser of military police because I had knowledge for juridical
16 rules."

17 So that account, you will agree, is consistent with the account
18 of Mr. Emerllahu that you were cooperating with the military police.
19 Would that be fair?

20 A. I cooperated with everybody, not only with the military police,
21 because that was the nature of my task, my duty.

22 JUDGE METTRAUX: And Mr. Emerllahu, as a last question, he is
23 asked:

24 "Was and" --

25 It's poorly phrased in English.

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1 "Was and the prison located in the same building?" As the HQ.

2 And he said:

3 "No, the prison was in one house in the periphery of Budakova
4 village but I don't know the name of the owner."

5 So again my question is do you know which prison Mr. Emerllahu
6 is talking about here that is just outside the periphery of Budakove
7 or you have, again, no idea of such a place?

8 A. I have no idea. But since he seems to know, he can tell. I do
9 not know of any prison being there, and there was no prison there.
10 Now, I don't know how they perceived or interpreted these things.

11 [Trial Panel confers]

12 PRESIDING JUDGE SMITH: All right. Witness, it's time for a
13 lunch break. We will be adjourned until 2.30, and then you'll come
14 back to the courtroom and have some more questions. You may leave
15 the courtroom now with the Court Usher.

16 [The witness stands down]

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

18 --- Luncheon recess taken at 1.07 p.m.

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

20 PRESIDING JUDGE SMITH: Mr. Pace.

21 MR. PACE: Thank you, Your Honour. Just to note that we saw the
22 communication from the Panel about the written submissions, but I
23 just wanted to put on record that my understanding is that either
24 something has been filed or is in the process of being filed on the
25 topic from this morning. Just for your awareness, of course. You

1 proceed.

2 PRESIDING JUDGE SMITH: I have an oral order on the application
3 to redact portions of the proofing notes and the connected
4 discussions on Witness W03865.

5 The Panel is seized of an application by the Veseli Defence to
6 redact out of the proofing note of Witness W03865 a part of the
7 witness's account on which the SPO does not seek the rely for the
8 truth of its content.

9 Objections of a similar nature focusing on the parties'
10 obligations to not place before the Panel information known or
11 believed to be false was made by the Thaci Defence.

12 The proofing note was admitted as Exhibit P01137.

13 The Panel rules as follows in respect of these submissions.

14 As was expected of the SPO, the SPO gave a full and accurate
15 notice to the Defence and to the Panel of the account given by
16 Witness W03865 during the preparation session. All parties agree
17 that this account contained claims and allegations that are
18 inconsistent with earlier accounts given by the witness to UNMIK and
19 to the SPO.

20 The Panel is satisfied that the preparation note gave fair
21 notice to the Defence of the change of details in the witness's
22 account. The Panel is further satisfied that the inclusion of SPO
23 counsel's commitment regarding the observed discrepancies -- I'm
24 sorry. The Panel is further satisfied that the inclusion of the SPO
25 counsel's comment regarding the observed discrepancy gave some

1 indication to the Defence that the SPO did not propose the new
2 account for the truth of its content.

3 The Panel further observes that counsel for the SPO clearly put
4 these contradictions to the witness during his oral testimony,
5 thereby making it clear that it does not rely upon the new account
6 for the truth of its content and disputes that account.

7 The Panel is therefore satisfied that no prejudice arose from
8 the course taken in this case. However, where such discrepancies
9 arise in the future, the SPO should give careful consideration to the
10 need to elicit such contradictory evidence *viva voce* from the witness
11 rather than offer it in writing pursuant to Rule 154.

12 Based on the above, therefore, there is no need and no
13 justification to redact any part of the proofing note. Any
14 discrepancies that exist between the account contained in the
15 preparation note and earlier accounts of the witness that were put to
16 him will be considered by the Panel when evaluating the credibility
17 of this witness and the reliability of his evidence on the point.

18 This concludes the Panel's order.

19 Please bring the witness in.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: Witness, we will continue with the
22 questions from the Panel.

23 Judge Mettraux has the floor.

24 JUDGE METTRAUX: Thank you, Judge Smith.

25 And good afternoon, Witness. I want to ask you a few questions

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1 about another occasion that you testified about, and that's the case
2 of Mr. Fetah Rudi.

3 In your evidence, you recounted having what you characterised as
4 a conversation with Mr. Fetah Rudi about various allegations. Do you
5 remember these questions that were asked of you?

6 A. Yes.

7 JUDGE METTRAUX: Can you recall that Mr. Ilaz Kadolli was also
8 present during this, quote/unquote, conversation?

9 A. Yes, I think he was there too.

10 JUDGE METTRAUX: And you were asked what you recalled to be the
11 function of Mr. Kadolli at the time, so in the summer of 1998, and I
12 understood your evidence to be uncertain. In other words, you were
13 not sure what he was doing at the time, but you believed he had a
14 responsibility in morale of the battalion; is that correct?

15 A. Of the brigade.

16 JUDGE METTRAUX: Thank you, sir, for correcting me. In the
17 brigade.

18 Now I want to show you a document. It's ERN 083227 to 083248,
19 please.

20 So just to give you a bit of context about what that is, sir.
21 This is a -- it's called "Short background on the KLA 123 Brigade,"
22 and it's a report that was prepared by Sadri Emerllahu, your
23 colleague and KLA member, and it appears it was drawn up in 2006. Do
24 you understand?

25 A. This is the first time that I see it.

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1 JUDGE METTRAUX: I'll take you to the part I'm interested in.
2 It's the bottom of this page. It starts the last paragraph on this
3 page, and I'll read it to you so you have the full paragraph. It
4 says this:

5 "As a result and consequence of the much work on the ground and
6 the need of unifying the military factor the KLA's 123 Brigade was
7 formed. With the merger of these two units," that he was discussing,
8 that's the Lisi unit and Celiku, "on 15" - and if we can turn the
9 page, please - "June 1998 the KLA's 123 Brigade is formed in the area
10 of Suhareke with this command structure."

11 So according to Sadri Emerllahu, on 15 June 1998, the structure
12 of the brigade is as follows: Blerim Kuqi, appointed as commander of
13 the brigade; deputy commander, Habib Elshani; chief of staff, Agim
14 Kuqi; assistant commander for intelligence and counter-intelligence,
15 Ilaz Kadolli; assistant commander for logistics, Ruzhdi Gashi; and
16 assistant commander for military police, Isuf Krasniqi.

17 So according to the account of Mr. Emerllahu, in June 1998
18 Mr. Kadolli was not dealing with morale issues, but he was the
19 assistant commander for intelligence and counter-intelligence within
20 the brigade. Do you have any reason to dispute the account of
21 Mr. Emerllahu in respect of the position of Ilaz Kadolli?

22 A. No, I can't dispute it. Probably he knows better than me. I
23 only heard of it. I didn't know what role he had. It is said that
24 he had this role and maybe he did. I don't oppose it.

25 JUDGE METTRAUX: Thank you. And we can take the document down.

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1 Can we please go into a private session for a moment.

2 [Private session]

3 [Private session text removed]

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1 [Private session text removed]

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14 [Open session]

15 THE COURT OFFICER: Your Honours, we are back in public session.
16 Thank you.

17 JUDGE METTRAUX: Now, my question, sir, is really to give you an
18 opportunity to state whether you accept the account that I've
19 summarised here or whether you dispute any of it. And if you dispute
20 any of it, what parts of it do you dispute?

21 A. I dispute all of it as ungrounded. It is not true that I was a
22 judge or that Ilaz Kadolli was a prosecutor. It is not at all true
23 that Fetah Rudi was beaten. I saw him for the first time that day,
24 whereas Ilaz Kadolli knew him from before.

25 After our conversation about what he alleged that he was

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1 labelled as LDK member and leader of the LDK, that is true. He was
2 in that position. But he was not a collaborationist. The problem
3 was related to the distribution of aid provided by Mother Teresa,
4 with the suspicion being that they were not distributed fairly.

5 It is not true that Fetah Rudi was sentenced or was detained for
6 a single minute. I don't know who has made such slanders.

7 JUDGE METTRAUX: Now, in his book, Ilaz Kadolli says that the
8 decision to continue with the detention of Mr. Rudi was not his own.
9 In other words, it was not Mr. Kadolli's decision.

10 Now, I want to ask you do you know whose decision it was to
11 detain and continue to detain Mr. Rudi?

12 A. I have no information that he was detained or that he was
13 mistreated or kept detained for a single minute. If Ilaz Kadolli
14 knows something, what he says in his book, I saw the book only one
15 week ago. Otherwise, I have nothing to do with the book. What he
16 wanted to say, you might ask him. He is alive.

17 JUDGE METTRAUX: Thank you.

18 A. Can I add something?

19 JUDGE METTRAUX: Yes.

20 A. Fetah Rudi, after the war, wrote an article in *Bota Sot* and
21 where he thanked us for the treatment of him during this conversation
22 we had together. Probably you can find that article in the newspaper
23 where he has acknowledged that he was not mistreated and that they
24 only -- that we only had a conversation. He declares this publicly.
25 I saw this article after the war. And I have never seen Fetah Rudi

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1 after the war. Only on TV. After that, only time.

2 JUDGE METTRAUX: So in your account, Mr. Rudi would have no
3 reason to blame you for anything that happened to him; is that right?

4 A. He has never blamed me. If he had something against me, he
5 would have mentioned it in his article.

6 JUDGE METTRAUX: Thank you, Witness.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 JUDGE GAYNOR: Good afternoon, Witness. I'm correct in
9 understanding, am I, that you graduated in law in 1982?

10 A. Yes, from 1980 to 1982 were my studies.

11 JUDGE GAYNOR: And you served as a judge for over 20 years,
12 starting around 2001; is that right?

13 A. Yes, that is right.

14 JUDGE GAYNOR: Did you handle as a judge both criminal and
15 non-criminal cases?

16 A. Mostly criminal, less -- sorry, mostly civil and less criminal
17 cases.

18 JUDGE GAYNOR: But you are, nevertheless, familiar with the due
19 process guarantees set out, for example, in the Constitution of
20 Kosovo, the Criminal Procedure Code, or the Criminal Code of Kosovo?

21 A. Yes, of course.

22 JUDGE GAYNOR: Now, you said earlier, and you were referring to
23 the wartime period:

24 "We didn't have domestic laws then, so we had to rely on
25 international conventions, war conventions, and so on."

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1 And you referred to a number of rights that are guaranteed under
2 international and domestic law, including "the right to a proper
3 conduct, to equal treatment." Do you remember saying that a bit
4 earlier?

5 A. Yes, Article 6 of the European Convention on Human Rights.

6 JUDGE GAYNOR: Indeed. And in that article, and in the
7 Constitution of Kosovo, for example, you'll be familiar with
8 fundamental concepts of due process like the concept of notification
9 of charges, the right of access to a lawyer, the right to challenge
10 the legality of detention. You're familiar with all those concepts?

11 A. Yes.

12 JUDGE GAYNOR: And is it your position that the KLA ensured
13 compliance with those due process guarantees through international
14 law rather than through domestic law during the conflict?

15 A. The KLA tried to ensure compliance with these rights, but what
16 you are referring to, these rights are not complied with even today.
17 Then it was a wartime. There was no proper court as such for someone
18 to have a lawyer, to have proper parties, you know, involved. It was
19 a time of war. We could not deal with persons who might have
20 committed grave criminal offences.

21 JUDGE GAYNOR: I'd like to explore that a little bit.

22 You talked, for example, about the two women, and I won't return
23 to that issue in great detail. But you said that they were
24 "suspected of collaborating with the Serb police. They were seen
25 going in and out of the police station and so on." And then when you

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1 were asked to explain why that would be suspicious, you said:

2 "Because it was wartime, and we were fighting against Serbian
3 police and army. So any collaboration with them would be immoral,
4 irregular."

5 Do you remember saying that?

6 A. Yes.

7 JUDGE GAYNOR: So collaboration with the Serb enemy was a very
8 serious matter, was it not?

9 A. Yes, certainly.

10 JUDGE GAYNOR: And what specifically was the legal framework you
11 were using for dealing with any credible allegations of collaboration
12 with the enemy?

13 A. I already said we didn't have written laws. We acted on the
14 basis of instructions, conventions, on the basis of what we could
15 refer to, also on the customary law, in order to ensure peace and
16 calm. I don't know how to put it otherwise.

17 JUDGE GAYNOR: And using that background, how specifically did
18 you go about drafting formal charges in relation to allegations of
19 collaboration?

20 A. What charges, Your Honour, are you referring to? We did not
21 draft charges. We only had conversations with persons we deemed to
22 be suspicious. We didn't have any trials. We didn't draft charges.
23 We only dealt with what we thought a person to be. If the person was
24 deemed innocent by us, we let the person go. We didn't have any
25 other power or competence. We were not in peacetime to deal with

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1 these issues. We acted on an *ad hoc* basis, so to say.

2 JUDGE GAYNOR: And if you had credible information suggesting
3 that a person was a collaborator, was there a framework in place to
4 permit detention of that person?

5 A. No, we didn't. We didn't.

6 JUDGE GAYNOR: And was there any legal framework in place to
7 enable a detainee to challenge detention by the KLA?

8 A. I didn't have any such cases. I don't know of any.

9 JUDGE GAYNOR: Was there a framework in place for assigning
10 defence lawyers to suspects who were held in detention?

11 A. No, because there wasn't a court. If there is no court, there
12 are no other entities related to it. If we had a court, then
13 everyone should play their roles - the defence lawyer, the
14 prosecutor, or the other staff. But we didn't have one.

15 JUDGE GAYNOR: So if there was no court, am I right in
16 understanding there was no process of appeal, it follows?

17 A. No, of course not.

18 JUDGE GAYNOR: So could you explain to me in simple terms: What
19 exactly was the structure in place for securing the due process
20 guarantees which are required by international law?

21 A. I am repeating it: We didn't deal with serious cases. We dealt
22 only with disciplinary cases. We didn't happen to deal with other
23 cases.

24 JUDGE GAYNOR: During your period as a judge in Kosovo, did you
25 become aware of convictions in Kosovo relating to crimes in detention

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1 committed by members of the KLA?

2 A. By our courts?

3 JUDGE GAYNOR: By the courts of Kosovo, yes.

4 A. Yes.

5 JUDGE GAYNOR: And do you accept that there may have been crimes
6 committed in detention by members of the KLA during the conflict,
7 including very serious crimes?

8 A. I don't know of any cases, but I can't rule out the possibility
9 that some individual may have done that. You can't identify KLA with
10 certain individuals. Individuals are part of an organisation, of an
11 entity. Individuals form part of that entity. I can't rule out that
12 some individuals may have committed such things, but they were not,
13 like, prevalent, or serious, impermissible. I don't know of any.

14 JUDGE GAYNOR: But it remains your position that the KLA -- or
15 let me put it clearly to you: Are you aware of any structure which
16 the KLA put in place for securing the due process guarantees which
17 are required by international law?

18 A. No, there wasn't any structures.

19 JUDGE GAYNOR: Thank you, Mr. Witness.

20 PRESIDING JUDGE SMITH: Judge Barthe, anything?

21 JUDGE BARTHE: Thank you, Judge Smith.

22 Good afternoon, Witness.

23 A. Good afternoon.

24 JUDGE BARTHE: I have only a few more questions for you.

25 You told us several times during your testimony that the chain

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1 of command ended at the brigade or the zone level, and that at least
2 in 1998, you said earlier this morning, the KLA had no vertical or
3 hierarchical structure. And I'm specifically referring to pages 14
4 to 15 and 44 of today's provisional transcript.

5 First of all, Witness, do you remember saying this?

6 A. Yes.

7 JUDGE BARTHE: I will ask you the following: Was there an
8 institution above the brigade and zone level that was called the KLA
9 General Staff in 1998 and/or 1999?

10 A. I don't know there was. But even if there was, it was --

11 THE INTERPRETER: Sorry, could the witness be asked to repeat
12 the end of the sentence?

13 JUDGE BARTHE: Witness, could you repeat the end of your
14 sentence? It was not properly translated -- or not translated at
15 all.

16 A. I don't know that there was any such structures. But even if
17 there was, they were only on paper, informal, without any possibility
18 to ensure communication or implementing anything on the ground.

19 JUDGE BARTHE: Just to be clear on that point. You don't know,
20 is that your evidence, that or whether there was an institution, a
21 structure called the KLA General Staff above the brigade and zone
22 level?

23 A. I am saying that perhaps there was one, but it did not have a
24 direct impact on the ground. I can only speak for the zone. I
25 cannot know for the rest. However, even if there was one, there are

1 transcripts and organigrammes or sketches representing the whole
2 structure up to the General Staff. However, in my opinion this was
3 not effectively functioning.

4 JUDGE BARTHE: Thank you. Do you know what role or function the
5 four accused had during the war? These four accused.

6 A. We know something -- to some extent, but you know better.

7 JUDGE BARTHE: I'm asking you. Were they members of the
8 so-called KLA General Staff, the four accused? Are you aware of
9 that?

10 A. At least this is what we have heard, but there's nothing true in
11 it.

12 JUDGE BARTHE: Do you know what Mr. Thaci did during the war,
13 what his function was, if he had any? Within the KLA, of course.

14 A. I think I answered to this question yesterday. Do I need to
15 repeat my answer? He was the political figure, face, of the KLA.

16 JUDGE BARTHE: Nothing else? Just the political face of the
17 KLA, or figure?

18 A. I don't know of any other roles he could have had.

19 JUDGE BARTHE: Thank you. What about Mr. Veseli? Did he have a
20 role in the KLA during the war in 1998, 1999; and if so, what role?

21 A. I know that I've seen him on television in his capacity as a
22 spokesperson, KLA spokesperson.

23 JUDGE BARTHE: I was referring to Mr. Veseli. Is it your
24 evidence that Mr. Veseli was the spokesperson of the KLA during the
25 war?

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1 A. Yes. I think I answered clearly -- sorry, I apologise. I
2 apologise. I didn't even know Veseli. I didn't even hear of him. I
3 had in my mind Jakup. Sorry. I apologise.

4 JUDGE BARTHE: No problem. What about Mr. Selimi? Did he have
5 a role, if any, during the war in 1998, 1999, to your knowledge?

6 A. I never heard of Mr. Selimi. Never heard of any position he
7 had.

8 JUDGE BARTHE: And you already said that Mr. Krasniqi,
9 Jakup Krasniqi, who is on Zoom right now, is or was the spokesperson
10 of the KLA during the time period I mentioned, 1998, 1999; is that
11 right?

12 A. That's right. And he was on television.

13 JUDGE BARTHE: Thank you, Witness. I have no further questions.

14 PRESIDING JUDGE SMITH: Any questions from the Prosecution as
15 follow-up to the Judges' questions?

16 MR. PACE: I just need one moment to confer, Your Honour.

17 [Specialist Prosecutors confer]

18 MR. PACE: No, thank you, Your Honour.

19 PRESIDING JUDGE SMITH: All right.

20 MR. MISETIC: No questions.

21 PRESIDING JUDGE SMITH: All right. Anything from the Veseli
22 Defence?

23 MR. EMMERSON: No questions.

24 PRESIDING JUDGE SMITH: Mr. Roberts.

25 MR. ROBERTS: I have nothing, Your Honour. Thank you.

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Further Cross-examination by Ms. Alagendra

1 PRESIDING JUDGE SMITH: Ms. Alagendra?

2 MS. ALAGENDRA: Yes, Your Honour. I have a few questions.

3 PRESIDING JUDGE SMITH: Go ahead.

4 Further Cross-examination by Ms. Alagendra:

5 Q. Now, Witness, I would like to refer you to the statements of
6 Naim Kadolli and Agim Zyba that were put to you by Judge Mettraux
7 earlier.

8 MS. ALAGENDRA: If I could have SITF0032795 on the screen,
9 please.

10 THE COURT OFFICER: Would it be possible for the ERN number to
11 be read again? Thank you so much.

12 MS. ALAGENDRA: I have it as SITF00032795.

13 JUDGE METTRAUX: I think it's 92, if you are looking for the
14 Agim --

15 MS. ALAGENDRA: Yes.

16 JUDGE METTRAUX: -- Zyba.

17 MS. ALAGENDRA: It's 92. It starts on 92. Thank you. And the
18 specific page that I'm looking at would be the page that
19 Judge Mettraux had put to the witness and that would end with 32795,
20 please. Yes.

21 Q. And if I could read to you what Mr. Zyba has said. Now, the
22 question is:

23 "Who gave you the order to transport Latife, Rrushe Kolollis and
24 Sylejman Kokollari from the village of Budakova?

25 "Naim Kadolli and me were given the order by commander

1 Sadik Halitjaha, to send the three of them in Brigade, because there
2 was no reason to keep them in Budakova. On the way we met a KLA MP,
3 whose name is Naim Hair Berisha in the village of Semetishte. There
4 we handed over them to him. We immediately went back in Budakova,
5 and since that moment I don't know anything about them."

6 Now, further down, the witness is asked -- or Mr. Zyba is asked:

7 "Who was along with Naim, and what direction did they take?"

8 And he says:

9 "When we were stopped by Naim he was by himself, but I am sure
10 there were other soldiers around. After we told him the situation
11 about the prisoners, he said to me to put the prisoners in his
12 vehicle Mercedes, white or red in colour, I don't know. Immediately
13 after this we went back to Budakova and I don't know anything about
14 them."

15 Further down on the page, the question is:

16 "Have you received a written order from the commander of
17 battalion, to transport them in brigade?"

18 And he says:

19 "Yes, there was a document issued by Commander Sadik Halitjaha,
20 to transport the prisoners to the brigade. After we had handed over
21 the prisoners [to] Naim ... Berisha signed the document that he took
22 the prisoners. After we went back to Budakova we gave the same
23 document back to the commander. Unfortunately all the documents were
24 burned during the war."

25 Now, you'll agree with me from what we see on that statement

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1 that, according to Agim Zyba, once Latife and Rushe Kololli were
2 handed over to Naim Berisha, he did not know what happened to them.
3 He went back to Budakove; correct?

4 A. Why are you asking me about other people's statements? These
5 people are alive. You could ask them. You're asking me to comment
6 on other people's statements. Please. What's the point? Now you're
7 asking me to comment on Naim Kadolli's statement, what he did, where
8 did he go.

9 Q. I'm just --

10 A. Please.

11 Q. I'm just trying to clarify --

12 A. This is --

13 PRESIDING JUDGE SMITH: Witness --

14 MS. ALAGENDRA:

15 Q. -- some questions after the Judges' questions.

16 PRESIDING JUDGE SMITH: Witness, please just answer the
17 questions. Just answer the question.

18 THE WITNESS: [Interpretation] We discussed this matter in detail
19 earlier on, the same question, and you're asking the same question
20 again.

21 MS. ALAGENDRA:

22 Q. No. My point is this --

23 PRESIDING JUDGE SMITH: Witness --

24 THE WITNESS: [Interpretation] It's not for me to comment on
25 other people's statements.

1 PRESIDING JUDGE SMITH: Just answer the question so we can
2 finish your testimony.

3 MS. ALAGENDRA:

4 Q. Now, according to the statement of Agim Zyba that we just saw,
5 once Latife and Rushe Kololli were handed over to Naim Berisha, he
6 did not know what happened to them. He went back to Budakove.

7 Correct? Just on the face of the statement, a statement that was
8 just put to you by the Judge.

9 A. That's what he says.

10 Q. Correct.

11 A. What would you want me to say, one way or the other? I don't
12 know. This is his statement.

13 Q. If you will bear with me, Witness. And Agim Zyba in that
14 statement does not state that he had informed you of what had
15 happened in Semetishte; am I correct?

16 A. Correct. Obviously, he did not inform me.

17 Q. Now, so it's correct, isn't it, that when Agim Zyba returned to
18 Budakove, you were not informed of this incident in Semetishte where
19 they were stopped by Naim Berisha; correct?

20 A. I don't know. I don't know. I said this earlier. I don't
21 know.

22 Q. Yes. My question is, he did not inform you that Naim Berisha
23 had stopped them in Semetishte and taken the two ladies; correct?

24 A. No, he didn't and he didn't need to inform me, because I did not
25 order him to take them there, the ladies.

1 Q. Exactly.

2 MS. ALAGENDRA: Now, if I could now go to the statement of Naim
3 Kadolli at SITF, and this would be the page reference, 00032782.

4 Q. This was also a page that was referred to you by Judge Mettraux
5 earlier.

6 MS. ALAGENDRA: Yes. And if we could go to page 32782, please.
7 At the bottom. I believe it's the next page. My apologies. Yes.

8 Q. And it's the same part that was put to you by Judge Mettraux.
9 The question is:

10 "How many people you escorted to the HQ of the brigade in Nishor
11 and who was except you?"

12 And he says:

13 "For first I want to clarify to you one thing that we didn't
14 sent them to the H.Q. in Nishor but we left them in Semetishte
15 village. On that village we sent three persons, among two ladies and
16 Sylejman Kokollari. Together with me was Agim Zyba. On village
17 Semetishte we were stopped by a group of soldiers where I recognised
18 Naim Berisha. We asked him about the H.Q. of the Brigade and told
19 him that we have three prisoners to send there. He answered to us
20 that we have no rights to know where is the H.Q. of the brigade.
21 Then he took the prisoners on his own responsibility to send them to
22 the H.Q. He signed the document that he accepted the prisoners on
23 his own responsibility."

24 That's what it says here, right? Now, according to Naim Kadolli
25 he also confirms that they were handed over to Naim Berisha; correct?

1 A. I don't know. I personally don't know. Naim appears to know.

2 He can answer. I don't know.

3 Q. Right. And what we see in this statement, he does not state
4 that he'd informed you of the incident in Semetishte either; correct?

5 A. Correct.

6 Q. Now, if I can take you to your statement to the SPO.

7 MS. ALAGENDRA: And that is 078562-TR-ET Part 3, page 18, line
8 23 to 25; and page 19, line 1 to 6. That's P1136, Part 3.

9 Q. Now, according to your statement --

10 MS. ALAGENDRA: Do they have it? No. The English is at page
11 18, line 23 to 25, and the next page. So we'll go to page 18 first.

12 Q. Now, in your statement you are asked:

13 "Were you present when Sadik gave that order to Agim and Naim?"

14 And you said:

15 "No."

16 You were then asked:

17 "How did you know that there was such an order?"

18 "Yes, I heard because when the police, after they had
19 transferred them there or taken them there, when they returned ...
20 back" - it goes on to the next page - "they mentioned that they had
21 taken them there.

22 "Where did they mention they had taken them exactly?"

23 "I don't know. You can ask them. I don't know. They said that
24 we sent them to the brigade."

25 Right? Now, that's your statement, Witness.

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1 A. Yes.

2 Q. Now, if Naim and Agim had told you that they had sent them to
3 the brigade, now that we have seen their two statements, that's not
4 correct, is it? They didn't inform you that they were stopped by
5 Naim Berisha and that they handed them, the two ladies, to Naim
6 Berisha. It appears from your statement that they told you that they
7 had sent them back to the brigade; correct?

8 MR. PACE: Objection, Your Honour. That's a very confusing
9 question. I don't know what the witness is going to answer and I
10 doubt the witness does.

11 PRESIDING JUDGE SMITH: Please break that down into parts.

12 MS. ALAGENDRA: Right.

13 Q. Now, according to your statement, Witness, you say that you were
14 told by Agim and Naim that the ladies were sent to the brigade;
15 correct? That's what your statement shows.

16 A. And that's how it is. This is what they said. It's not that I
17 said that.

18 Q. Correct. But when we look at their own statements, they say
19 they were stopped in Semetishte and they handed over the two ladies
20 to Naim Berisha. They didn't tell you that. So what they've told
21 you, that they sent them to the brigade, that's not correct, isn't
22 it?

23 A. I don't know if that's correct or not.

24 Q. Based on their own statements --

25 A. I can't get in --

1 Q. -- that you have been shown by Judge Mettraux earlier, based on
2 their own statements, the statement of Agim Zyba and the statement of
3 Naim Kadolli that was put to you earlier, they say they were stopped
4 by Naim Berisha and they handed over the ladies to them, to Naim
5 Berisha; correct? What they told you is something different. What
6 they say in their statement is something different; correct?

7 A. I don't know. I have no idea who did they hand the ladies over
8 to.

9 Q. Correct.

10 A. They have made their own statements about what they did.

11 Q. Yes. But when you said that they told you that they sent them
12 to the brigade, if that's what they've told you, they were not
13 telling you the truth. Am I correct, Witness?

14 MR. PACE: Objection, Your Honour. We have been over this
15 multiple times. The witness has made it clear what he was told, and
16 the other information is not something that the witness can weigh in
17 on further.

18 PRESIDING JUDGE SMITH: Sustained.

19 MS. ALAGENDRA:

20 Q. Now, you've said in your statement that you were not present
21 when Sadik gave an order to Agim and Naim to take these two women to
22 the brigade; correct?

23 A. I don't know how many times do I need to repeat this. I have
24 repeated this ten times. Now either you're not following the
25 proceedings or something's wrong. I have said on multiple occasions

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1 no, no, and no, and now you're asking me the question again and
2 again, which is pointless.

3 Q. Witness, can I confirm that you have not seen any written order
4 to transfer the two women to the brigade?

5 A. I did not see, no.

6 Q. And even if there was such an order to transfer them to the
7 brigade, Agim Zyba and Naim Kadolli didn't do that, did they? They
8 stopped in Semetishte and handed them over to Naim Berisha.

9 MR. PACE: Objection, Your Honour. Now we're getting into
10 hypotheticals with a question that does not follow from the first
11 premise. I really don't understand what we're getting at here or how
12 it relates specifically to questions coming from the Judges or my
13 very limited redirect.

14 MS. ALAGENDRA: Your Honours, this is not hypothetical. The
15 witnesses have said in their own statements that they were stopped in
16 Semetishte and the two women were handed over to Naim Berisha.

17 PRESIDING JUDGE SMITH: Objection is overruled.

18 Go ahead.

19 MS. ALAGENDRA:

20 Q. So even if there was an order to transfer them to the brigade,
21 Agim Zyba and Naim Kadolli did not transfer them to the brigade.
22 They instead handed over the two women to Naim Berisha at Semetishte;
23 correct?

24 A. This is what they have stated. I cannot know if that's
25 accurate. This is their statement. How can I possibly say that

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1 that's not accurate if that's their statement.

2 MS. ALAGENDRA: And if I could refer to SITF00032949 to 32968,
3 please.

4 If we can go to the last paragraph on that page 963, please.
5 Ending 963. So it's 32963.

6 Q. If I can read to you:

7 "In annex of this report we are delivering to you:

8 "The report of ballistic expertise of pistol type 'CZ' M- 83/94,
9 cal 357 Magnum, factory number 62567, founded at deceased Maim Berisa
10 and projectile which was extracted from the head of Koljolti
11 Ljatife."

12 That's what this report says. This was the investigations into
13 the death of Latife Kololli, Witness, for your information.

14 Now, it appears from this that the weapon that killed Latife
15 belonged to Naim Berisha, according to this report. Would you agree?

16 A. What is the question you're asking me?

17 Q. Well, I'm showing you a report from the Republic of Serbia into
18 the investigations that were done into the death of Latife Kololli.

19 A. Who says that?

20 Q. The document says that. I've just read you that last bit.

21 A. Who prepared this report?

22 Q. It's from the Republic of Serbia.

23 A. The Republic of Serbia can prepare and produce as many reports
24 as you want. They have also prepared the report about the Panda
25 incident and then put the blame on us. They committed the crime in

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1 the Panda case, imprisoned people for hundreds of years, and then at
2 the end, the very president of Serbia admitted to having done this
3 themselves.

4 Serbia has never -- has never had and still has not any good
5 intentions towards us. They're still considering waging war again in
6 Kosovo. You're still dealing with Serbian-produced reports. You're
7 presenting and showing to me a ballistics report from Serbia. How
8 many reports -- similar reports have been produced? They have
9 produced reports saying that all the persons who were killed were KLA
10 members, and whereas, in fact, we are talking about people who were
11 70 years old or children as young as 5 years old.

12 PRESIDING JUDGE SMITH: Thank you, Witness.

13 Go ahead.

14 MS. ALAGENDRA:

15 Q. Witness, my question is simply this: Based on this report, it
16 appears that the weapon that killed Latife Kololli was from Naim
17 Berisha, taking it at its face value, the document that we see.
18 Would you agree?

19 A. No.

20 Q. Right. Now if --

21 A. Because I don't trust this.

22 Q. Right. Now, Witness, in P1135 --

23 MS. ALAGENDRA: If I could have P1135. And the page reference
24 would be SITF0032810. The page reference would be 32810.

25 Q. In the middle of the page. This is your statement in 2002,

Witness: Nuredin Abazi (Resumed) (Open Session)

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Further Cross-examination by Ms. Alagendra

1 Witness, and you're asked a question:

2 "Do you know Naim Hair Berisha or may be you are in family with
3 him?"

4 And your answer is this:

5 "I don't know him and I didn't know him before and he is not a
6 relative of my family. I heard that he was an arrogant soldier, he
7 didn't respect orders. He was inside of Brigade. As far as I know
8 he was killed during the war."

9 Now, I'd just like to confirm, Witness, is that the Naim Berisha
10 that you knew to be the arrogant -- or you had heard to be the
11 arrogant soldier who did not respect orders?

12 A. If we are talking about the same person.

13 Q. Yes, he had a reputation of not respecting orders, of being an
14 arrogant man; am I correct?

15 A. Yes. At least that was the opinion about him.

16 PRESIDING JUDGE SMITH: Ms. Alagendra, we --

17 MS. ALAGENDRA: Thank you.

18 PRESIDING JUDGE SMITH: -- need to --

19 MS. ALAGENDRA: Thank you, Your Honour.

20 PRESIDING JUDGE SMITH: -- take a break.

21 MS. ALAGENDRA: I'm done with my questions.

22 PRESIDING JUDGE SMITH: Oh, all right.

23 MS. ALAGENDRA: Thank you.

24 PRESIDING JUDGE SMITH: Didn't mean to hurry you.

25 Witness, your testimony is finished. You may leave the room

1 with the usher. Thank you for being with us.

2 THE WITNESS: [Interpretation] Thank you.

3 May I greet them. May God help you.

4 [The witness withdrew]

5 MR. PACE: Your Honour, I just want to put it on the record that
6 as the witness left and he said, "May I greet them," at least from
7 the SPO Bench, it seems that he was referring to the accused persons.

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

9 Are you ready to proceed with the next witness?

10 MR. PACE: Yes, Your Honour. We require a very short changeover
11 for the next team to come in.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 THE INTERPRETER: Microphone, please.

14 PRESIDING JUDGE SMITH: We'll take a short break for ten minutes
15 and then we'll come back and do what we can with the next witness.

16 So we are still in public session, and we are adjourned for ten
17 minutes.

18 --- Break taken at 3.32 p.m.

19 --- On resuming at 3.46 p.m.

20 PRESIDING JUDGE SMITH: Before we start with the next witness,
21 I'd like to settle the issue of the correction of the translation of
22 W03865's statement, which is P01136.3-ET at page 20, lines 21 to 23.

23 I note that the witness provided a translation at page 15, lines
24 9 to 11 of today's transcript.

25 Is this translation agreeable to the SPO and the Thaci Defence?

1 MR. MISETIC: Mr. President, if you're referring to what the
2 witness said in court, that's agreeable to us.

3 PRESIDING JUDGE SMITH: Yes.

4 MS. INSINGA: That's agreeable to the SPO, Your Honour.

5 PRESIDING JUDGE SMITH: All right.

6 I recall that currently the admitted versions of W03865's
7 statements as P01136.1 to P01136.4 do not contain the corrections. I
8 asked the SPO to tender the corrected versions for admission.
9 Perhaps tomorrow we can do that.

10 MS. INSINGA: Yes, Your Honour. We will.

11 PRESIDING JUDGE SMITH: And, Mr. Misetiç, you wanted the floor?

12 MR. MISETIC: Yes, Your Honour. At the conclusion of the last
13 witness's evidence, Mr. Pace put on the record that the translation
14 of what he said was, "May I greet them," and I've been told by the
15 Albanian speakers on my side of the room that what he said was, "I
16 greet you all," before he departed. Thank you.

17 And just to correct the transcript again, not before I departed,
18 before he departed.

19 PRESIDING JUDGE SMITH: All right. Anything further?

20 You can bring the witness in.

21 [Trial Panel and Court Officer confers]

22 PRESIDING JUDGE SMITH: We'll go into closed session as
23 requested.

24 [Closed session]

25 [Closed session text removed]

Witness: W04371 (Closed Session)

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Procedural Matters

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Witness: W04371 (Closed Session)

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Procedural Matters

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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Witness: W04371 (Closed Session)

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Examination by Ms. Insinga

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5 [Open session]

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

7 Thank you.

8 PRESIDING JUDGE SMITH: All right. We're in public session now.

9 Go ahead.

10 MS. O'REILLY: Your Honour, yesterday you had asked the
11 Prosecution to provide clarity on the witnesses for this week and
12 next. I don't believe we had an update from the Prosecution on that,
13 and I was just wondering if we could get an update.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. O'REILLY: Can you hear me?

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MS. O'REILLY: Okay. Yesterday on the transcript, you had
18 indicated to the Prosecution to give us an update today on the
19 witness list for this week and next.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MS. INSINGA: Yes, Your Honour. An e-mail was sent *inter partes*
22 at around 5.56 p.m. yesterday with that information.

23 MS. O'REILLY: Okay. Thank you very much.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 --- Whereupon the hearing adjourned at 4.33 p.m.