

1 Wednesday, 30 October 2024

2 [Open session]

3 [The accused appeared via videolink]

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

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 I note that all the accused are attending today's hearing via  
12 videolink.

13 Today we will continue hearing the evidence of Prosecution  
14 Witness W04809, who is testifying via videolink.

15 Madam Court Officer, please connect us with the witness and  
16 representative through videolink.

17 [The witness takes the stand via videolink]

18 PRESIDING JUDGE SMITH: Good morning, Witness. You may be  
19 seated.

20 THE WITNESS: [via videolink] [Interpretation] Good morning.  
21 Thank you.

22 PRESIDING JUDGE SMITH: Witness, today we are going to continue  
23 with the cross-examination, and the last cross-examination will be  
24 from the Thaci Defence.

25 Witness, I remind you to please try to answer the questions

1 clearly with short sentences. If you don't understand a question,  
2 feel free to ask counsel to repeat the question or tell them you  
3 don't understand and they will clarify. Also, please remember to try  
4 to indicate the basis of your knowledge of facts and circumstances  
5 upon which you will be questioned.

6 I remind you that you are still under an obligation to tell the  
7 truth as stated by you in your solemn declaration. Please also  
8 remember to speak into the microphone and wait five seconds before  
9 answering a question, and then speak at a slow pace for the  
10 interpreters to catch up.

11 If you feel the need to take a break, please let us know and we  
12 will make an accommodation for you.

13 Court Officer, please bring us into private session to protect  
14 the identity of the witness and others.

15 [Private session]

16 [Private session text removed]

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Witness: W04809 (Resumed) (Private Session)

Page 21483

Cross-examination by Ms. Tavakoli

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Witness: W04809 (Resumed) (Private Session)

Page 21484

Cross-examination by Ms. Tavakoli

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Witness: W04809 (Resumed) (Private Session)

Page 21485

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21486

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21487

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21488

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21489

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21490

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21491

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21492

Questioned by the Trial Panel

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Witness: W04809 (Resumed) (Private Session)

Page 21493

Further Cross-examination by Mr. Ellis

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Witness: W04809 (Resumed) (Private Session)

Page 21494

Further Cross-examination by Mr. Ellis

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1 [Open session]

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

3 Thank you.

4 PRESIDING JUDGE SMITH: Thank you.

5 Just a quick question for the SPO. We indicated yesterday that  
6 we would like to finish with the witness who had not completed his  
7 time, 4758. I'm sorry, I don't have the file with me. Is that going  
8 to be possible to get that yet this week?

9 MR. HALLING: Your Honour, I can answer that. It should be. So  
10 after this next witness, 4295 would then testify, which is a  
11 relatively shorter witness, and then W04758 would finish tomorrow.

12 PRESIDING JUDGE SMITH: Thank you very much.

13 We now have a one-hour delay, as we've said before, to get the  
14 next witness into the courtroom. So we will just reconvene at 10.30.

15 Yes, Mr. Ellis has a question?

16 MR. ELLIS: Your Honour, yes. Can I take the chance to raise  
17 one procedural matter whilst we're in the break?

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. ELLIS: It's simply this. In filing 2676, which is the bar  
20 table motion for the admission of the documents we've been  
21 discussing, the Prosecution indicated in paragraph 2 that it intends  
22 to supplement its submissions later on after the evidence of these  
23 three witnesses.

24 And in the same paragraph, the Prosecution said it did not  
25 object to extending the deadline for responses so that it runs from



1 the date that the Prosecution files its supplement. That seemed to  
2 me to be a sensible suggestion because I would rather file one  
3 consolidated response rather than two separate ones, but, of course,  
4 it's with Your Honours to grant an extension.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 I'm sorry. I pushed the wrong button.

7 The Panel is not going to resist that type of a motion. It  
8 seems to be logical.

9 MR. ELLIS: I'm grateful. May we take it, then, that the  
10 deadline runs from the date of the supplemental submissions?

11 PRESIDING JUDGE SMITH: Yes, the deadline will begin from the  
12 date of the supplement.

13 MR. ELLIS: Thank you.

14 PRESIDING JUDGE SMITH: Anything further?

15 MR. CAPIN: No, Your Honour.

16 PRESIDING JUDGE SMITH: Okay. We'll see you here at 10.30,  
17 then.

18 --- Break taken at 9.38 a.m.

19 --- On resuming at 10.30 a.m.

20 PRESIDING JUDGE SMITH: All right. We're ready to begin hearing  
21 the evidence of Prosecution Witness W04798, who will testify via  
22 videolink.

23 In terms of planning for today, we will proceed now until 11.45,  
24 take a 15-minute break till 12.00, and then go from 12.00 until 1.00  
25 for the lunch break.

1 As a reminder to all, the Panel authorised, and I am referring  
2 to filing F02660, the presence of a representative of the Rule 107  
3 provider during the testimony of this witness.

4 Madam Court Officer, please connect us with the witness and the  
5 representative through videolink.

6 [The witness entered court via videolink]

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 Good afternoon, Witness. Can you hear me?

9 THE WITNESS: [via videolink] [Interpretation] Yes. Good  
10 morning.

11 PRESIDING JUDGE SMITH: Good morning. Witness, the CMU staff  
12 member at your location will now provide you with the text of the  
13 solemn declaration which you are asked to take. So take a look at  
14 the document and then read that aloud.

15 THE WITNESS: [via videolink] [Interpretation] Conscious of the  
16 significance of my testimony and my legal responsibility, I solemnly  
17 declare that I will tell the truth, the whole truth, and nothing but  
18 the truth, and that I shall not withhold anything which has come to  
19 my knowledge.

20 WITNESS: W04798

21 [The witness answered through interpreter]

22 [The witness appeared via videolink]

23 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated  
24 now, both of you.

25 Witness, thank you for being with us today. We are ready to

1 start your testimony which is expected to last approximately a half a  
2 day. As you may know, the Prosecution will ask you questions first,  
3 and then the Defence has the right to ask questions of you, and  
4 members of the Panel might also ask questions of you.

5 The Prosecution estimate for your examination is one hour. The  
6 Defence estimates that it will need two hours. As regards each  
7 estimate, we hope that the counsel will be judicious in their use of  
8 the time. The Panel may allow for redirect examination if conditions  
9 for it are met.

10 Witness, please try to answer the questions clearly with short  
11 sentences. If you don't understand a question, feel free to ask  
12 counsel to repeat the question or tell them you don't understand and  
13 they will clarify. Also, please try to indicate the basis of your  
14 knowledge of facts and circumstances that you will be asked about.

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

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

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

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

4 If you feel the need to take a break, please make an indication  
5 and an accommodation will be made.

6 Just for your information, we will take a break at 12.15, that's  
7 after 45 minutes of testimony. It will be a 15-minute break only.  
8 And then we will proceed from that point, which will be noon, until  
9 1.00, which is a time for a lunch break.

10 I also note that you are accompanied by a representative of the  
11 Rule 107 provider. In this regard, with the approval of the Panel,  
12 you can consult with the representative during your testimony. The  
13 representative can also suggest, when appropriate, to go into a  
14 private session to protect confidentiality of the provided  
15 information.

16 Please do not discuss your testimony with anyone outside of this  
17 room, and this includes the representative.

18 Mr. Court Officer, please bring us into -- I'm sorry, do you  
19 intend to conduct this in private session?

20 MR. CAPIN: Yes, for the same reasons, Your Honour. Thank you.

21 PRESIDING JUDGE SMITH: Please bring us into private session for  
22 the protection of the witness and others.

23 [Private session]

24 [Private session text removed]

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Witness: W04798 (Private Session)

Page 21501

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21502

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21503

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21504

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21505

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21506

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21507

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21508

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21509

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21510

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21511

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21512

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21513

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21514

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21515

Examination by Mr. Capin

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Witness: W04798 (Private Session)

Page 21516

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21517

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21518

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21519

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21520

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21521

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21522

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21523

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21524

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21525

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21526

Cross-examination by Mr. Ellis

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15 [Open session]

16 THE COURT OFFICER: Your Honours, we are back in public session.

17 Thank you.

18 PRESIDING JUDGE SMITH: All right. Mr. Court Officer, you can  
19 clarify the record that you need to do.

20 THE COURT OFFICER: Thank you, Your Honours. I just wanted to  
21 make sure that this is on the record. The associated exhibits from  
22 P01784 to P0182 previously mentioned that -- that are in English and  
23 Serbian instead of English and Albanian as previously stated on the  
24 record. Thank you, Your Honours.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 --- Recess taken at 11.47 a.m.

2 --- On resuming at 12.03 p.m.

3 PRESIDING JUDGE SMITH: Madam Court Officer, you can bring the  
4 witness in.

5 Mr. Ellis, can you give us an estimate of your remaining time?

6 MR. ELLIS: I'm trying to do it in half an hour, but I may be  
7 slightly over that.

8 [The witness takes the stand via videolink]

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 Thank you, Witness. We continue now with the questions by  
11 Mr. Ellis. Please give him your attention.

12 MR. ELLIS: Thank you, Your Honour.

13 Q. Just before we broke, we were speaking --

14 MR. CAPIN: [Microphone not activated].

15 PRESIDING JUDGE SMITH: I'm sorry, what?

16 MR. CAPIN: We should be in private session, Your Honour.

17 PRESIDING JUDGE SMITH: I'm sorry. My mistake.

18 Please put us in private session.

19 [Private session]

20 [Private session text removed]

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Witness: W04798 (Private Session)

Page 21529

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21530

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21531

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21532

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21533

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21534

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21535

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21536

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21537

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21538

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21539

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21540

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21541

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21542

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21543

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21544

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21545

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21546

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21547

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21548

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21549

Cross-examination by Mr. Ellis

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Witness: W04798 (Private Session)

Page 21550

Cross-examination by Ms. Tavakoli

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Witness: W04798 (Private Session)

Page 21551

Cross-examination by Ms. Tavakoli

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Witness: W04798 (Private Session)

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Procedural Matters

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19 [Open session]

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

21 PRESIDING JUDGE SMITH: Thank you.

22 We are adjourned until 2.30.

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

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

25 PRESIDING JUDGE SMITH: Yes, Mr. Halling.



1 MR. HALLING: Yes. If Your Honours have a moment now, we'd like  
2 to give an update on the scheduling for tomorrow that the Panel  
3 inquired with us earlier this morning.

4 We still expect to be able to finish the current witness,  
5 W04295, and W04758 by the end of tomorrow. This is especially  
6 important because we've heard that W04758 has availability issues  
7 next week, so it would cause a lot of challenges if that isn't the  
8 case. And any clarity on the remaining cross-examination estimates  
9 would be helpful.

10 We had a second question as well that's related. We have a  
11 reserve witness this week, W00344. This witness has some extra  
12 logistical arrangements because it's a videolink witness, and we were  
13 wondering if the Panel could already confirm that the likelihood of  
14 that is so low that we could just release the reserve witness for  
15 this week.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 It looks fairly low right now. I would say you could probably  
18 release him for tomorrow.

19 MR. HALLING: Thank you, Your Honour.

20 [Trial Panel confers]

21 PRESIDING JUDGE SMITH: [Microphone not activated] ... from --  
22 first of all, from the Prosecution. You're down for two hours?

23 MR. HALLING: An hour and a half for this witness, Your Honour.

24 PRESIDING JUDGE SMITH: Ms. --

25 MS. TAVAKOLI: I have 45 minutes, but actually I might --

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MS. TAVAKOLI: I have 45 minutes, but I suspect I'll be shorter.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. DIXON: Your Honours, I have 15 minutes and I also expect  
5 I'll be shorter.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. ROBERTS: I'm at 20, Your Honour, and similarly I don't  
8 think I'll take them.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MR. ELLIS: Half an hour but hoping to be shorter. Although --

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. ELLIS: Yeah.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. LAWS: Yes, Your Honour. I had some time set aside for this  
15 witness, too.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. LAWS: I think it's unlikely that I'm going to ask for it.

18 PRESIDING JUDGE SMITH: Thank you.

19 We won't consider that a final answer yet, though, but thank you  
20 for the update.

21 All right. Madam Court Officer, please bring the witness in.

22 I'm sorry, for some reason I don't have that note, but is this  
23 witness going to be in public session?

24 MR. HALLING: Correct, Your Honour.

25 PRESIDING JUDGE SMITH: Do you anticipate going into private

1 session at all?

2 MR. HALLING: No.

3 PRESIDING JUDGE SMITH: All right. Thanks.

4 [Trial Panel and Legal Officer confers]

5 [The witness entered court]

6 PRESIDING JUDGE SMITH: Good morning, Witness.

7 THE WITNESS: [Interpretation] Good afternoon.

8 PRESIDING JUDGE SMITH: While you are standing, I will read out  
9 the text of the solemn declaration which you are asked to take  
10 pursuant to Rule 141(2) of our rules. I will ask you to listen to  
11 what I read and then repeat it out loud.

12 Do you understand?

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

14 PRESIDING JUDGE SMITH: So this is what I will ask you to  
15 recite: Conscious of the significance of my testimony.

16 THE WITNESS: [Interpretation] Conscious of the significance of  
17 my testimony.

18 PRESIDING JUDGE SMITH: And my legal responsibility.

19 THE WITNESS: [Interpretation] And my legal responsibility.

20 PRESIDING JUDGE SMITH: I solemnly declare that I will tell the  
21 truth.

22 THE WITNESS: [Interpretation] I solemnly declare that I will  
23 tell the truth and only the truth.

24 PRESIDING JUDGE SMITH: The whole truth.

25 THE WITNESS: [Interpretation] The whole truth.

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1           PRESIDING JUDGE SMITH: And nothing but the truth.

2           THE WITNESS: [Interpretation] Only the truth, and I will not add  
3 or take away a single letter to it.

4           PRESIDING JUDGE SMITH: Just repeat what I've asked you.  
5 Nothing but the --

6           THE WITNESS: [Interpretation] Forgive me. Forgive me.

7           PRESIDING JUDGE SMITH: -- truth.

8           THE WITNESS: [Interpretation] Only the truth.

9           PRESIDING JUDGE SMITH: And that I shall not withhold anything  
10 which has come to my knowledge.

11          THE WITNESS: [Interpretation] And I shall not --

12          PRESIDING JUDGE SMITH: You can be seated.

13          THE WITNESS: [Interpretation] -- withhold anything which has  
14 come to my knowledge.

15                               WITNESS: HAXHI MAZREKU

16                               [The witness answered through interpreter]

17          THE WITNESS: [Interpretation] Thank you.

18          PRESIDING JUDGE SMITH: Before we begin, the Panel notes that in  
19 F02470, F02561, and F02621, Victims' Counsel notified the Panel as  
20 his intention to ask questions of the witness. In F02485, the  
21 Defence recorded its objection to the questioning of the witness by  
22 Victims' Counsel.

23               As per its usual practice, the Panel will defer its ruling on  
24 the matter until the SPO has concluded its direct examination of the  
25 witness, provided the Victims' Counsel still wishes to examine the

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1 witness.

2 Witness, today we will start your testimony which is expected to  
3 last one day. As you may know, the Prosecution will ask you  
4 questions first, and then Victims' Counsel may ask you questions.  
5 Thereafter, the Defence has the right to ask questions of you, and  
6 members of the Panel may also ask questions of you.

7 The Prosecution estimation for your examination is one and a  
8 half hours. Victims' Counsel estimates that he would need 20  
9 minutes. The Defence estimates that it will need close to two hours.  
10 As regards each estimate, we hope that the counsel will be judicious  
11 in the use of their time. The Panel may allow redirect examination  
12 if conditions for it are met.

13 Witness, please try to answer the questions clearly with short  
14 sentences. If you don't understand a question, feel free to ask  
15 counsel to repeat the question or tell them you don't understand and  
16 they will clarify. Also, please try to indicate the basis of your  
17 knowledge of facts and circumstances that you will be asked about.

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

22 Please also speak into the microphone and wait five seconds  
23 before answering a question, and speak at a slow pace for the  
24 interpreters to catch up.

25 During the next days while you are giving evidence in this

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1 Court, you are not allowed to discuss with anyone the content of your  
2 testimony outside of the courtroom. If any person asks you questions  
3 outside of this Court about your testimony, please let us know  
4 immediately.

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

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

10 I would ask the counsel to please be available to be ready to  
11 read any questions, any statements to the witness during the  
12 testimony.

13 Mr. Halling, you have the floor.

14 Witness, the Prosecution will begin their questions now. Please  
15 give them your attention.

16 MR. HALLING: Thank you, Your Honour.

17 Examination by Mr. Halling:

18 Q. And good afternoon, Witness. We've met before, but my name is  
19 Matt Halling. I'm from the SPO --

20 A. Good afternoon.

21 Q. -- and I'll be asking you questions. We'll start with what is  
22 your name?

23 A. Haxhi Mazreku.

24 Q. Your date and place of birth?

25 A. 26 February 1968, Opterushe, Rahovec, Kosovo.

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1 Q. And have you been previously interviewed by the SPO and in the  
2 course of your EULEX proceedings?

3 Would you like me to repeat the question?

4 A. Yes, please.

5 Q. Have you been previously interviewed before by the SPO and in  
6 the course of your EULEX proceedings?

7 A. Yes.

8 MR. HALLING: We'd ask if the Court Officer could please pull up  
9 on the screen 060112-TR-AT Part 1 RED, page 1, and put it on the  
10 screen. It can take up the whole screen.

11 Q. Witness, if I can turn your attention to the screen, a document  
12 has just loaded up, and I want to ask you is this your SPO interview?

13 A. Yes, it is.

14 MR. HALLING: Now we'd ask if the Court Officer could please  
15 pull up the larger range of SITF00028070 to 00028141. And this is a  
16 statement across SITF00028070 to 00028083 Redacted, and the specific  
17 page to be shown is page SITF00028077.

18 Q. So, Witness, you can see on the screen here there's a Record of  
19 the Examination of the Defendant with a date of 14 December 2010.

20 MR. HALLING: If we could then go to the next page,  
21 Mr. Court Officer, and zoom out so the whole page is visible. Now,  
22 it should be SITF00028078 on the screen now. I think this is an  
23 earlier page.

24 Q. So, Witness, this is the page following the one that said  
25 14 December in the Albanian-language version, and you see your name

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1       there. Is this your EULEX statement of 14 December 2010?

2       A.     Yes, it is.

3             MR. HALLING: And then, finally, if we could turn to page --  
4       this is statement SITF00028084 to 00028105 RED, and the page on this  
5       one to start with is SITF00028094. That statement is within the same  
6       larger range I read out previously. And so the specific page now is  
7       SITF00028094.

8       Q.     Now, Witness, you see here another record of a statement from  
9       22 December 2010.

10            MR. HALLING: And if we can go to the next page of this one.

11       Q.     We again see your name.

12            MR. HALLING: And if we can zoom out to the whole page.

13       Q.     Witness, is this your statement in the EULEX proceedings of  
14       22 December 2010?

15       A.     Yes.

16       Q.     Last week, did you have an opportunity to re-familiarise  
17       yourself with the contents of the three statements I just showed you?

18       A.     Yes.

19       Q.     And in your preparation session, you indicated some changes and  
20       clarifications to those statements; is that right?

21       A.     Some clarifications, yes.

22       Q.     And these were reflected in a note that was read back to you;  
23       correct?

24       A.     Yes.

25       Q.     Do you confirm that what was read back to you in that note



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1 reflected your changes fully and accurately?

2 A. Yes.

3 Q. And subject to the clarifications in that note, do these three  
4 statements accurately reflect what you said and what you would say if  
5 asked again in court today?

6 A. Yes.

7 Q. Thank you.

8 MR. HALLING: Your Honour, having fulfilled the Rule 154  
9 criteria, and in accordance with decision F02571, the SPO hereby  
10 tenders the three statements of W04295 read earlier into the record  
11 along with Preparation Note 1, which is ERN 123364 to 123368.

12 There are no associated exhibits to admit with these statements.

13 PRESIDING JUDGE SMITH: Any objection?

14 MS. TAVAKOLI: No, Your Honour.

15 MR. ELLIS: Nothing beyond what's been notified in writing,  
16 Your Honour.

17 MR. DIXON: No, Your Honour.

18 MR. ROBERTS: No, Your Honour.

19 PRESIDING JUDGE SMITH: 060112-TR-AT -- how many parts?

20 MR. HALLING: So 060112-TR, nine parts, English and Albanian.

21 PRESIDING JUDGE SMITH: It is admitted, all nine parts. Please  
22 assign numbers to the nine parts.

23 THE COURT OFFICER: 060112-TR, in both English and Albanian,  
24 Part 1 will be assigned Exhibit P01805.1; Part 2 in both languages  
25 will be assigned Exhibit P01805.2; Part 3 of the same in both

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1 languages will be assigned Exhibit P01805.3; Part 4 of the same ERN  
2 in both languages will be assigned Exhibit P01805.4; Part 5 of the  
3 same ERN in both languages will be assigned Exhibit P01805.5; Part 6  
4 of the same ERN in both languages will be assigned Exhibit P01805.6;  
5 Part 7 of the same ERN in both languages will be assigned  
6 Exhibit P01805.7; Part 8 of the same ERN in both languages will be  
7 assigned Exhibit P01805.8; and Part 9 of the same ERN in both  
8 languages will be assigned Exhibit P01805.9. All classified  
9 confidential.

10 Thank you, Your Honours.

11 PRESIDING JUDGE SMITH: Then SITF00028070 to 00028141. Are you  
12 admitting the entire range or just those pages?

13 MR. HALLING: Not the entire range but just the two statements  
14 within it. So for the 14 December 2010 statement, and this range  
15 covers both language versions, it would be SITF00028070 to 00028083  
16 RED.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 I'm sorry. 00028070 to 00028083; is that correct?

19 MR. HALLING: That's correct.

20 PRESIDING JUDGE SMITH: All right. That's admitted.

21 THE COURT OFFICER: And it will be assigned Exhibit P01806,  
22 classified as confidential.

23 PRESIDING JUDGE SMITH: And then the note, 123364 to 123368 is  
24 admitted.

25 THE COURT OFFICER: And it will be assigned Exhibit P01807,

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1 classified as confidential.

2 PRESIDING JUDGE SMITH: Do you intend to keep these all  
3 confidential?

4 MR. HALLING: They don't all need to be confidential. What is  
5 now P01806, for instance, could be public. But the SPO interview and  
6 preparation note we would ask maintain confidential classification.

7 There is one last statement whose ERN we'd ask for admission as  
8 well, and I can give that in the record now if Your Honour ...

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 We'll reclassify P01806 to public.

11 And go ahead.

12 MR. HALLING: So this is the 22 December 2010 statement, and  
13 this is SITF00028084 to 00028105 RED. And, Your Honours, this one  
14 can also be public.

15 PRESIDING JUDGE SMITH: Had you previously tendered this?

16 MR. HALLING: Yes, Your Honour.

17 PRESIDING JUDGE SMITH: Oh.

18 MR. HALLING: This witness's statements are admittedly a little  
19 confusing because there's a compilation of them all within the same  
20 large range.

21 PRESIDING JUDGE SMITH: I'm sorry.

22 MR. HALLING: There's two discrete pieces.

23 PRESIDING JUDGE SMITH: I'm sorry, I missed that.

24 Is there any objection to this additional one?

25 MS. TAVAKOLI: Not to them being public, but my query is about

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1 the SPO statement, because, of course, this witness is giving  
2 evidence in public, therefore his evidence is in public and part of  
3 that evidence is his Rule 154 statement. So I don't quite understand  
4 how that can be private and his testimony public. It seems  
5 inconsistent to me.

6 MR. HALLING: There are certain parts of the witness's interview  
7 that, although we don't expect there to be questions on them and  
8 concern things like mental health of family members, that we would  
9 keep a confidential classification on generally.

10 If Your Honours would like us to, we could prepare a public  
11 redacted version of this interview.

12 PRESIDING JUDGE SMITH: I believe that's the best method, yes.  
13 All right.

14 Fine, that SITF00028084 to 00028105 is admitted.

15 THE COURT OFFICER: That will be assigned Exhibit P01808 and  
16 will be classified as public. Thank you, Your Honours.

17 PRESIDING JUDGE SMITH: All right.

18 You may proceed.

19 MR. HALLING: Thank you, Your Honour. And actually if we could  
20 stay on P01808, the latest one. We wanted to show the witness part  
21 of that statement now. And so in English it would be page  
22 SITF00028087; and in Albanian it would be SITF00028097. And if they  
23 can be 50/50 on the screen.

24 Q. Witness, there's a part of one of your prior statements that I  
25 wanted to ask you a question about. It's being put up on the screen

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1 now, and I would just ask you to focus on the version on the left  
2 side of the screen, which is going to be the version in Albanian.

3 It's where you say this on 22 December 2010:

4 "The KLA" --

5 MR. HALLING: And if we could scroll a little further down on  
6 the page in both versions so that this is visible.

7 Q. So you say:

8 "The KLA was not functioning the way they should have and we  
9 were not satisfied with the situation.

10 "What was it that you were not satisfied with"

11 And then you began your next answer:

12 "Ten days before the attack, three people with masks approached  
13 me with a list of 17 names ..."

14 Witness, in relation to this, and first just as a preliminary  
15 question, did the three masked men have 17 or 18 names on their list?

16 A. There were about 17 or 18. However, it was night-time and I  
17 wasn't able to count them. But that's what it was like, yes.

18 Q. You addressed this in response to a question about being  
19 unsatisfied with the KLA. Were these three masked men from the KLA?

20 A. They introduced themselves as the KLA. However, they were  
21 wearing black uniforms. They came somewhere in the middle of the  
22 night, at a very inappropriate moment.

23 Q. Before this happened in Opterushe, had you heard about masked  
24 KLA looking for collaborators around your area?

25 A. There were words here and there saying that, yes, they are

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1 observing the situation. During the night, they are going out and  
2 checking people and so on. However, I hadn't seen them myself.

3 Q. Do you remember relative to the Adem Jashari incident about how  
4 long after that that you first started hearing about these masked KLA  
5 doing this?

6 A. Can you please repeat the question?

7 THE INTERPRETER: Sorry, interpreter's correction: Almost  
8 immediately afterwards.

9 MR. HALLING: Okay. So I understood the witness's answer to be  
10 "almost immediately afterwards."

11 Q. And, Witness, did I understand your answer correctly?

12 A. Yes. Yes.

13 Q. I now want to go to something that you said in your SPO  
14 interview.

15 MR. HALLING: And this would be P01805.4, and it would be pages  
16 15 to 16 in the English. And actually, this I think I can just read  
17 into the record because it's rather short.

18 Q. So, Witness, you said following:

19 "Everybody was considered a collaborator.

20 "So let's say if I have made a nice door, a nice chair, a nice  
21 table for a Serb and have acted appropriately towards [him], offered  
22 them a coffee or something, I ... that would make me a collaborator  
23 in the eyes of others."

24 Do you remember this portion of your evidence?

25 A. Yes.

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1 Q. How do you know that things like offering coffee to a Serb could  
2 make someone be perceived as being a collaborator?

3 A. That's what people said around the village. They said, "This  
4 one is having coffee with them. He's staying with them. He's just  
5 building doors or windows for them." It's not something that was of  
6 any significance to me. However, it ended up being very costly as a  
7 matter of fact.

8 Q. Were you also labelled as a collaborator for those same reasons?

9 A. Yes.

10 Q. And when we talk about labelling collaborators here, is this the  
11 KLA labelling people like yourself as collaborators?

12 MR. DIXON: Your Honour, that's blatantly leading. He should  
13 just ask the question: Who did it.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 It is a leading question. Please rephrase it.

16 MR. HALLING:

17 Q. Who is labelling people collaborators? When talking about what  
18 kinds of collaborators, who was being called this?

19 A. Well, KLA persons who conducted an offensive. So, basically, if  
20 you went close to them, then you were unsuitable. You were either a  
21 traitor or a collaborator. The KLA, that's who did that.

22 Q. Do you have any information that the KLA targeted forest rangers  
23 as collaborators?

24 A. Yes. This was being said actually quite a lot. The forest  
25 rangers. And there was a case in Pagarushe, actually, when people

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1 were saying -- I didn't actually see it myself. I wasn't an  
2 eyewitness, but there was a forest ranger, they were saying, and the  
3 KLA killed him. And that, for me, was intimidating the Albanian  
4 civilian population, and that was unacceptable, totally. But whether  
5 he was a spy, and somebody, I think, stole a tractor or some logs, I  
6 don't know. But for me, I wasn't a spy.

7 So he was just doing his job. He was protecting the forest, and  
8 he was just doing what he was paid to do. But, actually, absolutely,  
9 those actions I did not like, and I said that this is what would then  
10 happen to our village.

11 Q. You said "he was just doing his job. He was protecting the  
12 forest." Did the KLA label him a collaborator?

13 A. Well, yes, those who killed him called him a collaborator. For  
14 all the victims, they branded them as collaborators.

15 Q. Did this incident happen before the Opterushe Serb villagers  
16 were attacked?

17 A. Yes.

18 Q. Do you remember approximately when you heard this incident  
19 occurred?

20 A. To be honest, I tell you the truth, I thank God that I'm here  
21 and I'm still in one piece, because I was in a situation where I  
22 could have gone to a psychiatrist because I saw -- I cannot tell you  
23 the dates or names because I really was in an unenvious situation and  
24 I apologise for this.

25 Q. I understand. And do I understand it that you don't remember



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1 exactly who told you this information about the Pagarushe forest  
2 ranger?

3 A. Well, there is a water source in the village. And both at day,  
4 night, and at night-time, people will go out, and people would say  
5 that the KLA has killed a spy, he was a forest ranger. So it was  
6 horrible. Horrible. I did not like it at all, obviously, not that  
7 action.

8 Q. When talking about the KLA labelling you a collaborator, was  
9 this also the KLA and Ejup Kabashi's group doing this?

10 A. Yes. Well, this person also spread in Likoc and everywhere this  
11 because he wanted me to be called a collaborator. But, no, that was  
12 not the case. That would never be the case.

13 Q. Did Ejup Kabashi say anything about holding collaborators  
14 accountable that you remember?

15 A. If, for instance, I asked around a little bit more in the  
16 village, then that would be more danger for me. So it was just what  
17 I heard people say, what they were saying, and then I realised what  
18 the situation was like. And I was thinking, oh my God, things are  
19 going to get even worse, because there's no discipline, there's --  
20 nothing is all right. So it really was an undesirable situation to  
21 be in.

22 Q. So do I understand it that you don't remember anything specific  
23 that he said on this point?

24 A. Well, if there is something that I have touched upon, then,  
25 please, can you describe it and then I can describe it further.

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1 Q. Certainly.

2 MR. HALLING: And, Your Honour, with that, we'd just seek  
3 permission to refresh the witness's recollection with paragraph 21 of  
4 Prep Note 2.

5 PRESIDING JUDGE SMITH: Permission granted.

6 MR. HALLING: Thank you. And for the record, that ERN is 123369  
7 to 123373.

8 Q. And, Witness, it says the following:

9 "Ejup Kabashi said that people would be held accountable to the  
10 bodies in place in Opterushe. When Ejup Kabashi's unit was set up,  
11 they did so with some regulations which were not shared with [you].  
12 There was also no evidence of a judicial body being established to  
13 hold people accountable - all that was happening was people being  
14 accused of being traitors."

15 Witness, does that refresh your recollection of what Ejup  
16 Kabashi was saying about collaborators?

17 A. Yes, yes.

18 Q. And is it correct what I read to you, that Ejup Kabashi said  
19 that people would be held accountable to the bodies in place?

20 A. Yes.

21 Q. And was there any kind of formal or judicial investigation by  
22 the KLA in your village into collaborators?

23 A. No.

24 Q. You also said previously in your statement that Ejup Kabashi's  
25 group was part of the Drenoc KLA. Did you have any information

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1 before the attack on the Serbs in your village that the Drenoc KLA  
2 was looking into you?

3 A. Yes.

4 Q. What did you hear and who told you?

5 A. Well, from where I heard it, I do not know. Everybody is saying  
6 that "Haxhi is not actually really joining us, the KLA and our  
7 family, and he is dividing the village." But I just wanted for there  
8 to be rules, discipline, some sort of protection for the civilians.  
9 It didn't matter whether they were Roma, Serb, or Albanian.  
10 Everybody was innocent. So that's what the problem was. And what  
11 should I do? Should I protect myself from Serbia, the KLA?

12 Q. Yes. Witness, my question is more specific. I would just like  
13 to know did anyone tell you that the Drenoc KLA was looking into you,  
14 Haxhi Mazreku?

15 A. Well, I come from Drenoc. My maternal uncles live there. So  
16 their whole families live there. And in one case, we had Xheme Gashi  
17 and Ejup Kabashi, and then there was Din Spahiu and another --  
18 another car, and I didn't notice who was in it, and they were saying,  
19 "Look at him. That's Haxhi. That's Haxhi." And they put down the  
20 window and they said, "Are you Haxhi?" And I said, "Yes, I am." And  
21 he said, "I worked with you." And I said, "No problem," because  
22 there were a sort of wedding. And I said, "Let me take these people  
23 to the wedding and I'll come back." And I went there, but I went  
24 there on my own.

25 Q. Yes. And, Witness, I have a question or two about this incident

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1 I'll ask you later. Are you familiar with a gentleman by the name of  
2 Hazer Shala?

3 A. Yes, I know him.

4 Q. Where is Hazer Shala from?

5 A. Hazer Shala is from Randobrave. And thanks for reminding me of  
6 this case. I've -- actually, I'm a carpenter, as you know, and I've  
7 worked on the works that needed to be done in a mosque. And I might  
8 say I'm actually quite good at what I do. So, you know, people were  
9 saying, "What a great carpenter," "how humane," "how kind." And  
10 people were asking from Drenoc and from Likovc, "Who is Haxhi? Is he  
11 a collaborator of the Serbs?" And he had said, "How can you say  
12 that? He has nothing to do with that sort of thing." So he told me  
13 a long time after the war, perhaps 15 years later, even longer than  
14 that. That was when he told me of this, and I was like speechless.  
15 But there are many cases like this. And just a year and half  
16 somebody said something similar to me.

17 Q. So in your last answer when you talk about people saying that --  
18 people were asking from Drenoc, "Who is Haxhi Shala, is he a  
19 collaborator from the Serbs," is that Haxhi Shala or is this you,  
20 Haxhi Mazreku?

21 A. Haxhi Mazreku.

22 Q. And was it Hazer Shala the one who said that to you?

23 A. Hazer Shala was the one who told me this, and I was at the  
24 mosque working when he told me of this. And I really was speechless.  
25 I was like, oh my God, what is going on with these people.

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1 Q. And as for the timing of that conversation, was this before the  
2 Serbs were attacked in Opterushe?

3 A. Well, he told me this after the conflict because -- you know,  
4 this was after the conflict, so much later on. Much later on.

5 Q. Okay. You were talking earlier about something at a wedding,  
6 and I said I had a question about it. Maybe I should ask it now.

7 MR. HALLING: And for this one -- and if we could put this one  
8 on the screen. This would be P1805.3, and it would be page 18 in the  
9 English and page 19 in the Albanian, and put it on the screen.

10 MR. ELLIS: Your Honour, whilst that's being found, could I just  
11 check, in the earlier part of this page, of page T92 on the  
12 transcript. It's come out as Haxhi Shala. I think it was Hazer  
13 Shala that was being spoken about and they may be different people.

14 Can I just clarify that.

15 MR. HALLING: Yes.

16 Q. Witness, you heard what counsel said. The person from  
17 Randobrave, what is the full name of that person?

18 A. Hazer Shala, Randobrave. Whereas my name is Haxhi Mazreku.

19 Q. I think that's clarified.

20 MR. HALLING: So, again, for the statement portion, it's page 18  
21 in the English and page 19 in the Albanian.

22 Q. And, Witness, this is the incident about the wedding, as I  
23 understand it, and this was what I wanted to ask you about. You are  
24 talking with Xheme Gashi, and it says:

25 "Gjermani then said to me, because he said 'He said to me so',

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1 Gjermani said to me, 'Are you Hagji? Yes. I have... I want to clear  
2 up some things with you.' I said, 'Whenever you want, I'm ready. I  
3 am serious', he said, 'I speak serious'.

4 "I took out my Kalashnikov, opened the window of the car and I  
5 said to him, 'We have a wedding, we are here celebrating', and fired  
6 in the air and continued."

7 You were just referencing that now as well. I would like to  
8 know what happens immediately after you fire in the air and continued  
9 during this incident?

10 A. Afterwards, I took my family members to the wedding reception,  
11 and I returned myself on my own. I didn't take anyone with me  
12 because it was as if I was afraid if I had done so. So I went there  
13 on my own, and I said, "What is it that you want with me?" And when  
14 I said that, he said, "No, I just wanted to know who Haxhi Mazreku  
15 is. That's all." And they said, "Okay, you can go now," and I  
16 returned.

17 Q. So when you talk about returning after the part of the incident  
18 that we just -- that I just read to you, how long is the gap in time  
19 between you having this initial conversation with Xheme Gashi and  
20 then returning?

21 A. Half an hour at the most, I would say. No more than that.

22 Q. And I understand that in this initial conversation both you were  
23 in a car and Xheme Gashi and his group were in a car; is that right?

24 A. Yes. Actually, there were two cars so -- on his side.

25 Q. And when you returned, where did you meet Xheme Gashi and this

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1 group?

2 A. At a shop at the end of the village. That's where he said we  
3 should meet. He said, "We'll just wait for you there."

4 Q. So was it Xheme Gashi that said that he would wait for you and  
5 then you came back and returned?

6 A. Yes.

7 Q. And when you returned who was with Xheme Gashi?

8 A. Ejup was there, Din Spahiu. From what I can remember, Sokol  
9 Bytyqi was there too. And there were others, too. But they were  
10 just there waiting, as it were.

11 Q. And you mentioned earlier that someone said that they just  
12 wanted to know who you are. Who said that to you?

13 A. Well, Ejup and Din said, "This is Haxhi," and he just wanted to  
14 know who I was. He wanted to see me. Because apparently so much had  
15 been said about me and they didn't know who I was, so they just  
16 wanted to see me.

17 Q. So they wait 30 minutes. He says that to you. Does Xheme Gashi  
18 then say anything else?

19 A. No. No, there he didn't say anything.

20 Q. Witness, I'd like to now show you part of a notebook that was  
21 shown to you in your preparation session.

22 MR. HALLING: If we could get in English and Albanian P75, which  
23 is U001-9244 to U001-9306. And why don't we start on page U001-9274.  
24 So the Albanian side is correct.

25 Q. And, Witness, we'll wait just one moment just for the English.

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1 Now, Witness, do you remember seeing this notebook last week?

2 A. Yes.

3 Q. Yes. But you hadn't seen it before last week; is that right?

4 A. No.

5 Q. I show this page just to orient you that these seem to be  
6 entries from a notebook of 1 July 1998.

7 MR. HALLING: If we go to the next page. If the Court Officer  
8 could please turn the page in both versions.

9 Q. You can see on the left-hand side of the page, we have something  
10 that says "Weapons," and then we have places and names of people.  
11 And on the bottom, was that -- where it says "Opterusha - Ejup  
12 Kabashi," is that the same Ejup Kabashi who was the commander of the  
13 KLA in your village?

14 A. Yes.

15 Q. The name just above him, is that the same Hazer Shala we were  
16 just discussing?

17 A. Yes.

18 Q. And just to confirm the name of the place to the left of his  
19 name, what's the name of the village next to his name?

20 A. Randobrave.

21 Q. Thank you. And now if the Court Officer could please turn the  
22 page one more time, on the top left-hand side of the page, it says  
23 this:

24 "Haxhi Mazreku

25 "- He is a very suspicious person who created the /?division of



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1 the village and exerted influence in a way that he drew them closer  
2 by saying 'come with me, I will rescue you.'"

3 And, Witness, my question to you is when the KLA was accusing  
4 you of collaboration, were they accusing you of creating divisions  
5 inside your village?

6 A. Yes, they did say this, but nobody would say this to my face.  
7 But they were saying it around also to people whom I knew, like,  
8 "Haxhi is putting groups together." Perhaps I've done so, but all I  
9 was trying to do is to protect them, not to make them victims. And  
10 this is the difference between me and him.

11 Q. And was the KLA also accusing you of collaboration for being too  
12 close with the Serbs?

13 A. Well, yes, in a way. But also mostly because I didn't support  
14 them in their actions, and they made fatal mistakes. So when they  
15 would see my actions -- and it was like night and day, my actions and  
16 theirs. Because in terms of soldiers, I was the first one who took  
17 up weapons and tried to organise the young people so that we could  
18 get weapons in Albania, like our friends, our neighbours.

19 But the more they would say cooperator, collaborator, and spy,  
20 then they were just trying to do this to blackmail me. But I didn't  
21 accept this. I would have rather been dead than for them to have  
22 called me that. Because in terms of the KLA, I was in the KLA. The  
23 real one, not the fake one.

24 Q. So is what is written on this page consistent with things that  
25 the KLA was saying about you in July 1998?

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1 A. Yes.

2 Q. Just one clarification before moving on, and it's on the top of  
3 this page of the transcript at line 2. You said:

4 "... all I was trying to do was to protect them, not to make  
5 them victims. And this is the difference between me and him."

6 Who do you mean by "me and him" in that answer?

7 A. So all of those people who called themselves members of the KLA.  
8 But for me, they weren't the KLA, as far as I'm concerned. Because  
9 the KLA had two groups. And I can explain this a little later, if  
10 you like, or even now, if you please.

11 Q. Please, go ahead.

12 A. Listen, when one says the KLA, it's as if like we were  
13 shepherds. The only difference between us and the shepherd is the  
14 weapon and the stick that a shepherd uses. Whereas we had weapons to  
15 protect civilians.

16 But this was the difference: That a bad shepherd would actually  
17 take the sheep to a hole rather than water. But I didn't let them  
18 take them to a hole or to the wolves. This unacceptable. And that's  
19 why I was undesirable for them, a traitor or a collaborator, a  
20 collaborator of the Serbs. But in reality that wasn't the case.

21 Just like a girl, an unmarried girl says to her mother, "I want  
22 to marry so-and-so, but nobody has spoken to the in-laws." So,  
23 basically, I was telling them, "Listen, I'm trying to protect the  
24 village. I'm not a collaborator." If I were a collaborator, I  
25 wouldn't be trying to protect the village and I would just say it out

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1 loud, and this is in essence what I am about, and that is why I am  
2 here. This is quite a charge against me. But, really, there were  
3 reprisals against me. A lot. A lot. A lot of trouble I was in. I  
4 don't even know how I'm here today.

5 Q. Thank you. I follow. Were the Serbs villagers in Opterushe  
6 also falsely accused of collaboration by the KLA?

7 A. Well, they were attacked, so there must have been something in  
8 it. I don't know anything any further.

9 MR. HALLING: And, Your Honour, if we could ask the witness a  
10 question about paragraph 17 of Preparation Note 2 following that.

11 PRESIDING JUDGE SMITH: Yes, go ahead.

12 MR. HALLING:

13 Q. So, Witness, you said in the preparation note last week:

14 "The Serb villagers of Opterushe were also falsely accused of  
15 being collaborators - they were only civilians."

16 In light of your last answer, is what I just read to you  
17 correct?

18 A. Yes. Well, yes. That's it.

19 Q. Are you aware of any legitimate reason for why those people were  
20 attacked?

21 A. I swear that -- let me just say that if it was about the KLA or  
22 to get the command or the order from somebody, perhaps I would know.  
23 But I went to them wholeheartedly to protect them. And I've said  
24 that somewhere in a room in a village to a fellow villager, that, "If  
25 necessary, we need to protect the dogs of the village let alone human

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1 beings, Albanians, Serbs, Roma. We need to protect and defend  
2 everybody."

3 Q. Just to focus on my question, and you can answer it with a "yes"  
4 or a "no," are you aware of any legitimate reason for why the Serb  
5 villagers of Opterushe were attacked?

6 A. Only because they were Serbs. Nothing else.

7 Q. You talk in your statement that you see them on a tractor  
8 leaving the village. Was this the day after the attack that you saw  
9 that?

10 A. This was after -- the night there was an attack, and then the  
11 following day they were trying to get them to leave their homes and  
12 take them to Semetishte. And they went along in front of my home.  
13 And from the window, and it's a four-storey home, and I saw that and  
14 I thought this is horrific.

15 Q. From what you were able to see and hear, were there any  
16 indications that the Serbs on that tractor had been beaten?

17 A. I heard that they were crying. And they were just crying. I  
18 don't know how to put it. But others also said this, yes, we saw  
19 them crying. So they were covered in blankets. And the army was  
20 taking them to Semetishte.

21 So this Opterushe attack wasn't -- in -- 2,700, 800 people were  
22 there. So this was totally unacceptable. And this is what cost me  
23 dearly because -- and I've said this before when I was at EULEX as  
24 well.

25 Q. You said that they were crying. Was there any indication in the

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1 way that they were crying that they had been beaten?

2 A. Well, they were crying either of having been beaten up or  
3 because they were afraid. So either/or. That was it.

4 Q. Witness, there's now a couple of reports about this attack on  
5 the Serbs of your village that I wanted to show you.

6 MR. HALLING: And, Your Honour, I note the time. Is there going  
7 to be a break at 3.30?

8 PRESIDING JUDGE SMITH: No, just go ahead.

9 MR. HALLING: Thank you.

10 So if the Court Officer could please pull up on the screen  
11 IT-05-87 5D01011, both the original-language version and the English  
12 version.

13 Q. Now, Witness, neither of these are in Albanian but part of this  
14 Serbian military report was read to you in your preparation session,  
15 and I wanted to ask you a question about a couple of parts of it.

16 MR. HALLING: So if we can scroll a little bit further down on  
17 the page and stop there. On the English, it's correct.

18 Q. It says:

19 "Between 1900 and 2200 hours on 17 July 1998, Albanian  
20 terrorists launched an attack along the Zociste village - Opterusa  
21 village axis. There is no information about the consequences."

22 Is this consistent with on around the date and time that the  
23 Opterushe attack occurred as appears in that report?

24 A. So at 1600 hours, right?

25 Q. The report says between 1900 and 2200 hours on 17 July. Does

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1 that sound about right in terms of the date and time of the attack?

2 A. Well, I think it was earlier than that. I think it was earlier  
3 than that, because that night -- shall I explain it? Shall I go into  
4 the case?

5 Q. Well, you said -- when you said it was earlier, why don't we  
6 just start it like this, does that mean that you think the attack  
7 started a little bit before 7.00?

8 A. Yes.

9 Q. Did the attack then go into the night?

10 A. The attack -- not into the Serb families, but it was an attack  
11 between Zociste-Opterushe, so as if the Serbian villagers are coming.  
12 So it was propaganda. It was a game.

13 Q. Did the attack, once it started, continue on into the night?

14 A. Yes, yes, it did continue.

15 Q. It says later in this report the following:

16 "It is most probable that in the operations conducted up to now  
17 the terrorists have kidnapped 16 Serbs from Orahovac."

18 Now, you were saying just now that you saw the KLA taking Serbs  
19 away in a tractor the day after the attack; is that right?

20 A. Yes, but I don't know how many. I have no idea about their  
21 numbers.

22 Q. Yes. And you mentioned at the beginning when introducing  
23 yourself, is Opterushe a part of Rahovec?

24 A. Yes, it is in the municipality of Rahovec. Yes.

25 MR. HALLING: Your Honour, this report is dated, signed,

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1 stamped. It's been contextualised by the witness. We would ask to  
2 tender it for admission in both English and Serbian original.

3 PRESIDING JUDGE SMITH: Objection?

4 MR. DIXON: Your Honours, yes, we do. We say it hasn't been  
5 contextualised. The witness said it started earlier, this attack.  
6 Although my friend for the Prosecution tried to make it just a little  
7 bit earlier, he didn't explore how much earlier.

8 That's all very well for the witness to give his evidence about  
9 what he recalls, but that can't be a basis to bring in a document  
10 from a different body altogether. Particularly when the Prosecution  
11 have ample evidence of persons who were involved from the Serb side  
12 and they could get the evidence in through them.

13 MR. HALLING: Your Honour, I care it's quite clear from the  
14 report that it's talking about the same event the witness  
15 experienced.

16 PRESIDING JUDGE SMITH: Anybody else want to be heard? No?

17 The Court will admit the document IT-05-87 5D01011 in English  
18 and Serbian.

19 THE COURT OFFICER: Your Honours, that will be assigned  
20 Exhibit P01809, classified as confidential. Thank you.

21 MR. HALLING: Your Honour, that can be public.

22 PRESIDING JUDGE SMITH: It will be reclassified public.

23 THE COURT OFFICER: Thank you, Your Honours.

24 MR. HALLING:

25 Q. Going back to this tractor that you saw just the day after the

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1 attack. You say in your statement that it is Florim Zaca who is the  
2 one driving that tractor; is that right?

3 A. Yes, Florim Mamaj or Zaca. Zaca being a kind of a nickname.

4 Q. And you also said - and this is, for a reference, P1807,  
5 paragraph 24 - that the reinforcements that you saw on the night of  
6 the attack were from, amongst other places, Drenoc and Samadrexhe; is  
7 that right?

8 A. Yes, it's Semetishte, Suhareke, that region. Doberdelan,  
9 Samadrexhe, all those villages are included.

10 Q. And is this Florim Mamaj or Zaca, is this the same Florim Zaca  
11 who takes your weapon along with Ismet Sorra and Feim Balaj after the  
12 attack on the Serbs of the village?

13 A. Yes.

14 MR. HALLING: And again for reference, this is P1807, paragraph  
15 34.

16 Q. And the commander of Florim Zaca on the -- in the incident where  
17 your weapon was taken was someone named Feim Balaj; is that right?

18 A. Feim Balaj and Ismet Bylykbashi were the two persons who took my  
19 weapon away.

20 Q. And who did you understand to be the commander of the Florim  
21 Zaca, Ismet Sorra, Feim Balaj group?

22 A. I thought it was Feim Balaj.

23 Q. Witness, I'd now like to show you a portion of a notebook.

24 MR. HALLING: Could the Court Officer please put up on the  
25 screen 0189-2905 to 0189-2914 in both English and Albanian, and the



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1 entry is 0189-2912.

2 Q. Now, Witness, you see the Albanian version on the left side of  
3 the screen. I'm correct, you also hadn't seen this before your  
4 preparation session last week; is that right?

5 A. Correct.

6 Q. So I'm not going to read all of it, but I'll just focus on a few  
7 discrete parts. So it says "Opterushe, 17 July 1998" on the top.  
8 And it begins:

9 "On 17 July 1998 at around 18:00 hours the attack began ..."

10 Is that -- same question as on the other one, is that consistent  
11 with the approximate date and time that the attack on Opterushe was?

12 A. Yes. Yes, yes, I do remember that event.

13 Q. It says later in the entry that:

14 "... /?only/ personal weapons were used - rifles and grenades."

15 From the gunfire that you heard, were only small weapons being  
16 used in this in attack?

17 A. Yes.

18 Q. It also says:

19 "Some civilian members who were taken by our forces were  
20 released later without a single step taken against them. The others  
21 are being treated as prisoners of war."

22 And that goes on to page 2913, that quote.

23 And, Witness, as I understand it, from what you saw on the  
24 tractor, there were some Serbs that were taken and there were some  
25 that were kept following the attack; is that correct?

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1 A. That's what we heard, yes.

2 MR. HALLING: If we go to the next page in the English, which  
3 would be 2913.

4 Q. It says:

5 "Participating in the action was the 3rd company, the 1st  
6 company and members of the other companies of the first battalion and  
7 members of the military police, all of them from the KLA Local Staff  
8 for Suhareke.

9 "Officer Isuf Krasniqi led the action."

10 And so, Witness, when you were saying reinforcements from  
11 Samadrexhe, that is part of Suhareke; is that right?

12 A. Yes. Isuf Krasniqi, or whatever he was called, is not someone  
13 that I know.

14 Q. Understood. And then, finally, if we turn back the page in the  
15 English version, back to 2912, I now want to ask you if this part is  
16 consistent with your recollection where it says that the attack was  
17 "against some Serbian paramilitary forces stationed in this village."

18 Witness, were there Serbian paramilitary forces in Opterushe on  
19 the day of the attack?

20 A. No.

21 MR. HALLING: I'd now like to put on the screen P1333, which is  
22 ERN 083227 to 083239 RED2 in English and Albanian, and specifically  
23 page 083228 in both languages.

24 Q. Witness, just to orient you as this document is being put on the  
25 screen. This is an admitted exhibit in this case purporting to be a

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1 history of the 123rd Brigade, and I want to ask you a couple  
2 questions about this specific page.

3 First, if we scroll down towards the bottom of the page, it  
4 talks about how the 1st Battalion had three companies, and then it  
5 gives where the companies are and who's in charge of them. And you  
6 see there it says that the 3rd company was active in Samadrexhe,  
7 Doberdelan. Its commander was Feim Balaj. Is that the Feim Balaj  
8 you were talking about earlier in your testimony?

9 A. Yes, he comes from Doberdelan. On whether he was a member of  
10 the headquarters in Doberdelan, I don't know.

11 Q. And it says:

12 "The 3rd Company ..."

13 MR. HALLING: And if we scroll up on that page again.

14 Q. I know, Witness, you said you didn't know who this gentleman  
15 was, but you see that Isuf Krasniqi is the assistant commander for  
16 military police.

17 MR. HALLING: Your Honours, we would like to tender the notebook  
18 just shown to the witness, which, again, for the record is ERN  
19 0189-2905 to 0189-2914. This was found originally by the Serbian  
20 authorities. It has reliable information on KLA operations in the  
21 Rahovec area as contextualised by this witness. We would also note  
22 the notebook is only about ten pages -- in fact, even less because a  
23 few of those pages are duplicate translations.

24 We tender it for admission.

25 PRESIDING JUDGE SMITH: Any objection?

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1 MR. DIXON: Your Honours, we do object. We don't know who the  
2 author is of this notebook, and this witness wasn't able to assist in  
3 any way. The way the Prosecution has approached this, really what it  
4 amounts to is any piece of paper can be put to a witness and as long  
5 as they identify broadly something in there, then it can go in.

6 This witness didn't even identify half of the points that were  
7 put. Yes, he has talked about some of the events, but that's his  
8 evidence. And there has to be a line drawn. Otherwise, anything can  
9 come in just because it's shown to a person and they can recognise  
10 some parts of it. There is just not enough of a connection in this  
11 case, we submit.

12 PRESIDING JUDGE SMITH: Ms. Tavakoli.

13 MS. TAVAKOLI: I have concerns generally with where this  
14 Prosecution is taking this witness. This witness's evidence is quite  
15 clear in terms of who he identify -- who he could identify  
16 participating in the attack, and now the Prosecution is trying,  
17 through the admission of this and other exhibits, to draw him in a  
18 particular direction which he didn't specify.

19 I can go into more detail, but I wonder if the witness should be  
20 excused from the courtroom. But you may also know where I'm going.

21 But I think he's quite clear. He doesn't recognise the men in  
22 the attack. He recognises one man. He says where he is from. He  
23 recognises some accents. The men are masked. And that is it. And  
24 now we are seeing documents about Brigade 123, a brigade that this  
25 witness does not mention at all in his evidence. And I'm concerned

1 that we are leading the witness here to a conclusion that he does not  
2 give himself, and I think that's dangerous territory.

3 MR. ELLIS: We join both objections, Your Honour.

4 MR. HALLING: And, Your Honour, for our part, what this witness  
5 is doing is providing part of an account that fits within a larger  
6 whole, and we are showing how this witness contributes to that larger  
7 whole.

8 On the document in question, he said that the timing is  
9 consistent with his recollection, the weapons used, the nature of  
10 people being taken, and the Suhareke staff, which we've used this  
11 last document to confirm. Even the one that he didn't confirm, and  
12 it was just one, was paramilitaries, which is -- itself is actually  
13 an indicator of authenticity given that it's the KLA writing this  
14 particular entry.

15 We think it's more than enough for a *prima facie* admissibility  
16 standard.

17 MR. DIXON: He's giving evidence about, you know, what should be  
18 regarded as authentic for deciding whether the document can come in.  
19 That's not acceptable.

20 [Trial Panel confers]

21 PRESIDING JUDGE SMITH: The Court will accept the document.  
22 There is sufficient contextualisation to identify this document. So  
23 0189-2905 to 0189-2914 is admitted.

24 THE COURT OFFICER: And that will be assigned Exhibit P01810.  
25 Currently classified as confidential.

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1           PRESIDING JUDGE SMITH: I'm sorry, was it 1810?

2           THE COURT OFFICER: Correct, Your Honours. I'll read it again:  
3 P01810.

4           PRESIDING JUDGE SMITH: Thank you.

5           MR. HALLING: Thank you.

6           Q. Now, Witness, I actually would like to stay briefly with this  
7 page on the 123rd Brigade and ask you -- you already mentioned Blerim  
8 Kuqi and Ilaz Kadolli at some length in your statement. Do you know  
9 the person identified as Deputy Brigade Commander Habib Elshani?

10          A. Yes.

11          Q. Was he a commander in the Suhareke area?

12          A. I don't know what he served as in Suhareke. However, when I  
13 went to Doberdelan staff to go and get weapons in Albania, that was  
14 organised with his assistance. I do not know what his particular  
15 role there was. However, he was the one who facilitated the trip to  
16 Albania.

17          Q. Why did you go to Doberdelan to get logistical help for this  
18 trip to Albania?

19          A. It is closest to us, because taking a longer route always used  
20 to pose a risk. So we went to the closest point possible. We wanted  
21 to find a solution to a situation in order to protect ourselves.

22          Q. When you set up your KLA unit did you register it anywhere?

23          A. Yes.

24          Q. And where did you do that?

25          A. First, I took notes in a notebook at home, in my own

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1 headquarters, as it were, and then I went and did the same at the  
2 Doberdelan headquarters.

3 Q. So is it correct that your unit was established as part of  
4 Doberdelan's sphere of influence?

5 A. Roughly speaking, yes. But I did not take any orders or  
6 command. What I was looking for is finding a solution to find  
7 weapons in order to defend the village. However, I never received  
8 any commands from him.

9 Q. Right. But when you needed logistical assistance, Habib Elshani  
10 helped your unit acquire weapons from Albania. Do I understand it  
11 right?

12 A. Yes.

13 Q. Turning now to Ilaz Kadolli. You can see him still on the  
14 screen here. When you talked to him at Semetishte, I understand he  
15 didn't say anything about intelligence, but did he identify you as a  
16 commander?

17 A. Yes.

18 Q. I'd now like to ask you about a specific portion of your SPO  
19 interview.

20 MR. HALLING: If the Court Officer could please put on the  
21 screen P01805.4, and this would be the bottom of page 6 in both  
22 English and Albanian, going over to page 7.

23 Q. Witness, this is a portion of your SPO statement that is about  
24 being taken to Semetishte. And once it's up on the screen, I'm going  
25 to read you a small portion and ask some follow-up questions.

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1 So this is what was asked of you:

2 "Q. Were you handcuffed or detained? How were you  
3 transported?"

4 And you answered:

5 "No. Except for when I arrived in Semetish, during the  
6 discussion, the threatening -- the threat started and they said to  
7 me, 'Do you know that you have those villagers of yours here at our  
8 place?' Meaning the Serbs. 'Do you know that people, your  
9 co-villagers, are here where we are, are with us', meaning Serbs,  
10 'and the same can befall you?'"

11 Witness, who says this to you?

12 A. Ilaz Kadolli was the one to tell me this. There were threats  
13 which I ignored.

14 MR. HALLING: Now we'd ask if the Court Officer could please put  
15 on the screen 057924 to 058024, and it's page 058008 in English and  
16 Albanian.

17 MS. TAVAKOLI: Before the Court Officer does that, I have an  
18 objection. And I'd like to be heard in the absence of the witness,  
19 please, if this is relating to Prep Note 2, paragraph 5.

20 MR. HALLING: It is.

21 MS. TAVAKOLI: Please, could I be heard in the absence of the  
22 witness.

23 PRESIDING JUDGE SMITH: Please escort the witness out of the  
24 courtroom.

25 [The witness stands down]



1           PRESIDING JUDGE SMITH: Go ahead, Ms. Tavakoli.

2           MS. TAVAKOLI: Thank you.

3           Now, paragraph 5 of Prep Note 2 says:

4           "What Ilaz Kadolli said to [the witness] about the Opterushe  
5 Serbs being at his place," and it gives the reference, "is consistent  
6 with what Ilaz Kadolli writes about his unit's Zocishte and Opterushe  
7 assistance on this page."

8           Now, if you turn to the witness's interview, Part 4, page 7,  
9 what Ilaz Kadolli says is he tells this witness that the Serbs, the  
10 co-villagers from his witness are together with him at Semetishte.  
11 That information is simply not contained at all within the page that  
12 the Prosecutor wants to put on the screen and put to the witness.

13           It's quite clear why the Prosecutor wants to do that, because in  
14 that page there is a sentence from Ilaz Kadolli that says:

15           "The General Staff requested the 123 Brigade to ... /?assist at/  
16 ... Zocishta/ and Opterusha. [The] soldiers came under fire,"  
17 et cetera, et cetera.

18           That is night and day from the section that they're saying  
19 purports to be the same, and this relates to my objection earlier.  
20 This is simply not the witness's evidence. This witness is being  
21 used as a ruse to put in other documents, and it's problematic. He  
22 knows Ilaz Kadolli, he can be asked about what happened to him in  
23 Ilaz Kadolli's presence, but we cannot be using this witness to put  
24 in pages of Ilaz Kadolli's book that bear no relevance at all to what  
25 this witness's testimony is.

1           And so for those reasons, I don't think the witness should be  
2 shown it, and a subsequent application in due course for it to be  
3 admitted should be rejected. It's not relevant to the witness's  
4 testimony, it's unsupported by his evidence, and its prejudicial  
5 value far outweighs its probative value.

6           JUDGE METTRAUX: Ms. Tavakoli, would you take the same position  
7 if the document was offered from the bar table as an excerpt of a  
8 book?

9           MS. TAVAKOLI: As I understand it, the issue is this book has  
10 already been subject to a bar table motion, parts of it, and I think  
11 initially they tried to -- the SPO tried to submit the entire book  
12 and that was rejected. And I think Your Honours decided that, going  
13 forward, the Prosecution would have to apply page by page to get the  
14 parts that they wanted admitted.

15           JUDGE METTRAUX: But that had to do with relevance,  
16 Ms. Tavakoli. With respect, what I'm asking you is if this page was  
17 offered from the bar table, what would be your objection to its  
18 admission?

19           MS. TAVAKOLI: It was offered and it was rejected. And now  
20 they're trying to offer it through this witness, and I'm saying it  
21 doesn't fulfil the test because its not relevant to this witness's  
22 evidence.

23           JUDGE METTRAUX: But are you suggesting that to be admissible,  
24 something has to be relevant to a witness's evidence as opposed to  
25 being relevant to the case? I'm not clear.

1 MS. TAVAKOLI: My point is this: If you admit this now -- as I  
2 understand it, but I stand to be corrected by my learned friends  
3 because this occurred before I was on my feet in this courtroom. As  
4 I understood it, they sought to admit the whole book. Your Honours  
5 rejected that.

6 So your question presupposes that the Prosecution is applying to  
7 reconsider your decision by applying to admit it through a bar table  
8 motion when they've already done that and you've rejected it. So now  
9 the test is different. The test is -- it now falls to be the test  
10 under Rule 138 and, for the reasons outlined, it doesn't meet that  
11 test, unless you are saying that your previous decision was incorrect  
12 and you should have actually admitted the whole book in the first  
13 place, which I don't think you're saying.

14 JUDGE METTRAUX: You're right about that.

15 MR. DIXON: Your Honour, we would support that objection. There  
16 really is no application for it to come through a bar table admission  
17 now, and if there was, we would oppose it, to make it clear.

18 The current position is - and perhaps this page should be  
19 brought up so everyone can see - to seek to admit it through the  
20 witness when it has nothing to do with his testimony whatsoever. So  
21 it's a backdoor attempt and must be rejected firmly.

22 MR. ELLIS: We would join those objections as well. In short,  
23 our position would be it should be rejected because the prejudicial  
24 effect of admitting it at this stage outweighs probative value. It's  
25 seeking to admit a sentence in a book that says something about the

1 General Staff in some circumstances where this witness can't possibly  
2 be meaningfully cross-examined on that.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. HALLING: I mean, just to say that there's no connection  
5 between that sentence and this witness's evidence I find amazing to  
6 be made as a submission.

7 The witness is talking about what Ilaz Kadolli said to him, he  
8 is saying information that suggests that Ilaz Kadolli's unit has  
9 Serbs from Opterushe, this page in the book says that it is there  
10 helping in Opterushe. And it doesn't say the General Staff in this  
11 witness's evidence, but he does say that on the night of the attack  
12 it comes from an order from high up, which is also consistent with  
13 this page.

14 And to answer Judge Mettraux's question, which Ms. Tavakoli  
15 didn't answer, there is no legitimate reason to object to this item  
16 if it's tendered through the bar table, and we think we have a  
17 witness here who can contextualise it now.

18 [Trial Panel confers]

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 It is admissible, it is relevant, it's probative, and it will be  
21 admitted under 138(1).

22 MR. DIXON: Your Honour, it hasn't been put to the witness yet,  
23 the particular page we're talking about.

24 PRESIDING JUDGE SMITH: I thought he -- oh, yes. [Microphone  
25 not activated].

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1 MR. DIXON: Yes. In order to --

2 PRESIDING JUDGE SMITH: I'm sorry. My mistake.

3 MR. DIXON: -- try and avoid it being put unnecessarily.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. HALLING: And, Your Honour, if it assists on timing, I'm --  
6 this is the last thing I'm going to do in my direct examination.

7 [The witness takes the stand]

8 MR. HALLING: Thank you, Your Honour.

9 Q. Witness, I'll continue with my questions.

10 MR. HALLING: And for this, we'd ask the Court Officer to please  
11 pull up on the screen 057924 to 058024, page 058008.

12 Q. And, Witness, for context, this is a page of a book that  
13 Ilaz Kadolli wrote after the war. And I understand that you had not  
14 seen any pages of this before your preparation session; is that  
15 right?

16 Would you like me to repeat the question?

17 A. No, I had not seen it. It was the first time I saw it that very  
18 day you mentioned.

19 Q. Understood. So on the English and Albanian side of the page.  
20 So, Witness, for you, the left side. On the left page towards in the  
21 middle, there's a sentence that says:

22 "The General Staff requested the 123rd Brigade to ... /?assist  
23 at/ ... Zocishta/ and Opterusha."

24 Now, is this consistent with what Ilaz Kadolli was telling you  
25 about how the Opterushe Serbs ended up at his place?

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1 A. Yes, yes.

2 Q. And on the night of the attack, when Ejup Kabashi said that the  
3 order came from high up and you asked him where the order came from,  
4 did he give any response?

5 A. Yes. He answered and he said that the order came from high up.  
6 And I said, "What do you mean high up?" And I looked up, and I said,  
7 "What are you doing?" I said, "Stop, because this cannot be  
8 allowed." But there were three people there whom I did not know, and  
9 they were insisting that my group had gone there to join them and go  
10 into Serbs' homes. So this was it.

11 Q. Did he give you any further information about who the people  
12 from high up were?

13 A. No. No.

14 MR. HALLING: Well, Your Honour, as discussed outside the  
15 presence of the witness, the book entry does give that information.  
16 It's also consistent with other exhibits in the case, like P1329. We  
17 tender it for admission.

18 PRESIDING JUDGE SMITH: I believe your objections are already on  
19 the record. You can certainly repeat something or add something if  
20 you wish.

21 MS. TAVAKOLI: The only thing I would like to say is the book  
22 doesn't necessarily give the answer. It's a book. It's the opinion  
23 of one man. And this witness's evidence is his evidence. They are  
24 separate things.

25 PRESIDING JUDGE SMITH: And certainly ripe for

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1 cross-examination. I have no doubt about that.

2 The exhibit will be admitted.

3 MR. HALLING: Yes. And, Your Honour, if it assists, parts of  
4 the book are already admitted as P12. We would ask that it be added  
5 to that exhibit.

6 PRESIDING JUDGE SMITH: Yes. 057924 to 058024 is admitted and  
7 will be added to -- is it --

8 MR. HALLING: So that's the full range of the book. The  
9 specific page is 058008.

10 PRESIDING JUDGE SMITH: Yes, I've got it. 058008. And what is  
11 the existing exhibit that's already admitted?

12 MR. HALLING: P12.

13 PRESIDING JUDGE SMITH: P12? All right. It will be added to  
14 P12.

15 MR. DIXON: Your Honour, just before the number is given, could  
16 I just raise one matter about the translation, which we were also  
17 going to raise when this arose, given that it's not clear exactly  
18 what wording is used there. We see the word "to assist," but there  
19 are a number of words around that that have not been translated or  
20 any explanation given as to what those words mean, if they can be  
21 translated or not. It would seem to be, seeing the Prosecution is  
22 placing so much emphasis on this, relevant to know in order to be  
23 able to explore this, if we wish to.

24 PRESIDING JUDGE SMITH: If you wish to question the translation,  
25 there is certainly a procedure to do so and we would urge you to do

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1 that.

2 MR. DIXON: But I'm asking, before it gets admitted, whether the  
3 Prosecution has any further explanation.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. HALLING: This is the best translation that we've been able  
6 to provide. Again, as Your Honour said, there are channels to see if  
7 it can be improved, but this is the best we have.

8 PRESIDING JUDGE SMITH: We are certainly open to looking at it  
9 if you come up with an alternative translation well.

10 MR. DIXON: Well, the difficulty, just in response to my friend,  
11 is that the original Albanian doesn't seem to have words that are  
12 capable of translation. It seems to be saying that that's not clear.  
13 And it would be helpful to know if that is the case and whether there  
14 is any translation possible.

15 I know Your Honours --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. DIXON: -- can't do it.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. DIXON: And, likewise, myself. But I'm once again asking if  
20 there is any further explanation from the Prosecution before it's  
21 admitted and before we have to take it further, if we do.

22 PRESIDING JUDGE SMITH: Apparently there is no further  
23 explanation. You've heard what he said just now.

24 MR. DIXON: [Microphone not activated].

25 PRESIDING JUDGE SMITH: But thank you for bringing it to our



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1 attention.

2 [Microphone not activated].

3 MR. HALLING: Just to confirm the exhibit add.

4 THE COURT OFFICER: Your Honours, page 058008 will be added to  
5 P00012. If I can seek for clarification, the page itself is  
6 confidential. Nonetheless, the admitted exhibit is public.

7 MR. HALLING: It's public, Your Honour.

8 PRESIDING JUDGE SMITH: It will be reclassified as public.

9 Let's take a five-minute break and then come right back, and  
10 we'll use the last 25 minutes to the best of our ability.

11 MR. HALLING: And to Your Honour's question, we have no further  
12 questions.

13 PRESIDING JUDGE SMITH: Thank you.

14 Please escort the witness out.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: We're adjourned for five minutes.

17 --- Break taken at 4.05 p.m.

18 --- On resuming at 4.11 p.m.

19 PRESIDING JUDGE SMITH: Please bring the witness in.

20 [Microphone not activated] ... do you wish to question the  
21 witness?

22 MR. LAWS: [Microphone not activated].

23 PRESIDING JUDGE SMITH: I'm sorry?

24 MR. LAWS: No, I'm not going to --

25 PRESIDING JUDGE SMITH: Okay.

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1 MR. LAWS: -- ask this witness --

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. LAWS: -- any questions. Thank you.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: You can be seated, Witness.

6 THE WITNESS: [Interpretation] Thank you.

7 PRESIDING JUDGE SMITH: Ms. Tavakoli, representing the Thaci  
8 Defence, will have some questions for you now. Over here.

9 Cross-examination by Ms. Tavakoli:

10 Q. Good afternoon, sir.

11 A. Good afternoon.

12 Q. Now, you created your KLA unit about one to two months after the  
13 Jashari incident; correct?

14 A. Earlier than that. Not immediately but, yes, a little earlier.  
15 After the incident, I started having this activity --

16 MR. DIXON: Sorry to interrupt, Your Honour. I'm just waiting  
17 for the -- everyone to attend.

18 PRESIDING JUDGE SMITH: Oh.

19 Mr. Veseli, are you there?

20 [Trial Panel and Court Officer confers]

21 MR. DIXON: Thank you, Your Honour.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Everybody is together now.

24 Go ahead.

25 MS. TAVAKOLI: Thank you.

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1 Q. Now, would I be right that your KLA group developed out of a  
2 need to defend village and your property, a form of self-defence?

3 A. Yes. Yes.

4 Q. Thank you. So it developed from the bottom up. You put it  
5 together at the grassroots level; correct?

6 A. We created this ourselves because Rugova kept saying that we  
7 must defend our homes, and that was the impression that I had, that  
8 we had to do that, defend our village.

9 Q. And you appointed yourself the commander of your group; correct?

10 A. I called upon, I would say, my cousins, relatives, and said,  
11 "What are we going to do? But whomever wishes to become a commander,  
12 they can." But nobody wanted to, so it was left up to me. But it's  
13 not like my aim was to become the leader of this group. So then I  
14 took up that position.

15 Q. So you agreed it amongst yourselves. You weren't appointed my  
16 any higher-ups; correct?

17 A. No.

18 Q. And you didn't report to anybody higher up, did you?

19 A. No, no, no, no. Absolutely not.

20 Q. Now, in the summer of 1998, you've told the Court that there  
21 were two KLA groups in Opterushe, yours and a second one led by Ejup  
22 Kabashi; correct?

23 A. Yes, that's correct.

24 Q. And your group didn't have good relations with Ejup Kabashi's  
25 group, did they?

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1 A. Well, we, as family members, did have good relations, but we did  
2 not agree to their actions, their positions, so I was against those.  
3 I did not agree with them. And, basically, I didn't want my group to  
4 be a victim of the politics that was going on there. Because as far  
5 as I was concerned, this was about politics, the entire conflict in  
6 Kosovo.

7 Q. And there were also practical frictions, you told the  
8 Prosecutor's Office, over resources, cars, money, and things like  
9 that; correct?

10 A. Yes, yes.

11 Q. And you didn't coordinate with them, did you?

12 A. No.

13 Q. So, effectively, the KLA that was operating in Opterushe in July  
14 1998 wasn't unified. It wasn't one KLA, was it?

15 A. Well, earlier I mentioned what it was like. The KLA was as if  
16 shepherds. They were shepherds. I think I mentioned this earlier.  
17 I do not know whether you followed me, what I mentioned earlier. So  
18 there was a shepherd that protected and defended people, the country,  
19 the place, and the other that wanted to take them to the wolves. And  
20 which one was which, I do not know. But when I -- I was looking at  
21 what was happening and their activity, I was entirely distanced from  
22 them and despaired. I thought this is not on. I mean, their actions  
23 in Opterushe.

24 Q. Yeah.

25 A. Because they were our people, our fellow villagers.

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1 Q. Thank you. You did tell the Court that. You've answered my  
2 question. I'll move on.

3 A. And I just wanted to say something else, if I may. May I  
4 explain it?

5 Q. No, I'm asking the questions. Can we move on, please. Now,  
6 Ejup Kabashi --

7 A. Okay, thank you.

8 Q. I have limited time, sorry. Ejup Kabashi --

9 A. Thank you. That's fine.

10 Q. -- told you that there was an order from higher up; correct?

11 A. Yes.

12 Q. And when you ask him who that was, he looked up to the sky;  
13 correct?

14 A. Yes.

15 Q. Now, he didn't tell you who gave that order, did he?

16 A. No. No, no, he didn't.

17 Q. And he didn't tell you that it was the General Staff of the KLA,  
18 did he?

19 A. No. No, no, he didn't mention that.

20 Q. Thank you. Now I want to turn to the attack itself. You didn't  
21 know the men -- who the men were that participated in that attack,  
22 the Opterushe attack, did you, save for one who went by the name of  
23 Florim; correct?

24 A. Everybody was talking about Florim. And then that night, the  
25 critical night, I do not know, but everybody was mentioning him. So

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1 taking the Serbs. I saw Florim from a distance, 50, 30 metres,  
2 perhaps even more than that as a distance. But then, everybody was  
3 saying that it was Florim who was driving the tractor taking the  
4 Serbs to Semetishte.

5 Q. I understand. But Florim is the only one that you can  
6 recognise; correct?

7 A. Yes.

8 Q. You didn't know who any of the other men were, did you?

9 MR. HALLING: Objection as to vagueness. There is another  
10 person the witness knows earlier in the attack. If counsel could  
11 clarify at what point it's being questioned about.

12 PRESIDING JUDGE SMITH: Yes, be a little more clear, please.

13 MS. TAVAKOLI:

14 Q. Is there another man other than Florim that you recognise from  
15 the day of that attack as being a participant in the attack?

16 A. No. But what people were saying afterwards, but not there -- so  
17 they were saying that Ismet was there, too. Ismet Sorra, right?  
18 Yes. Or Ismet Bylykbashi.

19 Q. And when you say people were saying that, did you see him?

20 A. No. No, I didn't see Ismet.

21 Q. So the only person that you saw that you knew was Florim?

22 A. Well, whom I recognised --

23 Q. Yes.

24 A. -- yes. Yes, it was Florim.

25 Q. Thank you. Now, you also told the Prosecutor, and I just want

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1 you to confirm your evidence here, that they called themselves the  
2 KLA.

3 MS. TAVAKOLI: And the reference, for the record, is P01805.2,  
4 pages 36 to 37.

5 Q. They called themselves the KLA, these men that attacked the  
6 village. But as far as you were concerned, they were not the KLA; is  
7 that correct?

8 A. Yes. Yes.

9 Q. So would I be right then that these men were abusing the name of  
10 the KLA?

11 A. I think so too.

12 Q. Thank you. Now, I want to move on now to the list of  
13 collaborators. Three men came and gave you a list of alleged  
14 collaborators. Now, is it correct that the list was handwritten and  
15 unsigned?

16 A. Yes, that's correct.

17 Q. And you do not know who wrote the list, do you?

18 A. No.

19 Q. And you do not know the three men who gave you that list, do  
20 you?

21 A. No, I did not know them.

22 Q. Now, most of the people on that list, you told the Prosecutor -  
23 and the reference here is P01805.2, pages 7 to 8 - I think most of  
24 them, with the exception of a teacher, were part of the LDK; correct?

25 A. Well, it's not like I kept proof of how many there were. I

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1 mean, we were all members of the LDK. But to say that we held any  
2 positions and such, I do not know of that, because I was a carpenter  
3 minding my own business. I didn't follow what people were doing.  
4 But I did not like the list, though --

5 Q. I understand that.

6 A. -- because --

7 Q. I'm not asking if you liked the list. I was asking you if most  
8 of them on there were from the KLA -- I'm sorry, LDK. And you said  
9 yes; is that right?

10 A. Yes.

11 Q. But -- and you also told the Prosecutor, and I've given the  
12 reference, that you did not think that they were on that list because  
13 they were members of the LDK. That's not why they were targeted, was  
14 it?

15 A. The reason, from what I could tell, was that they wanted to make  
16 me join them, to be part of them and come under their command and  
17 cooperate with them. As a commander of that group, they wanted me  
18 with them. And I put myself at risk, and I said, "Leave from here  
19 because this is not right." And then that's when they started the  
20 attacks against me. You know, refusing me.

21 Q. I understand that, sir, but my question was slightly different.  
22 I perhaps will just read it from your evidence and you can confirm if  
23 it's right. You were asked by the Prosecutor, and I've given the  
24 reference, he asked you were they targeted as collaborators because  
25 of their LDK membership? And your answer was:



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1 "Well, no, I don't think so."

2 Is that still your evidence today?

3 A. Yes. Yes.

4 Q. Thank you.

5 MS. TAVAKOLI: I've no further questions.

6 PRESIDING JUDGE SMITH: Thank you, Ms. Tavakoli.

7 MR. DIXON: Thank you, Your Honours. We have no questions for  
8 this witness.

9 PRESIDING JUDGE SMITH: Mr. Roberts?

10 MR. ROBERTS: Do you want me to start now, Your Honour, at 4.28?  
11 I may have no questions but I would like to just reflect overnight,  
12 if that's okay with you.

13 PRESIDING JUDGE SMITH: Witness, that's the end of your  
14 testimony today. You will have to be back here tomorrow morning at  
15 9.00, and we will try to finish your testimony efficiently tomorrow  
16 morning.

17 Thank you for being with us today. You may go with the Court  
18 Attendant and leave the room. You may not speak to anyone about your  
19 testimony in court. If anyone tries to talk to you about your  
20 testimony in court, please let us know.

21 See you tomorrow morning at 9.00.

22 THE WITNESS: [Interpretation] I understand. Thank you very  
23 much. Thank you. And best wishes to everybody as well as my  
24 respect.

25 PRESIDING JUDGE SMITH: You may leave.

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: Mr. Ellis, I failed to ask you how  
3 long -- if you're still going to be a half hour.

4 MR. ELLIS: I don't know if I'll be the full half hour, but I do  
5 have something. Yes.

6 PRESIDING JUDGE SMITH: So we seem to be finished for today.  
7 Thank you all.

8 We are adjourned until tomorrow at 9.00 a.m.

9 --- Whereupon the hearing adjourned at 4.28 p.m.

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