

1 Thursday, 31 October 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Thaci appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 I note that all the accused are present in court today except  
13 for Mr. Thaci, who is appearing via videolink.

14 We will now continue hearing the evidence of Prosecution  
15 Witness W04295.

16 Madam Court Usher, please bring the witness in.

17 Mr. Roberts, we're all waiting with great anticipation to find  
18 out if you're asking questions or not.

19 MR. ROBERTS: Thank you, Your Honour. Me too. Having reflected  
20 overnight, I don't have any questions --

21 PRESIDING JUDGE SMITH: Okay.

22 MR. ROBERTS: -- for this witness.

23 PRESIDING JUDGE SMITH: Thank you.

24 MR. ROBERTS: Thank you.

25 [The witness takes the stand]

1           PRESIDING JUDGE SMITH: Please be seated.

2           Good morning, Witness. Thank you for being with us this  
3 morning.

4           THE WITNESS: [Interpretation] Good morning.

5           PRESIDING JUDGE SMITH: Today we are going to continue your  
6 testimony. I remind you to please try to answer the questions  
7 clearly with short sentences. And if you don't understand a  
8 question, feel free to ask counsel to repeat the question or tell  
9 them you don't understand and they will attempt to clarify. Also,  
10 please try to remember to indicate the basis of your knowledge of  
11 facts and circumstances upon which you will be questioned.

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

14           Please also remember to speak into the microphone and wait for  
15 five seconds before answering a question to allow the interpreters to  
16 catch up.

17           And if you feel the need to take a break, please make an  
18 indication and we will accommodate you.

19           We begin now with questions from Mr. Ellis who represents  
20 Mr. Krasniqi in this case. He's to your far right. Please give him  
21 your attention.

22                               WITNESS: HAXHI MAZREKU [Resumed]

23                               [The witness answered through interpreter]

24                               Cross-examination by Mr. Ellis:

25           Q. Good morning, Witness.

1 A. Good morning.

2 Q. I have a small number of questions for you this morning,  
3 Witness, so this won't take very long, but I'll try to be clear in  
4 what I'm asking you about.

5 Now, during your interview with the Prosecution, which has now  
6 been admitted at P1805.7, page 16, beginning at line 9, you were  
7 shown a communiqué by the Prosecution. And you said:

8 "I wasn't following these communiqués, but I would say that the  
9 truth... or was 100 per cent [the] truth could only be found on the  
10 last page of the newspapers where people who had died are listed. As  
11 for the remaining pages, I personally did not believe in everything I  
12 read."

13 Do you recall saying that to the Prosecution in 2019?

14 A. Yes, and it is entirely correct.

15 Q. And what you were saying there was that you did not believe what  
16 was written in communiqués was true; is that right?

17 A. No. I wasn't reading and following the communiqués. However,  
18 those who died, the information about them was 100 per cent correct.  
19 I mean, the last pages of the newspapers had these names and they  
20 were entirely correct, and that is what I was trying to explain.

21 Q. I understand you. Now, in your preparation session with the  
22 last week, you clarified some of your earlier evidence - and this is  
23 at paragraph 33 of Preparation Note 1 - and you said that you do not  
24 know who was reading the communiqués. And that is right, isn't it,  
25 because you weren't following them?

1 A. It is right, yes.

2 Q. Can I move on to something different, which is you were shown a  
3 passage from a book by Ilaz Kadolli by the Prosecution yesterday.  
4 And I think you confirmed that you had not seen this book until the  
5 Prosecution showed it to you; is that right?

6 A. Yes, it is.

7 Q. Now, in a recent statement, the reference for which is 081717,  
8 Part 1, page 7, line 12, Ilaz Kadolli was asked:

9 "The things you write about in the book are things that you  
10 witnessed yourself or is it information you collected from other  
11 people?"

12 And he replied:

13 "In part these are things that I witnessed myself. Most of the  
14 things are taken from the internet, the daily press and other  
15 people."

16 Were you aware when the Prosecution showed you this book that  
17 the writer of it, Mr. Ilaz Kadolli, had said that most of the things  
18 are taken from the internet, the daily press, and from other people?

19 A. To be honest, I did not follow any such thing. It's the first  
20 time I heard about them when I came here.

21 Q. Thank you. And moving on again to a different topic. If I've  
22 understood your evidence correctly, two or three weeks after the  
23 incident in Opterushe, you left Kosovo for Albania; is that correct?

24 A. Yes. Maybe there's more -- more time afterwards. However, the  
25 fact remains that I did leave, yes.

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1 Q. And there you joined the KLA in Kalimash and you fought in the  
2 battle of Koshare, ultimately. That's right, isn't it?

3 A. Correct, yes.

4 MR. ELLIS: One moment, Your Honour.

5 Thank you, Your Honour. Those were my questions.

6 PRESIDING JUDGE SMITH: Thank you.

7 Any redirect?

8 MR. HALLING: None, Your Honour.

9 PRESIDING JUDGE SMITH: Judge Barthe, do you have questions?

10 Judge Mettraux.

11 JUDGE METTRAUX: Thank you, Judge Smith.

12 Questioned by the Trial Panel:

13 JUDGE METTRAUX: And good morning, Witness.

14 A. Good morning.

15 JUDGE METTRAUX: I'd like to follow up on a few matters that you  
16 discussed yesterday with counsel.

17 And I'll ask the Registry to please bring up Exhibit P75.

18 Just to refresh your memory, sir. Do you recall being shown  
19 this document yesterday by the Prosecutor, in particular a part  
20 containing allegations of collaborations pertaining to you which you  
21 said were false? Do you recall that document?

22 A. Yes.

23 JUDGE METTRAUX: Can the Registry please take us to page  
24 U001-9295. That would be 9295, please.

25 [Trial Panel and Court Officer confers]

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1 JUDGE METTRAUX: Sorry, sir. I will try to find the document  
2 from the fuller range. This would be U001-9244 to U001-9306.

3 MR. HALLING: And, Your Honours, this page is part of the  
4 admitted exhibit. If it assists, Mr. Court Officer, it's page 49 of  
5 the 63-page PDF.

6 JUDGE METTRAUX: Thank you. Thank you to the Registrar and to  
7 you, Mr. Halling.

8 Witness, can you please have a look at the bottom right-hand  
9 corner of that page. Do you see your name there?

10 A. Yes, I do.

11 JUDGE METTRAUX: And maybe I should go first to the left-hand  
12 side of the page, to the top. You see there's an entry here of  
13 16 July 1998. Do you see that?

14 A. Yes, I see it very well.

15 JUDGE METTRAUX: And just to situate ourselves in space, that  
16 would be about two days before the attack on your village; correct?

17 A. What are we talking about?

18 JUDGE METTRAUX: 16 July 1998 would be about two days before the  
19 attack on your village; is that correct?

20 A. Yes.

21 JUDGE METTRAUX: Now, if we look to the right, the bottom right  
22 corner of that page, please. Now, in the English version it refers  
23 to your village, Opterushe, and it lists two persons who should be  
24 interrogated. There's your name, you've confirmed: "Haxhi Mazreku  
25 (a soldier)." And then there's the name of a Nezir Mazreku.

1 Can you tell us who that person is, sir?

2 A. He's one of my cousins. He was chairman of the socialists in  
3 Opterushe. He worked as a labourer in agriculture and minded his own  
4 business, and his position was that the village should be protected  
5 by all means. And, as a matter of fact, I put myself in a lot of  
6 peril *vis-à-vis* this person because they wanted to take him away, and  
7 I told them that, "You have to take me away too," for him. And the  
8 only reason they wanted to do that was only because he served as  
9 chairman of the socialists at the time.

10 Are there any other questions?

11 JUDGE METTRAUX: Yes, sir. I want to follow up on several  
12 things you just said.

13 The first thing, when you said he was taken away, who tried to  
14 take him away?

15 A. Those who had joined that alleged KLA, and the problem were  
16 these people from the village, our co-villagers that is. And the  
17 allegation was that he was chairman of the socialists because  
18 allegedly he was a collaborator, and he had absolutely nothing to do  
19 with that. He looked after the entire village, including Albanians,  
20 Serbs, Roma, and so on and so forth.

21 This was part of some propaganda and then threats and  
22 intimidation. I was trying to prevent conflict and any such feud,  
23 and in the process of doing this they put me in the same category.  
24 And that is the entire truth.

25 JUDGE METTRAUX: And when you say that his position was to

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1 protect the village by all means, do you mean that, like you, he was  
2 standing up also for his Serbian neighbours?

3 A. When I say to protect the village before the conflict, I --  
4 as -- I do not call that a war, but a conflict, there were issues in  
5 the village before the conflict, and he tried, as a matter of fact,  
6 to stabilise the situation, to prevent a situation whereby young boys  
7 would be surrendered to the police. So he was trying to iron out  
8 differences and put a lid on problems in the village.

9 However, when war started, that which we are calling a war, that  
10 responsibility fell to me, and I tried to follow in his footsteps to  
11 establish law and order. As a KLA, we were against the Serbian  
12 regime, people in uniform, police, and the military, but not  
13 civilians, the Serb civilians. Anything against women and children  
14 and other civilians should be prohibited.

15 What I did during the war is a source of pride for all of us in  
16 front of the entire world. And each time there was an occasion of  
17 abuse, I intervened to put an end to it. I wanted to protect  
18 everyone, including through deploying money or weapons for that  
19 matter, and that led to a situation where my name was beginning to be  
20 bandied about as an undesirable.

21 I am ready to submit myself before everyone, including, you  
22 know, yourselves, including, you know, any head of state or head of  
23 government, in order for the truth to come out.

24 JUDGE METTRAUX: Now, was the name of Nezir or Nazir one of the  
25 names you saw on the list of suspected -- of 18 suspected

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1 collaborators that you saw sometime before the attack on the village?

2 A. Yes.

3 JUDGE METTRAUX: And I understood you to say in your SPO  
4 interview that a gun had been taken away from Nezir, your cousin.  
5 Did I understand that correctly?

6 A. Yes, you understood it very well. However, that happened later.

7 JUDGE METTRAUX: And who took that gun away from him?

8 A. It was some people from Samadrexhe, allegedly KLA members. And  
9 when news reached me, I went all the way to look after the situation,  
10 but by then he had he surrendered his handgun. And I said, "Return  
11 the weapon to him." And he said, "No, just let it be. Let it be,"  
12 so the situation would not deteriorate. Because, as a matter of  
13 fact, I would have been able to retrieve the weapon for him, but we  
14 wanted to settle the situation. And he told me himself, he said, you  
15 know, "Just stay away, Haxhi, because I have surrendered that weapon  
16 now."

17 JUDGE METTRAUX: Can the Registry please turn to page U001-9286  
18 in the same document.

19 Sir, can you please look to the left-hand side of that document.  
20 There's an entry -- if we can scroll up a bit, thank you. There's an  
21 entry of 23 July of 1998. Do you see that?

22 A. Yes.

23 JUDGE METTRAUX: And it says that those who prepared that  
24 document had a talk with representatives of the village of Brestovc  
25 on or about 23 July 1998, so that's about five days after the

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1 incident in your village.

2 First, I'll ask you to tell us whether you know any of these six  
3 people?

4 A. No, I don't know any of them. This Nahit Elshani appears to be  
5 somebody who used to be in the LDK and who used to work in Rahovec  
6 before the war. That is just a name that means something to me. The  
7 others are entirely unknown. I used to have contacts with Nahit, and  
8 it appears to be somebody that I would have seen in the past.

9 JUDGE METTRAUX: Do you know, perhaps, the second individual on  
10 that list, Ruzhdi Kabashi? Do you recall this name?

11 A. You are mentioning the village of Brestovc, aren't you? There  
12 is a Ruzhdi Kabashi in our village, too. But I do not know a  
13 Ruzhdi Kabashi from Brestovc.

14 JUDGE METTRAUX: Thank you. Then in that case, I'll move on  
15 from there.

16 I want to ask you about your interrogation at the hand of  
17 Ilaz Kadolli. Do you recall telling about it to the SPO?

18 A. Yes.

19 JUDGE METTRAUX: And I think you indicated that he introduced  
20 himself as a commander, but he did not tell you that he was a member  
21 of the intelligence and counter-intelligence service; is that right?

22 A. Yes.

23 JUDGE METTRAUX: Can you recall approximately when that  
24 interrogation took place?

25 A. I have difficulty giving the exact date or month, but I can tell

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1 you details about the event itself.

2 JUDGE METTRAUX: I'll come to the content of it. But just  
3 trying to situate yourself in time, was it before the attack on your  
4 village? Was it after? And if before and after, how long before or  
5 after would that have taken place?

6 A. It was after the attack.

7 JUDGE METTRAUX: And how long after, if you are able to say?  
8 And, again, in approximate terms.

9 A. Two weeks, a month. No more than that.

10 JUDGE METTRAUX: That's helpful, sir. Can you recall whether he  
11 was alone or was he accompanied by someone?

12 A. They took me to that kind of headquarters. There were other  
13 people present there, too, but he was the one doing the speaking.  
14 There were guards, there were other people around.

15 JUDGE METTRAUX: And where exactly was it? Can you tell us?

16 A. It was in Semetishte.

17 JUDGE METTRAUX: And that's an occasion, from your SPO  
18 interview, where Ilaz Kadolli issued threats against you; is that  
19 right?

20 A. Yes, entirely right.

21 JUDGE METTRAUX: And can you tell us what exactly he was  
22 threatening you for?

23 A. It was a question about 30.000 Deutschmarks which the KLA were  
24 requesting. I said that money belongs to the village, to buy  
25 foodstuffs -- foodstuffs and armaments and so on for the village.

1 And Kabashi insisted that that money be handed over to them, and I  
2 refused to do that. I said, "That money has arrived to me, and I'm  
3 responsible for administering them." They came and took me away, and  
4 they said, "You should give up the money. You have 24 hours." And  
5 they said, "You either surrender the money here or something would  
6 happen to you." I said, "You know, you can execute me if you want,  
7 but I will not give up the money." And he said, "You're either  
8 somebody who is fair or an idiot." And I said, "You can call me  
9 whatever you want, but I will not give you the money." They gave me  
10 an ultimatum of 24 hours.

11 I returned home, took the money, and I went and distributed them  
12 to every single house, and, you know, every single house which had  
13 received the money from overseas. There were some Kabashi family,  
14 but mostly were from the Mazreku side. I distributed all the money  
15 back to them.

16 At the end of the war, however, every single family -- every  
17 single one of them came and hugged me, and they said, "Thank you,  
18 Haxhi. The money you gave us enabled us to get back to Albania."  
19 And I was proud to have done that. However --

20 JUDGE METTRAUX: I just want a clarification, for the record,  
21 sir. I think it might have recorded wrong name. These statements  
22 that were made to you and these threats, the record says Kabashi did  
23 it. Did you mean Kadolli? Was it a statement made by Ilaz Kadolli?  
24 A. Kabashi was the one who spread the rumours for me in Opterushe.  
25 The others did not know who was Haxhi. So they thought that, you

1 know, threats would work against me, and I said I wouldn't. And I  
2 said there's absolutely no chance that I would succumb to that kind  
3 of threat.

4 JUDGE METTRAUX: Just what I want to be clear is the request  
5 that you should hand the money, the 30.000 Deutschmarks, was this  
6 made by Kadolli or Kabashi?

7 A. Kabashi sent his own people to demand that of me. He did not  
8 dare come to me in person. And then he instigated these other  
9 people, these kind of special policemen, and they came and arrested  
10 me and demanded the money to be given back to them. I told them,  
11 "Yes, I will come to you." I wasn't handcuffed or anything, but I  
12 just went there.

13 Him -- and he started threatening me, and I stood by my guns,  
14 and that's what happened.

15 JUDGE METTRAUX: So when you say "he started threatening me,"  
16 you mean Kadolli now?

17 A. Yes, Kadolli.

18 JUDGE METTRAUX: And these threats that you received and the  
19 accompanied request, did you report it to anyone within the KLA or  
20 could you report it to anyone within the KLA at the time?

21 A. No. As a matter of fact, the more you'd complain, the more  
22 you'd be in danger. I used to tell my own uncle, and I told him  
23 every single thing, I informed him that should anything happen to me,  
24 this would come at the hands of so-and-so. And he used to say that,  
25 "You're putting yourself in a lot of danger, Haxhi, and there is no

1 resort, no ultimate resort for that."

2 JUDGE METTRAUX: Thank you, sir. Those were my questions.

3 Thank you.

4 JUDGE GAYNOR: No questions. Thank you.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. HALLING: None, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MS. TAVAKOLI: No, thank you.

9 MR. DIXON: No, thank you, Your Honours.

10 MR. ROBERTS: No, thank you.

11 MR. ELLIS: I have one, Your Honour, if I may.

12 Further Cross-examination by Mr. Ellis:

13 Q. Witness, at page 9 of our provisional transcript, His Honour  
14 Judge Mettraux asked you about who took the weapon away from Nezir.  
15 And you responded:

16 "It was some people from" - and I apologise for how I pronounce  
17 it - "Samadrexhe ..."

18 And my question, sir, is have I understood correctly that that's  
19 a village about 4 kilometres from Opterushe to the east?

20 A. I don't understand, I'm afraid.

21 Q. I'm asking you about your answer. And I'll read it back from  
22 the transcript.

23 A. Right. That's correct.

24 Q. Sorry, what's correct?

25 A. It's correct that it is 4 kilometres, 3 to 4 kilometres. That's

1 where Samadrexhe is. So, yes, I understand everything.

2 Q. Thank you. I think it was my pronouncing the name badly that  
3 confused you, so I apologise for that. I think it's clear.

4 MR. ELLIS: Thank you.

5 PRESIDING JUDGE SMITH: Thank you very much.

6 Witness, your testimony is now complete. You are released from  
7 any further obligation to the Court. You may leave the courtroom.  
8 We thank you for being with us and sharing your information with us,  
9 and we wish you well.

10 THE WITNESS: [Interpretation] Thank you very much. Thank you,  
11 everybody. Thank you.

12 [The witness withdrew]

13 PRESIDING JUDGE SMITH: We'll step aside for 15 minutes to bring  
14 in next witness and to get ready for that. So we will be adjourned  
15 until 9.45.

16 --- Break taken at 9.32 a.m.

17 --- On resuming at 9.48 a.m.

18 PRESIDING JUDGE SMITH: Before we resume hearing the evidence of  
19 Prosecution Witness W04758, there are some preliminary matters the  
20 Panel would like to address. Namely, there will be three oral  
21 orders.

22 The first oral order is brief.

23 Pursuant to Rule 82(5), the Panel reclassifies F02671, which is  
24 an in-court redaction order currently classified as confidential, as  
25 public. Any translations of F02671 should also be reclassified as

1 public.

2 This concludes the Panel's first oral order.

3 The second oral order.

4 On 24 October 2024, the Panel MFI'd a document with evidence  
5 number 123264 to 123267 as MFI P01765 pending a revised translation  
6 being provided. No other objections were raised to the document  
7 being admitted into evidence.

8 In Disclosure 1467, the SPO disclosed a revised translation of  
9 this document. Therefore, unless there are any further objections  
10 from the parties and participants, the Panel will admit the pages  
11 tendered by the SPO, namely, pages 123265 to 123267.

12 Any objection?

13 MS. D'ASCOLI: Your Honours, if I may.

14 We have disclosed a further revised version in Disclosure  
15 Package 1473, which I was going to put on the record this morning.  
16 The ERN is 123264 to 123267-ET Revised 1, and we would apply for this  
17 revised translation to be added to P1765, please, as well as to the  
18 presentation queue for Witness 4758.

19 Thank you.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MS. V. ALAGENDRA: No objection, Your Honour.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. ROBERTS: No, Your Honour.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 No objections are heard. The Panel admits 123264 to 123267-ET

1 Revised 1 to P1765. 1765, is that correct? Yes.

2 MS. D'ASCOLI: Yes, that's correct.

3 THE COURT OFFICER: Your Honours, the evidentiary status of  
4 P01765 will be changed to admitted. Thank you, Your Honours.

5 PRESIDING JUDGE SMITH: Thank you.

6 Now the third -- I'm sorry. That concludes the Panel's second  
7 oral order.

8 So the third oral order.

9 Also on October 24, 2024, the Panel MFI'd another document with  
10 evidence reference number U008-1625 to U008-1625 as MFI V00008, which  
11 Victims' Counsel tendered for admission.

12 The Veseli and Thaci Defences objected to the admission of this  
13 item.

14 Having considered the parties' and participants' submissions,  
15 the Panel is satisfied that the document is relevant. The Panel  
16 agrees with Victims' Counsel's submissions that it is relevant that a  
17 press release by an organisation purporting to be the information  
18 directorate of the KLA published information about a victim allegedly  
19 detained at a crime site named in the indictment shortly after his  
20 alleged detention.

21 Regarding authenticity, the Panel is satisfied of the  
22 authenticity of the item. The item is dated, it was originally  
23 published in *Bujku*, and bears all relevant markings of its origin.

24 Regarding probative value, the Panel recalls that it previously  
25 held in F01705, the Third Decision on the Specialist Prosecutor's Bar

1 Table Motion, that the item lacked *prima facie* probative value as it  
2 was unclear from where the information in this item originated, and  
3 it required further contextualisation by a witness. However, the  
4 Panel notes that since the decision, the person named in the document  
5 has been identified as allegedly being a victim participating in the  
6 proceedings. W04758 confirmed, in P01755.9, and in court on  
7 24 October 2024, that a person with a similar name as the person  
8 mentioned in the document was detained by the KLA, and the Panel has  
9 also heard evidence about the information directorate or the  
10 directorate for information from numerous witnesses, for example,  
11 W04752. The Panel is satisfied that sufficient contextualisation has  
12 been provided and is, therefore, satisfied with the *prima facie*  
13 probative value of the item.

14 Lastly, the Panel considers that no prejudice arises. The  
15 Defence has been able to challenge the admission of MFI V00008 and to  
16 cross-examine W04758.

17 Therefore, the Panel finds that the MFI V00008 meets the  
18 requirements of Rule 138 and admits it into evidence. The document's  
19 MFI status should be vacated.

20 This concludes the Panel's third oral order.

21 Now, the fourth issue is that the Panel recalls that the Thaci  
22 Defence reserved its right to tender SPOE00227422 to SPOE00227423  
23 should the Panel admit V00008 into evidence.

24 As the Panel has admitted V00008 into evidence, does the Thaci  
25 Defence intend to tender the SPO document that I mentioned?

1 MR. MISETIC: [via videolink] Mr. President, we will consider it,  
2 and if we wish to tender it, we'll get back to the Panel.

3 PRESIDING JUDGE SMITH: Thank you.

4 That concludes all the oral orders for this morning.

5 We will now continue hearing the evidence of Prosecution  
6 Witness W04758.

7 Madam Court Usher, please bring the witness in.

8 For the record, I didn't mention this earlier today, Mr. Miseti  
9 is appearing via videolink today. We hope you're able to hear and  
10 see adequately.

11 MR. MISETIC: [via videolink] I am. Thank you, Mr. President.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: He needs earphones.

14 Good morning, Witness. Welcome back. Today we're going to  
15 continue your testimony and we hope very much to complete it, as I'm  
16 sure you do too.

17 I remind you to please try to answer the questions clearly with  
18 short sentences. If you don't understand a question, feel free to  
19 ask counsel to repeat the question or tell them that you don't  
20 understand and they will clarify. Also, please remember to try to  
21 indicate the basis of your knowledge of the facts and circumstances  
22 upon which you will be questioned.

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

25 Also, please remember to speak into the microphone and wait five

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1 seconds before answering a question, and then speak at a slow pace  
2 for the interpreters to catch up.

3 And if you feel the need to take a break, please make an  
4 indication and we will try to accommodate you.

5 WITNESS: NUREDIN IBISHI [Resumed]

6 [The witness answered through interpreter]

7 PRESIDING JUDGE SMITH: We begin with the last questions or the  
8 ending questions from the Krasniqi Defence.

9 Madam Alagendra, you have the floor. You have 15 minutes  
10 remaining on your time.

11 MS. V. ALAGENDRA: Thank you, Your Honour.

12 Cross-examination by Ms. V. Alagendra: [Continued]

13 Q. Good morning, Mr. Ibishi. I would like to now just clarify some  
14 things that were asked of you in your responses to the Prosecution --

15 A. Good morning.

16 Q. -- during the preparation session.

17 MS. V. ALAGENDRA: If I could have paragraph 60 of Prep Note 2  
18 on the screen, please.

19 THE COURT OFFICER: I would appreciate if I can get a reference  
20 for it.

21 MS. V. ALAGENDRA: The ERN reference is 123228 to 123253,  
22 please. Paragraph 60, please. We'll leave it there for now, and  
23 then we'll have to scroll down a little later. Thank you.

24 Q. Mr. Ibishi, you recall being asked about an individual,  
25 Enver Sekiraqa, during the preparation session with the Prosecution?

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1 A. Yes.

2 Q. And you've told the Prosecution that you knew Enver Sekiraqa as  
3 a problematic person from the 1990s. Do you recall that?

4 A. I do, yes.

5 Q. And you've also said that he's currently in prison because of a  
6 criminal conviction. Do you recall saying that?

7 A. Yes.

8 Q. I'd first like to identify the person Enver Sekiraqa that you're  
9 speaking about with the Prosecution.

10 MS. V. ALAGENDRA: And if I could have on screen DJK01037-ET.  
11 It's the same in English and Albanian, please.

12 Q. Are you able to see the photograph in the Albanian version,  
13 Mr. Ibishi?

14 A. Yes. However, on my right-hand side, I only see the translation  
15 in English. And on the left is in Albanian.

16 Q. Yes. The photograph is in the original version. The right side  
17 is only a translation of the article for the Court's purposes.

18 So I'd just like to identify, is that the person Enver Sekiraqa  
19 that you were speaking about during the preparation session with the  
20 Prosecution?

21 A. Yes. I spoke about him when I was asked by the Prosecution.

22 Q. Right. And you've said that he was in prison for a criminal  
23 conviction. Were you referring to this conviction of 25 years for  
24 the murder of police officer Triumpf Riza in 2007?

25 A. Yes.

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1 MS. V. ALAGENDRA: We can take that down. And if we could have  
2 DJK1040-ET on the screen, please, and the Albanian version is  
3 DJK01038 to 39. The Albanian is DJK01038 to 39, please. If we can  
4 scroll down a little bit, please. Thank you.

5 Q. Now, you've said that you believed Enver Sekiraga was currently  
6 in prison because of this criminal conviction at the time you spoke  
7 to the Prosecution two weeks ago.

8 Now, I just want to show you this article. Were you aware that  
9 there were news reports of him having escaped and being a fugitive at  
10 the time you spoke to the Prosecution? This is an article from  
11 17 May 2024.

12 A. Yes.

13 Q. Right. So you're aware that he has escaped and he's not  
14 currently in prison; yes?

15 A. To the information I have before coming here to testify, yes.

16 Q. Right.

17 A. I know that he's fled.

18 Q. He's fled. So between May 2024 and the period when you spoke to  
19 the Prosecution for the preparation session, had he been arrested and  
20 detained again, to your knowledge?

21 A. To which year are you referring to? During the war? I did not  
22 quite understand your question.

23 Q. No. This is -- in May 2024 we have an article saying that he's  
24 escaped. And two weeks ago when you spoke to the Prosecution, you  
25 said you believed he was still in prison. So my question is between

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1 May 2024 and when you spoke to the Prosecution two weeks ago, had you  
2 heard that he had been arrested again and detained?

3 A. No, I haven't. To the information I have, I think that he's  
4 fled. He's a fugitive.

5 Q. Right.

6 MS. V. ALAGENDRA: And if we could have DJK01036 on the screen,  
7 please, in both languages. Thank you.

8 Q. Now, this is an article published in 2010 after the conviction  
9 in 2007, or at least for the 25-year imprisonment that's reported in  
10 the earlier article that I had shown you.

11 And according to this article from *The Irish Times*, Enver  
12 Sekiraga was considered a main figure in organised crime in Kosovo  
13 who was living in Ireland and had been placed on the Interpol list of  
14 wanted persons. And according to this article, it says that he was  
15 sentenced to 36 years in prison; right?

16 A. This is what this information says, but I cannot confirm whether  
17 he is the most wanted person. It's a matter of justice. But it is  
18 true that he's been on the list of wanted persons for avoiding  
19 justice.

20 Q. Right. Thank you very much, Mr. Ibishi.

21 MS. V. ALAGENDRA: Your Honours, I'd like to tender all three  
22 articles, please.

23 JUDGE METTRAUX: Before we decide on this, Ms. Alagendra, I want  
24 to be clear about the purpose or purposes of these questions.

25 Are you telling us that Enver Sekiraga is a bad man and that,

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1       therefore, we should not believe anything he's said about his  
2       detention and alleged mistreatment by the KLA? Is that the reason  
3       for these questions?

4           MS. V. ALAGENDRA: Your Honours, these articles will confirm  
5       that he has fled the jurisdiction and --

6           JUDGE METTRAUX: No, no, no --

7           MS. V. ALAGENDRA: -- his whereabouts are not known.

8           JUDGE METTRAUX: -- I'm not asking you that, Ms. Alagendra. I'm  
9       asking you what's the relevance to us of that information. We've  
10      heard he was convicted. We've heard -- you've established it with  
11      the witness that he's believed to flee. I'm asking you what use you  
12      expect us to make of that information.

13          MS. V. ALAGENDRA: Yes. It goes to the credibility of the  
14      individual as well, Your Honours.

15          PRESIDING JUDGE SMITH: So credibility of Mr. Sekiraga?

16          MS. V. ALAGENDRA: Yes, Your Honours.

17          MS. D'ASCOLI: And I believe after the counsel has tendered the  
18      document we are asked for objections, and I would object.

19          PRESIDING JUDGE SMITH: [Microphone not activated].

20          MS. D'ASCOLI: Okay.

21          PRESIDING JUDGE SMITH: [Microphone not activated].

22          MS. V. ALAGENDRA: I'd like to tender DJK01037, both in English  
23      and Albanian; DJK01040-ET with the Albanian version DJK01038 to 39;  
24      and DJK01036, both English and Albanian, Your Honours.

25          MS. D'ASCOLI: And --

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1           PRESIDING JUDGE SMITH: Yes.

2           MS. D'ASCOLI: -- Your Honours, I would object on the grounds of  
3 relevance. Counsel has discussed with the witness, explored with the  
4 witness credibility issues to the extent the witness was able to  
5 answer about those, and I don't see the relevance of having these  
6 press articles admitted on the record.

7           PRESIDING JUDGE SMITH: [Microphone not activated].

8                                 [Trial Panel confers]

9           PRESIDING JUDGE SMITH: The Panel will decide on the admission  
10 of this exhibit at a later time. Up until then, we will mark this  
11 for identification, all three of them, each one.

12          THE COURT OFFICER: Your Honours, DJK01037 to DJK01037 and its  
13 English translation will be marked for identification with 4D00093.

14          DJK01040 to DJK01040 and its Albanian version, which is DJK01038  
15 to DJK01039, will be marked for identification with 4D00094.

16          And DJK01036 to DJK01036 and its English translation will be  
17 marked for identification as 4D00095.

18          I would just like to note that we don't have any indication of a  
19 classification for either of the documents.

20          PRESIDING JUDGE SMITH: They can remain confidential at this  
21 time.

22          MS. V. ALAGENDRA: They're public news reports, Your Honour, so  
23 they could be public.

24          PRESIDING JUDGE SMITH: [Microphone not activated] ... but we  
25 haven't admitted them. We'll leave them confidential for now.

1 MS. V. ALAGENDRA: I'm grateful.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MS. D'ASCOLI: Yes, Your Honours.

4 Re-examination by Ms. D'Ascoli:

5 Q. Witness, I have a few additional questions. During  
6 cross-examination, Defence counsel for Mr. Thaci asked you about  
7 contacts between the Llap zone and the General Staff, transcript page  
8 21132 and following. In replying to a question about the frequency  
9 of those contacts, you said, I'm reading from transcript page 21132:

10 "... we only had two visits during the war from the  
11 General Staff, in August and October ..."

12 Now, Witness, in your SPO interview, P1755.9, at page 3, you  
13 spoke about a third visit of the General Staff to the Llap zone which  
14 occurred at the time when eight Serbian soldiers were arrested in the  
15 Shala zone. Do you recall that?

16 A. No. Maybe it's a misunderstanding. I mentioned the incident of  
17 the arrest of the eight Serbian soldiers, members of the people's --  
18 Yugoslav People's Army. They visited the Shala zone. And during  
19 these visits, this incident was discussed. There is a coincidence  
20 between the visits of October, not August.

21 There hasn't been a third visit by the General Staff to the Llap  
22 zone.

23 So, in short, the incident of the arrest of Serbian soldiers by  
24 Shala operational zone members may have been discussed during the  
25 second visit, but it is not related to a third visit. So I believe I

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1 was misunderstood in my statement.

2 Q. Okay. Let's clarify that.

3 MS. D'ASCOLI: Can we please call up P1755.9, and can we please  
4 have page 3 in both languages. It needs to be Part 9, so P1755.9,  
5 Part 9 of the SPO interview. I will please need page 3 in both  
6 languages.

7 Q. Witness, I will read from the English. You can follow in the  
8 Albanian from lines 3 to 21. You have it also in Albanian. I will  
9 be reading from lines 8 and following of the English version. So in  
10 this part, the Prosecutor put to you a part of the book by Skender  
11 Zhitia referring to a General Staff visit occurring after the  
12 offensive, after the December 1999 offensive. I'll read from line 8:

13 "I'm going to refer you to the military history by Skender  
14 Zhitia, which refers to a General Staff visit to the operational zone  
15 that it says took place after the Serbian offensive that took place  
16 from -- the offensive that took place from 24th to 27th December  
17 1998, which was the battle of Llapashtice. Do you recall a visit by  
18 the General Staff?"

19 And your answer was:

20 "Approximately, yes. I don't recall the details."

21 Then the specific portions, as you can see from the rest of the  
22 page, are put to you, including a list of the participants to that  
23 visit. And then you were asked again whether you remembered that  
24 visit. We are now at page 4 of the English and at page 3, lines 22  
25 to 23 of the Albanian, so that you have the references on your

1 screen.

2 So then when that portion was put to you, then it was asked  
3 whether that was correct. And then - this is page 3, line 5 - you  
4 said:

5 "Yes, I believe so. And I now remember."

6 Do you recall now? Is what I read accurate?

7 A. This relates to the time after the battle of Gryka e  
8 Kacandollit, which occurred between 15th and 18th September 1988.  
9 Representatives of the General Staff came to ZOLL in October, not in  
10 December as it is described here, because there was no visit by  
11 General Staff at that time as it is said here.

12 In relation to the arrest of the soldiers, the exchange occurred  
13 much later. Perhaps when I said "yes, I remember," I referred to the  
14 arrest of the eight soldiers in the Shala operational zone, not to a  
15 third meeting with the General Staff.

16 I want to be absolutely clear on this. There were two visits:  
17 One in August and one in October. There is no other visit. Maybe  
18 it's just a matter of misunderstanding during this interview between  
19 these two aspects, the aspect of the visits and the aspect of the  
20 arrest of the eight soldiers.

21 Q. Okay. So --

22 A. So once again, there are two visits: One in August, one in  
23 October. And what is described here and discussed here happened much  
24 later.

25 Q. And these are --

1 A. There is no third visit.

2 Q. Yes. And so this is according to your recollection, this is  
3 what you recall? You recall only two visits? Okay.

4 A. Yes.

5 Q. That's clear.

6 A. And this is what I said. This is what I stated. I do not  
7 remember, but I am certain that there were only two visits. There  
8 was no third visit.

9 Q. Okay. That's clear on the record now. Then I'll move to a  
10 different area.

11 Counsel for Mr. Thaci asked you questions about the role of  
12 Adem Demaci, and you were also shown a document titled "KLA  
13 General Staff," written by Mr. Jakup Krasniqi.

14 MS. D'ASCOLI: This was at pages 21148 to 21150 of the  
15 transcript.

16 Can I call up SPOE00231037 to SPOE00231128 and its translation,  
17 which has the same ERN with ET at the end. And the first -- if we  
18 can go to the cover page, to the first page.

19 THE COURT OFFICER: Could we have the ERN on the record again,  
20 please.

21 MS. D'ASCOLI: Yes. SPOE00231037 to SPOE00231128. And you  
22 should please call it up from the presentation queue -- from the  
23 redirect presentation queue that was released yesterday afternoon.

24 Q. Witness, this is just a cover page. You can see it's a  
25 manuscript. You can see the title. This was seized from

1 Mr. Jakup Krasniqi.

2 MS. D'ASCOLI: I want to go to a specific page of this  
3 manuscript, SPOE00231107 in both languages, please.

4 MS. V. ALAGENDRA: Your Honours, just for the record, this is an  
5 unpublished manuscript. My learned friend calls it a manuscript, but  
6 it's quite clear in the description in the Legal Workflow that it is  
7 unpublished.

8 PRESIDING JUDGE SMITH: Go ahead.

9 MS. D'ASCOLI: That's clear.

10 Q. Witness, I will read just some parts of this page. The parts  
11 that I am going to read are about Adem Demaci's role. And to give  
12 you a context and timeframe, this refers to February 1999. So I'll  
13 read from the beginning of the page.

14 MS. D'ASCOLI: If it can be scrolled down a little bit in the  
15 Albanian.

16 Q. "Uncle Adem /Demaci/ comes at that time to the General Staff."  
17 And then I'll move to the middle of the paragraph:

18 "Uncle Adem did not have the general military and political  
19 reports which we had; naturally, because he was not a member of the  
20 KLA General Staff."

21 A bit further down:

22 "He said that he would take part in the General Staff meeting  
23 but he was not a member of the General Staff and had not been invited  
24 by us, by those who had given him the job of leading the Political  
25 Office of the KLA in Prishtina. And so this meeting with Uncle Adem

1 ended, but in no way and at no time did we lose our respect for his  
2 irreplaceable contribution to the Albanian Political Movement, for  
3 his role in the KLA Office in Prishtina, and for his sincere and  
4 multi-dimensional involvements in the Kosovo political scene."

5 Witness, first of all, do you purport to be knowledgeable about  
6 the specific composition of the KLA General Staff in 1998 and 1999?

7 A. I acquired knowledge during the structuring within the zones,  
8 the organigramme and the organisational structure at brigade level.  
9 I cannot speak with authority about the General Staff, because we did  
10 not have the organigramme, the organisational structure of the  
11 General Staff.

12 As to the level of the operational zone and brigades, I am  
13 familiar with the structure. And with time things changed. And  
14 this, so to say, working material and this book or manuscript that is  
15 not published --

16 Q. Okay, Witness --

17 A. -- I cannot --

18 Q. Yes.

19 A. I'm not -- I'm not trying to justify anything, but I -- all I'm  
20 saying is that I cannot comment on something that has no ultimate  
21 form. This is just a manuscript, something that is not published.

22 Q. I had asked you a question about a completely different -- my  
23 question was completely different, and now you're straying way  
24 outside of the scope of the question. I believe you answered the  
25 question, and that's sufficient for the record.

1 I'll move to my follow-up question which was: So in replying to  
2 the Defence counsel for Mr. Thaci - this was at page 21150 of the  
3 transcript - you referred to Mr. Adem Demaci as a representative of  
4 the General Staff in Prishtine; correct?

5 A. That's correct.

6 Q. So does the part that I've read from this page about  
7 Adem Demaci's role in Prishtine, does that conform with your  
8 knowledge, with your understanding of Adem Demaci being a  
9 representative, to use your words, rather than a member or as part of  
10 the General Staff, to use the counsel's word, in Prishtine?

11 Does what I read conform with your understanding of  
12 Adem Demaci's role as a representative rather than a member of the  
13 General Staff in Prishtine? And I just need a brief answer if you  
14 can, please.

15 A. Based on what I knew, my understanding was that he was a  
16 spokesperson, the representative of the General Staff in Prishtine,  
17 and represented the interests of the Kosovo Liberation Army. And in  
18 my opinion, I think he was a member of the General Staff.  
19 Adem Demaci, that is.

20 Q. Okay.

21 MS. D'ASCOLI: Your Honours, I would ask that both the cover  
22 page and this page that I discussed with the witness, SPOE00231107,  
23 in both English and Albanian, be added to P1091, which already  
24 contains excerpts from the same manuscript.

25 PRESIDING JUDGE SMITH: Any objection?

1 MS. V. ALAGENDRA: Your Honour, our position is that this is a  
2 draft publication. The witness has already said he doesn't know what  
3 is said there. He's not in a position to attest to it.

4 PRESIDING JUDGE SMITH: Thank you.

5 Anybody else? No.

6 SPOE00231037 to 00231128, plus the translation, will be  
7 admitted. It is relevant, it is probative, and it's authentic,  
8 sufficient under 138(1).

9 THE COURT OFFICER: Your Honours, if I may seek clarification.  
10 Are we admitting the entire range or just the page that was -- and  
11 the cover page that was called?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MS. D'ASCOLI: As --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. V. ALAGENDRA: Yes, it's only the cover page and the  
16 specific page.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 The page is SPOE00231107.

19 THE COURT OFFICER: Thank you, Your Honours.

20 PRESIDING JUDGE SMITH: Sorry, I left that out.

21 THE COURT OFFICER: That page will be added to P01091.

22 PRESIDING JUDGE SMITH: Thank you.

23 THE COURT OFFICER: Thank you.

24 MS. D'ASCOLI:

25 Q. Witness, last question. You were asked during cross-examination

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1 at transcript page 21157 about your awareness, or, rather, lack of  
2 awareness, of any reports on collaborators having been provided to  
3 the General Staff by the Llap zone.

4 Since you spoke about this in your SPO interview to which  
5 Defence counsel was referring, which is Part 7, page 14 of the SPO  
6 interview, that is P1755.7, I would like to read your full answer in  
7 which you give reasons for it.

8 MS. D'ASCOLI: So what I would be citing is from page 14, lines  
9 17, 16 of the English, and page 11, lines 21 to 22 of the Albanian.

10 Q. In answering the question about information on reports on  
11 collaborators having been provided to the General Staff, you said:

12 "I have no information about this, because the zone commander  
13 was responsible for contacts with the General Staff."

14 Do you confirm that?

15 A. Yes. The only line of contact was for the commander of the zone  
16 to represent the zone or the subzone within the auspices of the  
17 General Staff and that remains so.

18 Q. Okay. Thank you.

19 MS. D'ASCOLI: I have no further questions.

20 PRESIDING JUDGE SMITH: Thank you.

21 Judge Barthe.

22 JUDGE BARTHE: Thank you, Judge Smith.

23 Questioned by the Trial Panel:

24 JUDGE BARTHE: And good morning, Mr. Ibishi.

25 A. Good morning.

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1 JUDGE BARTHE: Good morning. The Panel has a few more questions  
2 for you to clarify some points that are still not entirely clear to  
3 us. You understand that?

4 A. Yes, I'm listening.

5 JUDGE BARTHE: Thank you.

6 Mr. Ibishi, you told us last week that you were appointed as  
7 commander of Brigade 151 in the Llap operational zone on 18 July 1998  
8 by Rrustem Mustafa also known as Commander Remi; is that right?

9 A. Yes.

10 JUDGE BARTHE: So that was a few weeks after you had joined the  
11 KLA in June 1998; correct?

12 A. Yes.

13 JUDGE BARTHE: And you further said your appointment was later  
14 confirmed or formally approved by the KLA General Staff in August  
15 1998 during a visit of the General Staff in your operational zone;  
16 right?

17 A. Correct, yes.

18 JUDGE BARTHE: Thank you. You also said it was  
19 Mr. Jakup Krasniqi who gave you the decision that made you commander  
20 of Brigade 151, and that was in the presence of Commander Remi and  
21 his deputy Kadri Kastrati also known as Daja; correct?

22 A. Correct.

23 JUDGE BARTHE: For the record, this can also be found in  
24 W04758's interview with the SPO November 2019, P01755.1 at page 13.

25 Mr. Ibishi, you further said in your interview with the SPO -

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1 and I'm referring here to P01755.1 again, page 13 - that you believed  
2 Mr. Krasniqi, Mr. Jakup Krasniqi had been the spokesperson of the KLA  
3 at the time, and that Mr. Krasniqi was accompanied by others, among  
4 them Hashim Thaci and Rexhep Selimi; is that right?

5 A. Yes, correct.

6 JUDGE BARTHE: And you confirmed to Mr. Miletic from the Thaci  
7 Defence last week that you only knew that Mr. Thaci was a member of  
8 the General Staff; correct?

9 A. That's what I thought at the time.

10 JUDGE BARTHE: For the record, this can be found on page 21139  
11 of the transcript.

12 Mr. Ibishi, my question for you is how did you know that? How  
13 did you know that Mr. Thaci was a member of the KLA General Staff?

14 A. We were told before going to that meeting where we were handed  
15 over the decision on the appointment, which was the occasion of the  
16 appointment of the deputy commander Kadri Kastrati, Daja, and myself,  
17 and all the other authorities of Brigade 152. We were told  
18 beforehand that a visit of the -- this was happening during a visit  
19 of the General Staff.

20 Of the people who came there, the only one that I knew, though,  
21 was Mr. Jakup Krasniqi, because of his media appearances during which  
22 he promoted the Kosovo Liberation Army, and he was doing that in the  
23 capacity of spokesman. So following his media experiences, I came to  
24 know him as a political figure.

25 JUDGE BARTHE: Thank you. Now my question is or my next

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1 question is who told you that? Who told you that before that meeting  
2 that you were meeting with members of the General Staff, among them  
3 Mr. Thaci?

4 A. We were organising the organisation, training the soldiers, so  
5 on and so forth, and we were told about it. I cannot recall exactly  
6 who said it but somebody who extended the invitation. The zone  
7 command was in the vicinity. And in addition to those who I knew,  
8 Commander Remi and others, I was able to know Jakup Krasniqi only.  
9 And we were told that the others were from the General Staff, and  
10 that information came via that invitation for us to take part in that  
11 meeting.

12 JUDGE BARTHE: And did you also know whether Mr. Selimi was a  
13 member of the General Staff? Were you told that he was a member of  
14 the General Staff as well?

15 A. At the time, I thought that they were all members of the  
16 General Staff. I wouldn't be able to differentiate one or two. The  
17 only person that I knew, however, was Jakup Krasniqi.

18 MS. V. ALAGENDRA: Your Honours, I'm looking at page 37, line 8,  
19 and I believe there is an error in the transcription. It says:

20 "And we were told ..."

21 But I'm told that the witness has said:

22 "I assumed that the others were from the General Staff."

23 JUDGE BARTHE: Maybe I can ask the witness if he wants to  
24 correct the transcript.

25 Were you told or did you just assume that the others were

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1 members of the General Staff?

2 A. We were told that they were members of the General Staff. But I  
3 assumed from the presence of Jakup Krasniqi that the others would be  
4 members of the General Staff, too.

5 JUDGE BARTHE: Thank you.

6 And thank you, Ms. Alagendra, for raising that point.

7 Mr. Ibishi, did you know what Mr. Rexhep Selimi's role or  
8 function was within the General Staff, or whether he had a function?

9 A. I did not know it at the time. I came to understand it much  
10 later.

11 JUDGE BARTHE: And what is your understanding or was your  
12 understanding of his role or function within the KLA General Staff in  
13 1998? Or more precisely, when you met him in August 1998.

14 A. I'm trying to differentiate what I knew at the time, at that  
15 moment in time, and what I came to learn later.

16 At the time, I had no knowledge of anyone apart from  
17 Jakup Krasniqi and Bislim Zyrapi. In terms of their role, he was a  
18 chief of staff from a military point of view. And this is with  
19 reference to the second meeting. And, again, with reference to  
20 Bislim Zyrapi, this is the October meeting, not the August one.

21 JUDGE BARTHE: I'm not sure you understood my question. My  
22 question was what is your understanding now, what was  
23 Mr. Rexhep Selimi's role in August 1998 when you met him?

24 A. I do not know. I did not know it.

25 JUDGE BARTHE: And you still don't know what his role or

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1 function was within the KLA General Staff in August 1998; is that  
2 right? Is that what you're saying?

3 A. I was able to understand later that he might have been, but this  
4 was much, much later, that he was a chief of the inspectorate. And  
5 whether this was in the -- this was in the meeting -- first or second  
6 meeting. I came to understand that much later, so I just cannot say  
7 at this point. So I don't know whether he was appointed to that  
8 function as chief of the inspectorate in 1998 or later. I cannot  
9 specify the time. I came to understand much later that he was chief  
10 of the inspectorate, but I have difficulty placing that in time.

11 JUDGE BARTHE: Thank you. I would like to move on to a  
12 different topic now.

13 Mr. Ibishi, during your testimony last week you mentioned  
14 several times the change of names of Brigades 151 and 152. I assume  
15 you remember that.

16 A. Yes, by all means. I was in there.

17 JUDGE BARTHE: Thank you.

18 According to paragraph 67 of Preparation Note 2, you told the  
19 Prosecution, the SPO, in your preparation session that it was  
20 sometime in November or December 1998 when the number or the names of  
21 the brigades were changed and Brigade 151 became Brigade 152; is that  
22 right?

23 A. It's correct. Yes.

24 JUDGE BARTHE: Were you still a brigade commander at that time  
25 or were you already appointed as chief of staff of the Llap

1 operational zone when the names of the two brigades were changed?

2 A. It was possibly around that time, because I was in -- alongside  
3 Kadri Kastrati, I was playing that role. So the change in the  
4 nomination came as a result of the deployment on the front line, on  
5 the western side of the main road between Prishtine and Merdare  
6 towards Serbia. The deployment resulted in the change of the numbers  
7 of the brigades.

8 It was a change of numbers which did not result in the change of  
9 personnel, and the reason for it was simply centred on their  
10 deployment on the first -- on the front line. And it -- because the  
11 numbering system comes from left to right, that is why we changed the  
12 sequence of numbers.

13 So the sequence had to do with the deployment. Nothing changed  
14 within the internal structure of the brigades. 151 Zahir Pajaziti  
15 was swapped with 152 Shaban Shala. So this change is attributed  
16 solely to their deployment on the front line.

17 JUDGE BARTHE: I'm not sure I understood your -- I fully  
18 understood your answer. My question was were you still a brigade  
19 commander at the time or were you already promoted? Were you already  
20 appointed as chief of staff of the zone?

21 A. I think there was a coincidence in time to -- resulting in this  
22 change and it was related to the positioning on the front line. It  
23 is that which explains the change in the numbering of the brigades.

24 JUDGE BARTHE: Mr. Ibishi, who decided that the two brigades  
25 should swap their names?

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1 A. The proposal came from the acting chief of operation  
2 Kadri Kastrati, Daja, and myself. We were both playing this role. I  
3 was chief of the operational as well. And we approached the zone  
4 commander, and with his agreement, we took the decision to change the  
5 name of the brigades.

6 JUDGE BARTHE: You just said:

7 "... we took the decision to change the [names] ..."

8 Was it a decision of Commander Remi, Kadri Kastrati, and  
9 yourself, or just a decision taken by the operational zone commander,  
10 Commander Remi?

11 A. The proposal came from Commander Daja, Kadri Kastrati, and  
12 myself as joint chiefs of operations. And because of the structure  
13 on the ground, we submitted a proposal to Commander Remi for the  
14 names of the brigades to be swapped. And they took that decision;  
15 namely, Commander Remi did.

16 JUDGE BARTHE: Thank you. And was the KLA General Staff  
17 involved in this decision? Was the decision, for example, later  
18 confirmed or approved by the General Staff?

19 A. I have no such knowledge.

20 JUDGE BARTHE: Did you or are you aware of others who notified  
21 the KLA General Staff after the decision was taken?

22 A. I don't have such knowledge. It happened in exactly -- exactly  
23 like it did the first time, from the time of the appointment of the  
24 zone commander. I had no direct contacts with the General Staff. In  
25 fact, I wasn't responsible for contacts with the General Staff. And

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1 so as such, I have no knowledge on whether they had been notified  
2 about this change of name. I was de facto appointed as chief of  
3 staff, and I have no knowledge of the role played by the  
4 General Staff in this regard.

5 JUDGE BARTHE: You said earlier during your testimony in this  
6 courtroom that Commander Remi was in contact with the General Staff.  
7 Would he be responsible for notifying or informing the General Staff  
8 about the change of the names or the numbers of the brigades?

9 A. I think so. He should have notified the General Staff about  
10 this change. But I have not had a formal order on this one, with the  
11 exception of the one that I received from the zone commander Remi.

12 JUDGE BARTHE: Thank you.

13 Mr. Ibishi, before I come to my next question, could I ask the  
14 Court Officer to bring up Exhibit P01765 for us on the screen. And  
15 please use the latest revised version which was admitted today, both  
16 in the Albanian and the English.

17 [Trial Panel and Court Officer confers]

18 PRESIDING JUDGE SMITH: We'll take the half-hour break now  
19 because there's been some confusion on [Microphone not activated].  
20 Be back at 25 after the hour.

21 Witness, you can step out of the courtroom now. We'll take a  
22 half-hour break at this time.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: We're adjourned until 11.25.

25 --- Break taken at 10.55 a.m.

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1 --- On resuming at 11.26 a.m.

2 PRESIDING JUDGE SMITH: Madam Court Attendant, please bring the  
3 witness in.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: Witness, we continue now with questions  
6 from Judge Barthe.

7 JUDGE BARTHE: Thank you.

8 And welcome back, Mr. Ibishi.

9 A. Thank you.

10 JUDGE BARTHE: Now, we have both versions of the document on the  
11 screen. And as you can see, Mr. Ibishi, this document deals with the  
12 formation of a KLA brigade command, and it contains in the middle of  
13 the page - I hope you can see that - a reference to an intelligence  
14 and counter-intelligence section. Can you see that?

15 A. Yes.

16 JUDGE BARTHE: Did you have such an intelligence section within  
17 your brigade?

18 A. Yes.

19 JUDGE BARTHE: Mr. Court Officer, can we please go to page  
20 123266.

21 Mr. Ibishi, this chart deals with your brigade, Brigade 151;  
22 correct? Can you see that?

23 A. Yes, with the changes that occurred later in time. This  
24 organigramme was produced after the war. And there were always  
25 changes when it came to the arrival of new personnel within the

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1 organisational structure. And in the footnote, there are some  
2 changes that occurred in time in relation to some issues that are  
3 mentioned at the bottom of the organigramme.

4 JUDGE BARTHE: Thank you. In this chart, there's also a  
5 reference in the middle of the page to a person called Sabit Rrahimi.  
6 Do you see that, Mr. Ibishi?

7 A. Yes.

8 JUDGE BARTHE: Was Mr. Sabit Rrahimi the chief of the  
9 intelligence and counter-intelligence section in your brigade as it  
10 is mentioned here in this chart?

11 A. Yes. Yes, he was.

12 JUDGE BARTHE: Thank you. Who appointed Mr. Rrahimi?

13 A. He was appointed by the zone command, from that level, and  
14 probably following proposals from the relevant sector at the zone  
15 level.

16 JUDGE BARTHE: Do you know when Mr. Rrahimi was appointed as  
17 chief of intelligence and counter-intelligence in your brigade?

18 A. I'm not certain about the time, but this could be sometime in  
19 October or November. I'm not quite sure. October, November 1998.

20 JUDGE BARTHE: Thank you. And do you know whether the  
21 General Staff was involved in this decision; and if so, how?

22 A. For what I know, it was not involved.

23 JUDGE BARTHE: So the decision to appoint Mr. Rrahimi as chief  
24 of intelligence and counter-intelligence taken by the operational  
25 zone command was not later confirmed or approved, to your knowledge,

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1 by the General Staff? That didn't happen?

2 A. To my knowledge, it didn't. You have plenty of documents  
3 concerning proposals and appointments at brigade levels. This  
4 occurred within the authority of the operational zones; that is, the  
5 appointments from brigade commanders and above.

6 JUDGE BARTHE: Thank you. I understand.

7 Mr. Court Officer, could we please go back to the previous page,  
8 page 123265. Thank you.

9 Mr. Ibishi, this is a chart of the organisational structure of  
10 the Llap operational zone mentioning you as the chief of staff, and  
11 it also contains a reference to - the left side - to Latif Gashi or  
12 Lata as the head of the intelligence service section, as it is said  
13 here, or J-2, at the zone level. Do you see that?

14 A. Yes, I do.

15 JUDGE BARTHE: Is the chart correct? Was Mr. Latif Gashi the  
16 head of the intelligence service section in the Llap operational  
17 zone?

18 A. Yes. Although this is a working material. This organisational  
19 structure or chart was like a working paper. And Latif Gashi was the  
20 leader of the sector -- of the intelligence sector. Although, there  
21 are some differences between the chart that we discussed with the  
22 Prosecutor and how it's translated here in the English, the sector --  
23 intelligence service section. Here, in the original, we have the  
24 sector of the information service.

25 JUDGE BARTHE: Is this just a question of terminology or is

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1       there a difference between an intelligence service section and an  
2       information service section?

3       A.     What I'm saying is a translation issue. I don't have anything  
4       to say about the substance. I was just referring to the translation.

5            JUDGE BARTHE: So my question is was Mr. Latif Gashi dealing  
6       with intelligence and counter-intelligence or was he deal with public  
7       relations or with anything else?

8       A.     That's why I'm saying that in Albanian we have two definitions.  
9       If you go to the other part, it's approximately equivalent,  
10      linguistically speaking, between the information and informative  
11      sector. In substance, these are different things. Now, I'm  
12      referring to the chart in the original language and the translation  
13      of it.

14          JUDGE BARTHE: Mr. Ibishi, last Thursday you confirmed that  
15      Mr. Gashi was appointed by Commander Remi already in July 1998; is  
16      that right?

17          For the record, this is on pages 21186 and 7 of the transcript.

18          That was during your cross-examination, I believe, by the Thaci  
19      Defence.

20      A.     Yes, that's correct.

21          JUDGE BARTHE: As far as you know, was the General Staff  
22      involved in this decision, the decision to appoint Mr. Gashi as the  
23      head of the intelligence service section, or, as it is also called  
24      here, J-2, in the Llap operational zone; and if so, how? I'm asking  
25      because the head of the intelligence and counter-intelligence section

1 is an important position not only for the Llap operational zone but  
2 for the entire Kosovo, I assume. It could be relevant to the  
3 General Staff to know who would be in charge of that section.

4 So was the General Staff involved in that decision to appoint  
5 Mr. Gashi as head of the intelligence or information service section,  
6 J-2?

7 A. Although this was not within my authority, but to my knowledge,  
8 general knowledge that I have, this appointment occurred within the  
9 zone and there was no intervention by the General Staff. This is to  
10 what I know.

11 JUDGE BARTHE: Thank you.

12 Now to a different topic. Mr. Ibishi, last week you described  
13 the role of the so-called civilian defence in identifying  
14 collaborators, and you said the following. And this can be found on  
15 pages 21114 and 21115 of the transcript. I quote:

16 "In the framework of the prerogatives of the Llap operative zone  
17 and the defence and the civilians in the zone, we had a  
18 responsibility to protect them from the collaborationists of the  
19 enemy, because in the 1990s the intelligence services and the Serbian  
20 police developed a network of collaborators. For this reason, the  
21 decision was left that within the framework of the civilian defence,  
22 and upon their request regarding some individuals of collaborating  
23 with the occupying Serb structures or forces, so they identified some  
24 persons, and the procedure was to go through the brigade commander,  
25 the military police, until the detention centre in Llapashtice.

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1 "This was the procedure when there were grounds for suspicions  
2 for a specific person."

3 Now, Mr. Ibishi, my question for you is the following: Can you  
4 explain again, if you know, what the role of the intelligence and  
5 counter-intelligence sector at the zone and brigade level was? Were  
6 they also involved maybe together with the civilian defence in  
7 identifying collaborators?

8 A. Of course, it had that role, but particularly the military  
9 police that was within the brigades and also at the level of the Llap  
10 operational zones. They had continuous collaboration, cooperation  
11 with the civilian defence as a specific structure in the Llap  
12 operational zone. That was functional from the beginning.

13 And as a separate sector, it responded to the tasks of the  
14 civilian defence at village level. This was for the purpose of the  
15 security of the KLA and the civilian population. Because as a party  
16 to an armed conflict, it was within our mandate to do this within the  
17 framework of our operations in this operational zone.

18 JUDGE BARTHE: Thank you. Now, Mr. Ibishi, I have a few more  
19 questions about the charts in Exhibit P01765.

20 And could I asked the Court Officer to go to page 123267. Thank  
21 you.

22 Since you just mentioned the military police, Mr. Ibishi. In  
23 the chart on this page, there's an entry in the bottom column stating  
24 that Nazif Mehmeti was the commander of the military police at zone  
25 level. Can you see that?

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1 A. Yes. Nazif Mehmeti was acting commander. And in reality, he  
2 was an appointed deputy commander. In the absence of the commander,  
3 he was the acting commander of the military police in the Llap  
4 operational zone.

5 JUDGE BARTHE: Thank you. And who appointed Mr. Mehmeti?

6 A. Well, as in the case of other appointments at brigade levels and  
7 unit levels, constitutive units of the zone, this went on proposals  
8 of the zone commander. And the zone commander appointed Nazif  
9 Mehmeti acting commander because he had the appropriate education and  
10 experience, professional experience in the civilian police of the  
11 time.

12 JUDGE BARTHE: Do you know when he was appointed, Mr. Mehmeti,  
13 approximately?

14 A. I think it was around the end of the year, November or December.  
15 I think it was in November 1998, if I'm not mistaken. A long time  
16 has passed, and it's difficult for me to remember the dates.

17 JUDGE BARTHE: And again the same question as before. Was that  
18 decision confirmed or approved by the General Staff as far as you  
19 know?

20 A. I don't have knowledge about this.

21 JUDGE BARTHE: That's all right.

22 Court Officer, can we please go back to page 123266, the  
23 previous page. Thank you.

24 At the bottom left of this page, the organigramme indicates that  
25 the commander of the military police in Brigade 151 was Naip

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1 Gubetini. Is that right, Mr. Ibishi? Was Naip Gubetini the  
2 commander of the military police in your brigade?

3 A. Yes. Naip Gubetini.

4 JUDGE BARTHE: And the same question as before: Who appointed  
5 him and when was he appointed, if you know?

6 A. As in other procedures, and there are documents testifying to  
7 those procedures of appointments within brigades and battalions and  
8 lower down, this was also made on the proposal of the commander of  
9 the zone, of course, in consultation with the military police. This  
10 decision was taken at the level of the zone command.

11 JUDGE BARTHE: And was that decision confirmed or approved by  
12 the General Staff or not?

13 A. I don't have knowledge about this.

14 JUDGE BARTHE: Thank you.

15 Now to another topic which was already addressed earlier today  
16 by the Prosecution. During your cross-examination by the Thaci  
17 Defence - and this can be found on page 21150 of the transcript - you  
18 mentioned that Adem Demaci, who you called a symbol of resistance and  
19 dedication to Kosovo, visited and encouraged or supported you in the  
20 Llap operational zone.

21 Do you remember saying that last week and also today?

22 A. Yes, I do.

23 JUDGE BARTHE: I would like to know from you, Mr. Ibishi, how  
24 often did Mr. Demaci visit you in the Llap operational zone? In  
25 other words, how often did you personally see or talk to him?

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1 A. Many times. He visited us, visited the brigades, the zone  
2 itself, and, again, on various occasions upon request. He encouraged  
3 us. He was a distinctive personality whom I respected, not only  
4 myself but all members of the KLA respected.

5 I cannot recall exactly how many meetings there were, but there  
6 were meetings within the brigades at zone level and on separate  
7 occasions such as the visit of Shaun Byrnes, the chief of KDOM, to  
8 our zone.

9 JUDGE BARTHE: You just confirmed that Mr. Demaci encouraged and  
10 supported you. My question is what did he do exactly? How did he  
11 encourage or support you?

12 A. He encouraged us in terms of continuous resistance on our part,  
13 because the war was going to be long, and, again, in other aspects  
14 such as the mission of the KLA and our rapport with the members of  
15 the international community. He was the spokesperson in the capital  
16 of Kosovo, Prishtine, where he would come out with statements on the  
17 security situation and military operations as well as risks facing  
18 us, especially him, at roadblocks by the Serb forces. He was not  
19 just a supporter, but he also put his own life at risk for the  
20 benefit of the KLA and its mission.

21 JUDGE BARTHE: Thank you.

22 Mr. Ibishi, apart from encouraging or supporting you, did  
23 Mr. Demaci give you or, as far as you know, other soldiers any orders  
24 or instructions, for example, to attack or not attack a specific  
25 location? Did he do that?

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1 A. No. His support was mainly moral support based on his  
2 authority. From a military perspective, he just encouraged us,  
3 because we had the professional personnel in our area and he did not  
4 want to interfere in military operations. His support was mainly  
5 moral. He urged us to be resistant and resilient to the very last  
6 day of the war.

7 JUDGE BARTHE: Thank you. I'm afraid I have a few more  
8 questions for you, Mr. Ibishi.

9 And this is the next question: During your cross-examination by  
10 the Thaci Defence last week, on page 21169 of the transcript, you  
11 were asked the following by counsel, and I quote, question:

12 "... you told the SPO last week that he," Mr. Ibishi, this is in  
13 reference to the zone commander, Commander Remi, "had the ultimate  
14 authority, which means he was the last highest-ranking person who  
15 could make a decision on release or amnesty; correct?"

16 And your answer was, according to our transcript:

17 "This is how it was. His position determines that authority.  
18 His position as commander of the zone."

19 Mr. Ibishi, could you please explain what you meant by this.  
20 Are you saying that the KLA General Staff had no say in the arrest or  
21 release of collaborators? For example, if the General Staff had told  
22 Commander Remi to release a person suspected of collaborating with  
23 the enemy, could Commander Remi just say no?

24 A. I said that I cannot interpret how we should refer to  
25 Commander Remi because it was within his authority. But I think that

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1 in decisions that he took, Commander Remi consulted the command of  
2 the zone, and based on the assessment of the various sectors within  
3 the zone he would make the relevant decisions. In this case, for the  
4 release of these persons.

5 I cannot interpret what his position would be if he received  
6 such a request for release or arrest by the General Staff.

7 JUDGE BARTHE: And what if the General Staff had explicitly told  
8 Remi not to release a person? Could Commander Remi decide to grant  
9 an amnesty and release the person anyway? Could he do that?

10 A. Well, again, I don't want interpret this. But from my position,  
11 I can say that he consulted the zone command and he took decisions  
12 within his authority, and he did this in compliance with the  
13 assessment of the situation, of the conditions. And I believe that  
14 he would take the adequate decisions, which I cannot pre-judge.

15 JUDGE BARTHE: Are you aware of a case where Commander Remi  
16 released or pardoned a person against the express will of the  
17 General Staff?

18 A. I have no knowledge about such cases.

19 JUDGE BARTHE: Thank you.

20 Mr. Ibishi, you also said last week, on page 21169 of the  
21 transcript, that Commander Remi had the ultimate authority to release  
22 detainees and grant amnesties based on the proposals received by the  
23 command. Do you remember saying this last Thursday?

24 A. Yes, that's correct.

25 JUDGE BARTHE: [Microphone not activated].

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1 To what or which command are you referring?

2 A. The command of Llap operational zone or Prishtine area, because  
3 sometimes there would be confusion based on the geographical area.  
4 The Llap operational zone included Prishtine, Podujeve, and  
5 Fushe Kosove as areas of responsibility, with the capital Prishtine  
6 included.

7 JUDGE BARTHE: So just to be clear, you did not refer to the  
8 General Staff command; right?

9 A. I did not.

10 JUDGE BARTHE: Thank you. That's clear now.

11 Now to a different topic. According to paragraphs 63 and 64 of  
12 Preparation Note 2, you told the Prosecution the following during  
13 your preparation session. And since we don't have an Albanian  
14 version, I guess, of that preparation note, I will read what you,  
15 according to that preparation note, said to you.

16 Paragraph 63:

17 "He," Mr. Ibishi, this is a reference to you, "was then referred  
18 to his 22 May 2003 testimony, page 9," or SPOE00088349 English, "on  
19 the issue of the foresters and information they would provide to Serb  
20 paramilitaries, and was asked for the basis of his knowledge on the  
21 issue. W04758 said that, because foresters knew the terrain very  
22 well, and because the KLA operated in a territory covered by forests,  
23 the foresters would have detailed information about the area.  
24 Hunters had the same type of knowledge, but hunting activities were  
25 limited at that time. W04758 noted that foresters could also lead

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1 Serbian forces to attack KLA positions and, foresters who were still  
2 working at that time, had to pass on their information to the Serbs  
3 as part of their duties. As the foresters were working for the  
4 Serbian administration, the Serbian Intelligence Service and the  
5 Police not only instructed them but also put the foresters under  
6 pressure for them to report. W04758 knows that some of the foresters  
7 were forced to pass on information."

8 And then paragraph 64 reads:

9 "Asked whether the activity of cutting wood was considered  
10 suspicious, W04758 noted that this in itself was not a problem.  
11 However, the foresters would allow illegal wood cutting in order to  
12 gather from the wood cutters in exchange."

13 Mr. Ibishi, is this still correct -- or is this correct and is  
14 this still your evidence?

15 A. Yes. Let me clarify. Madam Prosecutor knows that the reference  
16 is to some of them. I cannot say that all of the forest rangers did  
17 this. It's only some of them. So what is stated there still stands.

18 JUDGE BARTHE: Thank you.

19 And was that common knowledge or a common belief within the KLA?  
20 In other words, was it known to the soldiers in your brigade that at  
21 least some foresters would give information to the Serbian  
22 authorities and that some woodcutters provided information to  
23 foresters in exchange for allowing them to cut wood?

24 A. Most of the information regarding security did reach us via the  
25 citizens from the civil defence part of it. And it was one of our

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1 missions to raise awareness so that people would be aware of this  
2 kind of activity.

3 JUDGE BARTHE: So you personally informed the soldiers in your  
4 brigade about that? Is that what you did?

5 A. Yes. In the course of lectures, in addition to what was most  
6 important in our zone, which was training, next to it was the four  
7 Geneva Conventions and its Additional Protocols, so the international  
8 law. So one of the aspects that was explained was that soldiers  
9 ought to take particular care of security, security not only of the  
10 Kosovo Liberation Army as such but also security *vis-à-vis* the  
11 civilians and the risk that is posed through collaboration with the  
12 representatives of the occupying power of Serbia.

13 JUDGE BARTHE: Thank you, Mr. Ibishi.

14 Now to my final topic. In your preparation session with the SPO  
15 - I'm referring to paragraph 76 of Preparation Note 2 - you  
16 apparently told the Prosecution that in 1998 and 1999 the KLA used  
17 satellite phones, Motorola radio devices, and sometimes also mobile  
18 phones; is that correct? Did you tell this to the Prosecution?

19 A. Yes, I did.

20 JUDGE BARTHE: When did you see a satellite phone for the first  
21 time in the KLA? Already in 1998 or later?

22 A. In 1998. I cannot set a point in time, but it was towards the  
23 end of 1998.

24 JUDGE BARTHE: And where did you see that phone? Who had that  
25 -- or such a phone?

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1 A. Owing to the limited number of these devices, they were novel  
2 for us. We had in our possession one or two, but that was only at  
3 the beginning. And then we received some more, and they were  
4 received at the zone command and then at the operational command  
5 centre. The deputy operations commander Kadri Kastrati and myself,  
6 we used the devices to communicate in addition to the radio  
7 communications equipment, which are of a limited nature given that  
8 they only worked on the simplex system not the duplex system that  
9 uses the repeaters.

10 Most of the time, we used radio comms to communicate with the  
11 units that were in the vicinity of the command centre of the Llap  
12 operational zone and that was *vis-à-vis* the operations.

13 JUDGE BARTHE: Did you also use mobile phones?

14 A. We used mobile phones very sparingly because we assumed that  
15 they were interceptable and our location could be pinpointed. So the  
16 instruction in the use of the mobile phones was to use them  
17 exceptionally and away from the command centres, distance-wise, that  
18 is, because we knew that they were interceptable and the location  
19 could be pinpointed during that process and thereby putting ourselves  
20 in danger and the zone command too. It could have become a target  
21 that way.

22 JUDGE BARTHE: And last question, Mr. Ibishi. Did you also use  
23 couriers during the war? Did you have couriers?

24 A. Yes, but only to a limited extent and in relation to the units  
25 where the communications systems that you mentioned were of no use.

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1 But couriers were used very rarely. It was largely due to the fact  
2 that they had to go through zones that were not under proper control,  
3 and it was fairly possible that such couriers would fall into an  
4 ambush by the enemy forces.

5 JUDGE BARTHE: Thank you very much, Mr. Ibishi. Those were my  
6 questions. Thank you.

7 PRESIDING JUDGE SMITH: Judge Mettraux.

8 JUDGE METTRAUX: Thank you, Judge Smith.

9 And good afternoon, Witness.

10 I'd like to follow up on a few of the issues that you've already  
11 covered with the parties. The first one has to do with training that  
12 you said was given to members of the KLA in your area of  
13 responsibility. And I understand you to suggest that part of that  
14 training had to do with the four Geneva Conventions and their  
15 Additional Protocols; is that right?

16 A. Yes, correct.

17 JUDGE METTRAUX: Is it fair to suggest from this that it was  
18 your understanding and the understanding of the zone command that  
19 both the KLA and its members were bound to comply with those  
20 conventions? Is that a fair suggestion?

21 A. Yes. Let me also explain further. It is with reference with  
22 the second Additional Protocol, the Geneva Conventions Article 87,  
23 which explains the obligation to inform the -- all the sections about  
24 the Law of War.

25 JUDGE METTRAUX: Well, we'll check on the number. There's no

1 Article 87 in Additional Protocol II, sir, but let's put that aside.

2 Can you tell us what it was that you told the KLA members in  
3 your areas about the Geneva Conventions and their protocols?

4 A. Yes. It's up to you to deal with it, but -- however, the  
5 reality is that I come from a military and police background and I  
6 have knowledge about that. I'm also a master of law. I have studied  
7 these issues. And one of my priorities alongside the zone command  
8 was to make all the structures aware to comply with the obligations  
9 based on the relevant [Indiscernible], the obligations to respect the  
10 rules of the 1949 Geneva Conventions and the 1977 protocols. This  
11 includes the warring parties as well as the humanitarian -- the  
12 humanitarian angle, too.

13 The Kosovo conflict as well -- as you know, was a domestic as  
14 well as an international conflict. And with reference to this  
15 dimension, you have to make reference to these, including the  
16 civilian personnel, and that's centred on raising awareness for  
17 compliance with these laws. So making all the structures aware of  
18 the contents of the Geneva Conventions so that we would not fall into  
19 the trap of -- that would result -- as a result of not knowing about  
20 them.

21 JUDGE METTRAUX: Understood. Now, last week you mentioned --  
22 you made reference to Article 75 and 85 or 86, and I won't ask you  
23 for the specific provision, but I understood you to make reference to  
24 the Fourth Geneva Convention. Did I understand that correctly, that  
25 part of the training was to tell KLA members how to treat the

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1 civilian population?

2 A. Yes. I was in possession of literature and I extracted from it  
3 the most significant issues from the Geneva Conventions as well as  
4 the second Additional Protocol of 1977, Article 75 and 87 therein.

5 JUDGE METTRAUX: And was it part of the training as well to tell  
6 your trainees, the trainees within the KLA, what the Geneva  
7 Conventions expect of the treatment of detainees? Did you tell them  
8 that the Geneva Convention expected humane treatment and prohibited  
9 mistreatment or inhumane acts? Did you tell them that?

10 A. Yes, most certainly. I did give evidence about this.  
11 Unfortunately, when I offered this to the circuit court during the  
12 case of the four suspects in Prishtine, this was not accepted. This  
13 one, as a matter of fact, as well as the protection of refugees, as  
14 well as including my pictures of me protecting them in the front  
15 line. There were a number of others offered as evidence. However,  
16 these were widely explained in Skender Zhitia's book about the Llap  
17 operational zone. I think that constitutes evidence that will be  
18 taken into account.

19 So the answer to your question is that these lectures were  
20 conducted precisely to make them aware that they should comply with  
21 human rights and all the provisions related to the protection of the  
22 people that are subject to the Geneva Conventions as well as its  
23 Additional Protocols.

24 JUDGE METTRAUX: Now my next question is what procedure or steps  
25 did you put in place to ensure that these goals of compliance with

1 the Geneva Conventions were, in fact, complied with by the members of  
2 your organisation?

3 A. In addition to giving the lectures, we also conducted an  
4 analysis of the observance of military discipline. And you have full  
5 accountability here in cases of the breaches of such discipline as  
6 well as other issues related to the Geneva Conventions and the  
7 Additional Protocols to the best of the knowledge that we had as  
8 commanders at the time.

9 JUDGE METTRAUX: I'll come to the discipline in a moment with an  
10 example, but let me be more specific. You tell your trainees that  
11 they have to treat detainees in a humane fashion and cannot mistreat  
12 them. What step or steps in your knowledge were taken to ensure that  
13 they acted in such a way?

14 A. The steps constituted in making aware commanders as well as  
15 soldiers because they could face up with a situation that occurred  
16 there and then or at the level of a unit. But we also put that on  
17 the responsibility of the brigade so that at that level they would  
18 cooperate with civil defence and the representative of the  
19 intelligence unit in cooperation with the military police so that  
20 such infringements should not or would not occur.

21 JUDGE METTRAUX: So just focusing on the detainees for the time  
22 being. Whose responsibility ultimately, to use an expression you  
23 used last week, would it be to see to it that people detained in the  
24 zone by the KLA are treated in accordance with the Geneva  
25 Conventions? Who in your understanding was responsible for that

1 within the zone?

2 A. The responsibility rested with the people who had to apply them  
3 from -- as I mentioned, from the level of the brigade commander  
4 downwards to the military police at a zone level as -- as where the  
5 detention centre existed.

6 JUDGE METTRAUX: What about the zone commander, is he  
7 responsible for the actions of these people in relation to what  
8 happens to detainees?

9 A. By all means, yes. From the zone commander down to the zone  
10 level and all the way to the simple soldier who has a certain level  
11 of responsibility. What we tried was to extend this from the basic  
12 level to the highest echelons to inform people about the levels of  
13 responsibility, the responsibility that should go down all the way  
14 from the soldier to the zone commander.

15 JUDGE METTRAUX: And maybe you've said it, but I'll ask again to  
16 be sure that I understand what you're saying. Whose responsibility  
17 was it to go in the detention facilities to make sure that the Geneva  
18 Conventions were being complied with? Who, in your understanding,  
19 was the persons or the entity that was responsible for that?

20 A. The military police operated at the detention centres. They  
21 were educated and had prior police experience, so they were the  
22 people responsible to look after the premises and the people,  
23 including, you know, food and medical care.

24 What was also transparent was the visits by family members of  
25 the detainees. I have mentioned two discrete cases where I have

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1 visited these centres myself.

2 JUDGE METTRAUX: You have mentioned that.

3 Now, you've mentioned discipline and I'm going to go to that  
4 with you for a second.

5 Could the Registry please bring up U000-9710 to U000-9792-ET;  
6 same ERN for the Albanian. And the page that I would want to get to,  
7 please, is 9777. Next page in the English, please. Thank you.  
8 That's the one.

9 Sir, do you recall being shown this document during your  
10 preparation session with the Prosecution?

11 A. Yes, I do.

12 JUDGE METTRAUX: And for the record, that's Preparation Note 2  
13 at paragraph 33.

14 Now if we can just for a second go to the next page in the  
15 Albanian, please. And go towards the bottom of that page, please.

16 The first thing I'd like you to confirm is that you recognise  
17 the signature on that document.

18 A. Yes, I do.

19 JUDGE METTRAUX: And can you tell us whose signature that is?

20 A. It's from Commander Daja, deputy commander of the subzone of  
21 Llap operational zone. It's in Zaberxhe, and that is the deputy  
22 commander Kastrati.

23 JUDGE METTRAUX: Kadri Kastrati.

24 A. Kadri Kastrati.

25 JUDGE METTRAUX: Thank you. Now can we go back to the first

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1 page in the Albanian.

2 If you look first at the first paragraph, sir. In the English  
3 version, it says the following:

4 "Pursuant to the UCK temporary service regulations and upon  
5 authorisation by ... [the] /Llapi Operational Zone/ commander, i.e.  
6 Brigade commander, disciplinary actions are taken against the  
7 following soldiers for disobeying an order, i.e. for being negligent  
8 in carrying out the military duties and obligations."

9 Do you see that?

10 A. Yes.

11 JUDGE METTRAUX: First question before we go into the substance:  
12 Do you recall the KLA temporary or interim regulations to which this  
13 decision is making reference?

14 A. I can't quite place it. Can we go all the way down in this  
15 handwritten version in Albanian?

16 JUDGE METTRAUX: Yes.

17 A. Because there is mention here of the 2nd Brigade. A bit more,  
18 because I cannot see a date, so I don't know which period of time  
19 this is with a reference to.

20 JUDGE METTRAUX: If we can go to the next page in the Albanian  
21 just to help the witness. The date is on the next page. Thank you.

22 Sir, do you see the date now?

23 A. Yes. The 9th of September. And it has to do with disciplinary  
24 measures taken against the then 2nd Brigade, Brigade 2 or Brigade 152  
25 Shaban Shala. It has to do with three people who were given a

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1 disciplinary measure -- measure at the zone level.

2 JUDGE METTRAUX: I'll come --

3 A. With reference to your question --

4 JUDGE METTRAUX: We'll come to the substance in a second, sir.

5 First, I think the date is 1 November 1998. Do you agree with that?

6 A. Yes.

7 JUDGE METTRAUX: Now back to the first page, please, in  
8 Albanian.

9 Now, in the summer of 1998, July 1998, the KLA General Staff  
10 adopted so-called interim regulations of the KLA. Do you recall  
11 these regulations?

12 A. Some of the regulations, yes, I do remember them, and some I  
13 don't. And I have difficulty with this one. Was that a regulation  
14 issued by the General Staff or was it interim regulations that were  
15 issued in the absence of the full ones and that was done at the  
16 subzone level that existed at the time. Daja and myself did that.  
17 These were interim regulations that we used until the General Staff  
18 sent us the proper versions whose delivery was delayed. And this was  
19 largely due to the fact that the commander of the zone went so very  
20 rarely to the headquarters of the General Staff.

21 So I have difficulty differentiating or determining here on  
22 whether this reference here is to the ones issued by the  
23 General Staff or the interim regulations that we ourselves have --  
24 had compiled.

25 JUDGE METTRAUX: Sure. I'll ask it in that way. When you

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1 received the interim regulations from the General Staff, do you  
2 recall receiving those during the summer of 1998?

3 A. We did receive -- maybe we did receive some, but I cannot  
4 specify which ones because time has passed. What I'm saying is that  
5 if we did not have a regulation covering a certain field, we would  
6 compile ourselves an interim regulation which we would use until we  
7 would receive the regulations from the General Staff.

8 JUDGE METTRAUX: Understood. And once you had the General Staff  
9 regulation, that would be the one pursuant to which you would be  
10 acting; correct?

11 A. I'm saying once again, if we had one, we would refer to it. If  
12 we didn't, then within the zone we would compile one, which would be  
13 signed by the commander, and which would be in line with the military  
14 standards and provisions of international laws, and that one would be  
15 in use until we would receive the one from the General Staff.

16 JUDGE METTRAUX: That's clear now. Thank you.

17 Now, if you can look at the first individual here who is subject  
18 to a disciplinary measure. His name is Agron Harolli from the --

19 A. Havolli.

20 JUDGE METTRAUX: Havolli. If you can spend just a second  
21 looking at the basis on which the disciplinary measures are being  
22 taken, and then I'll ask you a question. So just read that  
23 paragraph, please, for yourself.

24 A. I understand what it is about.

25 JUDGE METTRAUX: So do you agree that Mr. Havolli is here

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1 subject to disciplinary measure because he abused his position by  
2 disobeying a commander's order, namely, that he abandoned his  
3 position contrary to orders? Do you agree with that?

4 A. Yes. There are two reasons. The first one, he left the area of  
5 responsibility -- or, rather, the area of responsibility of brigade,  
6 taking with him some other armed soldiers, and went to another  
7 village which was in another part of our area of responsibility but  
8 not within this brigade's area of responsibility.

9 And second reason was that he mobilised a vehicle in  
10 contradiction with the orders. The vehicle mentioned here is Lada.

11 JUDGE METTRAUX: So is it fair to suggest from this document,  
12 but from other circumstances, if you wish, that there was an  
13 expectation within your brigades that orders would be respected by  
14 subordinates; and if orders were not respected, that disciplinary  
15 consequences could follow. Is that a fair proposal?

16 A. Yes. For infringements and violations of regulations, the KLA  
17 soldiers would be held responsible. I have an example when I took  
18 strict measures against a soldier when he caused a general risk while  
19 using a weapon, and that was an immediate measure taken, disciplinary  
20 measures, which was educational so that such cases would not occur in  
21 the future.

22 JUDGE METTRAUX: Yes, I think we saw that last week. It was  
23 P1763. Thank you for that, sir.

24 Now, is it also fair to suggest from what we see here, and  
25 you've said it yourself, that there was an expectation, at least

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1 within your brigade, that a KLA member could not just leave their  
2 position as they wished, and if they did, they could be subject to  
3 disciplinary measures? Is that right?

4 A. That's right.

5 JUDGE METTRAUX: Now, I want to ask you about a couple of things  
6 you said to the Office of the Prosecutor when they interviewed you,  
7 and I want to be sure that I understand --

8 MR. DIXON: Your Honour, sorry, if you're moving off this  
9 document, could I ask for those following this. There was a  
10 reference made to interim General Staff regulations at some point in  
11 1998. What is the reference for that so that we're able to piece  
12 this together?

13 JUDGE METTRAUX: If I can be of assistance, I believe, from the  
14 top of my head, Mr. Dixon, it might be P163. You may wish to have a  
15 look at this one. And if you want to follow up with the witness, I  
16 think that might be the document you're looking for.

17 MR. DIXON: Yes, that's why I asked, so if there were any  
18 follow-up questions. Thank you.

19 JUDGE METTRAUX: Now, Witness, as I indicated, I'd like to  
20 follow up on some of the things you told the SPO and ask you a few  
21 follow-up questions on this.

22 First, regarding the structure of the zone. I understood you to  
23 say in your SPO interview - that's Part 1, page 14, now  
24 Exhibit P1755.1 - that the structure of the zone was set up pursuant  
25 to the orders of the General Staff. In other words, orders were

1 given by the General Staff and then were being implemented  
2 structure-wise at the zone. Did I understand that correctly, sir?

3 A. So the structure, as far as I know, came from the General Staff  
4 but was modified as per our needs and specificities. I've mentioned  
5 in this context BIA, the medical battalion, the civilian defence,  
6 which were specific to our zone. It was not an order but rather a  
7 model, how we should create the chart, the organisational chart. It  
8 was more of a reference document. And there was evidence to this  
9 effect in 2003 before the District Court in Prishtine.

10 JUDGE METTRAUX: I'll come to the implementation in a second. I  
11 just want to set the framework.

12 As part of this structure or this model that you use was also  
13 the creation of detention facilities; is that right?

14 And that's Part 4, page 9 and 10.

15 A. This was something that was imposed on us from the conditions  
16 and the time.

17 JUDGE METTRAUX: But what I mean is this was part of the  
18 implementation of the, I think you used the expression "model," that  
19 was suggested to you by the General Staff; is that right?

20 A. I suppose so. I don't know how it arrived, but I believe it was  
21 a model on how to create the organisational structure, and we adapted  
22 it to our needs with the additions that we made and that I mentioned  
23 earlier.

24 JUDGE METTRAUX: And then this, what you called adaptation or  
25 implementation, the responsibility for that would be with whom? With

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1 the zone commander or with someone else?

2 A. This was the responsibility of the zone command with the zone  
3 commander as its head.

4 JUDGE METTRAUX: And talking about the Llapashtice detention  
5 facility, do you recall approximately when it was set up?

6 A. I don't know exactly. It could have been in November 1998. I'm  
7 not sure, though.

8 JUDGE METTRAUX: Well, again, I don't want to make you adopt  
9 what you don't want, but it was suggested to you during the SPO  
10 interview, Part 4, page 9, that it might have been at the end of  
11 October 1998 or early November 1998. Is that consistent with your  
12 recollection today?

13 A. Yes, more or less. As I said, I cannot refer to the exact date.  
14 Had I known the date, I would have stated it. I would have said  
15 October or November. Now, 25, 26 years have passed since then. I  
16 can hardly remember what happened yesterday. So I cannot pinpoint  
17 the exact time, but it is within that period of time, end of October  
18 or October, beginning of November as the Prosecutor suggested.

19 JUDGE METTRAUX: Just to be clear, I'm not blaming your memory,  
20 sir. I have a terrible memory myself, so I have a great deal of  
21 sympathy for your difficulties there.

22 One thing I want to go back to, if I may, is about the authority  
23 to release detainees who were detained within the zone. And you've  
24 discussed it with the Prosecution and again with my colleague  
25 Judge Barthe. Do you remember these questions?

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1 A. Yes.

2 JUDGE METTRAUX: And I understood you to have indicated that the  
3 responsibility or primary responsibility for doing so within the zone  
4 was with the zone commander. Did I get that right?

5 A. Something like that. But it was said ultimate responsibility,  
6 because that followed certain requests. But ultimately, it was the  
7 responsibility of the commander of the zone. That is, the main  
8 commander of the Llap operational zone.

9 JUDGE METTRAUX: Well, we'll see about the "ultimately," but I  
10 want to show you a number of release documents attributed to the zone  
11 commander, Mr. Rrustem Mustafa.

12 I'll show you the documents, there's four of them, and then I'll  
13 ask you a couple of questions about them. And I'll give you the time  
14 to look at them. If you need more time, please tell me.

15 The first one would be Exhibit P885.

16 A. If I could have the Albanian version.

17 JUDGE METTRAUX: Yes, I agree with you. I'm uncertain that we  
18 have an Albanian version. I'll check for you at the break, sir. But  
19 I'll read for you for time being what it is.

20 A. No problem. I understand it. But if there is one -- no  
21 problem.

22 JUDGE METTRAUX: We'll look for you, sir.

23 This -- and I'll show you the whole document. This purports to  
24 be an amnesty. It's dated 17 January 1999. It comes from the Llap  
25 operational zone.

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1 And if we may perhaps go to the bottom of this document, please,  
2 of this page.

3 It is signed by the commander of the Llap operational zone, and  
4 it pertains to four individuals detained by the KLA: Idriz Shabani,  
5 Fatmir Mustafa, Gani Rakovica, and Bedri Ademi.

6 Now, first thing -- I'll just go back up in the page for a  
7 second. I just want to read to you the first paragraph, sir, and I  
8 will ask you the questions in a moment about that. But this amnesty  
9 decision attributed to Commander Remi starts with the paragraph:

10 "Based on the political declarations of the General Staff of the  
11 KLA, the Internal Regulation of the KLA and based on the Regulation  
12 on the Civil Administration, the Commander of the [Llap operational  
13 zone] of the KLA, announces the: Amnesty."

14 Do you understand, sir?

15 A. Yes.

16 MS. D'ASCOLI: And, Your Honours, if I can be of assistance, the  
17 Albanian can be found under P150.

18 JUDGE METTRAUX: I have been assisted. If we could bring that  
19 one up. Sir, I'll give you a chance to look at the Albanian version.

20 Thank you, Ms. D'Ascoli.

21 Thank you very much. And thank you to the Registry.

22 First, can we go to the bottom of that document in the Albanian,  
23 please.

24 First, sir, do you recognise the signature on that document?

25 A. Yes.

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1 JUDGE METTRAUX: And whose signature is that?

2 A. Of the zone commander, Remi.

3 JUDGE METTRAUX: Can we please go back up in the document in the  
4 Albanian.

5 Can I just ask you, for the time being, to read the first  
6 paragraph in that document and to keep it in mind.

7 A. Yes.

8 JUDGE METTRAUX: Now can we please go to what is Exhibit P225.

9 So if you look at it, sir, I'll show you the rest of the page in  
10 the Albanian, but it purports to be an amnesty in relation to people  
11 being detained in the KLA Llap operational zone. It's dated  
12 31 December 1998.

13 And if we can scroll down the page in both languages.

14 You will see that it's once again attributed to the commander of  
15 the operational zone. Do you recognise the signature again on that  
16 document, sir?

17 A. Yes.

18 JUDGE METTRAUX: And that's Remi's; right?

19 A. I think so, yes.

20 JUDGE METTRAUX: And if we can go back up in the document,  
21 please.

22 Here the decision suggests that the amnesty in relation to these  
23 four individuals is based on KLA rules and regulations, General Staff  
24 communiqués, civil or civilian administration rules and regulations,  
25 as well as a decision of the zone commander 001. Do you see that?

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1 A. Yes, I see that.

2 JUDGE METTRAUX: If we can go to the next page, please, in both  
3 languages.

4 And you can see it's linked to the previous amnesty. In effect,  
5 it's an implementation of the previous document. It's also dated  
6 31 December 1998. And it's a decision to release a Muje or Muje  
7 Zejnullahu. Do you see that?

8 A. Yes.

9 JUDGE METTRAUX: If we go to the bottom of the page, you can  
10 confirm it's once again a decision attributed to the commander of the  
11 zone. Is that right?

12 A. No. I cannot recognise it on this document as his signature. I  
13 can compare it with Remi's signature. I'm not quite sure about this  
14 one.

15 JUDGE METTRAUX: But you agree that this document is attributed  
16 to the commander and - if we go to the top of the page - it would be  
17 the commander of the zone. Do you agree with that?

18 A. Probably, yes, it is. However, I cannot recognise this  
19 signature or confirm it as his based on his signature. Sometimes  
20 somebody signs on behalf of somebody else, and then it's marked with  
21 "for," and then followed by the signature of the person who signs  
22 instead of the authority mentioned.

23 But on this document, I cannot recognise his signature.

24 JUDGE METTRAUX: No worries.

25 If you can look at the first paragraph of that document, it

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1 says, in English:

2 "Based on Kosovo Liberation Army internal Rules and Regulations,  
3 [General Staff] communiqués, Civilian Administration Rules and  
4 Regulations, as well as," again, a decision 001 from the zone  
5 command.

6 Do you agree with that?

7 A. Yes.

8 JUDGE METTRAUX: And I will show a last document. It's  
9 SITF00242574. Thank you.

10 This one, sir, is unsigned, but it again pertains to come from  
11 the Kosovo Liberation Army Llap operational zone. It bears a number  
12 but no date on it. And it pertains to a number of individuals. I  
13 will go to a couple of them in a second.

14 But the first paragraph of that document says the following,  
15 that this amnesty that is being issued for people detained by the KLA  
16 was:

17 "Based on the political Memorandums of the General Staff, the  
18 Internal Regulation of the KLA, the Regulation on the Civil  
19 Administration," and with a decision of the commander of the Llap  
20 zone, he declares the amnesty for the following persons.

21 Now, I'll ask you first a question.

22 If we can scroll down this document so that all the names appear  
23 for the witness.

24 Do you know anyone on that document, sir? And I'll show you --  
25 there's a second page.

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1 A. I didn't know them at the time. But I do remember some of them  
2 as names.

3 JUDGE METTRAUX: Can you tell us which ones you recall?

4 A. For example, I remember Rakovica --

5 JUDGE METTRAUX: Would that be number 3 or number 4?

6 A. Just as a name.

7 JUDGE METTRAUX: Oh, okay.

8 A. I don't know which one. But as a name, I remember it. Some  
9 others as well as surnames, Enver Sekiraqa, Potera, from the  
10 proceedings.

11 JUDGE METTRAUX: Anyone you knew personally from the time?

12 A. Only Enver.

13 JUDGE METTRAUX: What about number 7, Hetem Jashari? Did you  
14 know him at the time?

15 A. No, I don't remember.

16 JUDGE METTRAUX: Did you have any contact with him either during  
17 or after the war? Or before, I should say?

18 A. With whom?

19 JUDGE METTRAUX: Hetem Jashari.

20 A. No, I don't remember.

21 JUDGE METTRAUX: So any suggestion that you went with him to  
22 Croatia, for example, would be incorrect? Do you agree?

23 A. I don't know who he is. Why would I go to Croatia with him?  
24 What does this mean?

25 JUDGE METTRAUX: Well, if someone were to suggest that you did,

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1 that would be false. Do you agree?

2 MR. DIXON: Your Honour, he has to, in fairness, be given the  
3 full circumstances. If this was the Prosecution asking these  
4 questions in re-examination, I'd certainly object.

5 Now, I can't do it in the same way here, but I think out of  
6 fairness to the witness - any witness - if an allegation is going to  
7 be put like this and he's going to be asked to say somebody's a liar,  
8 he needs to know what it's about.

9 JUDGE METTRAUX: Mr. Dixon, I'm not suggesting in any way that  
10 this witness is lying. But for --

11 MR. DIXON: [Microphone not activated].

12 JUDGE METTRAUX: -- your assistance, I do expect, Mr. Dixon,  
13 that you are as informed as we are as what's on the transcript of  
14 these proceedings. But to assist you, it's page 3376 and following  
15 of these proceedings, which I'm sure one of your assistants could  
16 find, that pertains to something that was asked of [REDACTED] Pursuant  
17 to *In Court Redaction Order F2691RED*. And  
I'm sure at the break you can find the transcript.

18 MR. DIXON: Your Honour, with respect, it doesn't matter if I  
19 know about this, which I do. It's whether the witness knows about  
20 this. That's my point.

21 In fairness, he must be given the full circumstances if he's  
22 going to be asked to call somebody a liar. Not that he's lying --

23 JUDGE METTRAUX: Well, Mr. Dixon --

24 MR. DIXON: -- but somebody else is lying --

25 JUDGE METTRAUX: Mr. Dixon, I'm deciding what context is

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1 required. If you feel that, for an issue of fairness or otherwise,  
2 he should get more context, you can put that context to him when  
3 you'll be given a chance to ask questions following ours.

4 At this time, as I indicated, I am not suggesting to this  
5 witness that he lies or lied about knowing or not knowing Mr. Hetem  
6 Jashari. I'm putting to him a proposition that we heard in this  
7 courtroom, and I'm verifying with the witness whether he accepts it  
8 or not. I hope it's clear now.

9 MR. DIXON: It's clear. My submission is that he should just  
10 know the full circumstances. That's all I'm asking. It's of course  
11 for you to rule, Your Honour, but that's what I'm asking.

12 JUDGE METTRAUX: Now --

13 MS. V. ALAGENDRA: Your Honours, I support the submissions  
14 Mr. Dixon here, because the suggestion is that there is another  
15 witness that Your Honour has just referred to who was probably not  
16 speaking the truth. So in all fairness, I think the witness ought to  
17 be given the information as submitted by my learned friend.

18 JUDGE METTRAUX: Well, I suggest, Ms. Alagendra, that you  
19 acquaint yourself with the transcript before suggesting. There's no  
20 suggestion on my part that the other witness lied about it. It's  
21 something that particular witness was told.

22 I am verifying with this witness whether there's any truth in it  
23 to the extent he's able to do so. So I suggest that everyone goes to  
24 the relevant transcript. And if there's any follow up to be done  
25 from the question, this can be done in a moment. But I think it's

1 time for a break now.

2 MS. V. ALAGENDRA: Yes, Your Honours. But if I may just say, it  
3 is potentially eliciting from this witness evidence that someone has  
4 said something that is incorrect.

5 PRESIDING JUDGE SMITH: Thank you, Ms. Alagendra. We'll take  
6 our lunch break now.

7 Witness, we'll give you an hour and a half for lunch. You'll be  
8 back in the courtroom at 2.30. Please do not speak with anyone about  
9 your testimony outside the courtroom.

10 You may leave now with the Court Attendant.

11 THE WITNESS: [Interpretation] Thank you.

12 [The witness stands down]

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

14 --- Luncheon recess taken at 1.01 p.m.

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

16 PRESIDING JUDGE SMITH: Mr. Misetic, you sought the floor  
17 outside the hearing of the witness.

18 MR. MISETIC: [via videolink] Yes, just briefly, Mr. President.

19 Related to the issue that we were discussing or that  
20 Judge Mettraux was asking before the break, I just wanted to clarify  
21 because there may have been some ambiguity. And Judge Mettraux had  
22 said, and this is at transcript page 78, line 6, he said the line of  
23 questioning "pertains to something that was asked of Witness  
[REDACTED] Pursuant to In Court Redaction Order F2691RED.

24 And I've had an opportunity take a look at the transcript, and  
25 just so that we're clear, it is something that the witness [REDACTED]  
Pursuant to In Court Redaction Order F2691RED.

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1 raised but was not asked of [REDACTED] Pursuant to In Court Redaction  
Order F2691RED. related to the witness that's on the  
2 stand. I just wanted to be clear.

3 PRESIDING JUDGE SMITH: Understood. Thank you for that.

4 MR. MISETIC: [via videolink] Thank you.

5 PRESIDING JUDGE SMITH: Please bring the witness in.

6 [The witness takes the stand]

7 PRESIDING JUDGE SMITH: Welcome back, Witness. We thank you for  
8 your patience, too, dealing with this. It's been a long drag for  
9 you, so thank you for being with us.

10 We continue now with Judge Mettraux's questions. Can you hear  
11 okay?

12 THE WITNESS: [Interpretation] Yes, very good.

13 JUDGE METTRAUX: Yes, thank you, Witness, for your patience.  
14 We're almost at the end of questioning.

15 I want to go back for a minute to the four amnesty decisions  
16 that we discussed before the break. Do you recall those?

17 A. Yes.

18 JUDGE METTRAUX: And if we could perhaps put one on the screen  
19 to have an illustration there. Can we have Exhibit P885 on one  
20 side - I think we only have the English - and P150 on the other,  
21 which is the same document but in Albanian.

22 Now, I have two propositions that I want to put to you for you  
23 to agree or disagree or comment upon, if you want.

24 The first one is do you agree that this and the other decisions  
25 of amnesty that I showed you confirm or support your suggestion that

1 the zone commander had the authority to release people detained by  
2 the KLA within the zone? Do you agree with that?

3 A. Yes, partially so. Let me explain that there have been  
4 amnesties issued during symbolic moments in the year, this was New  
5 Year's Eve, and the other one, 17 January, most certainly coincides  
6 with something else.

7 So it was not entirely within their authority, but the proposals  
8 came up to him for those people who had been detained for a number of  
9 days to -- not to continue to be kept any further because the  
10 reasonable period of their detention had now elapsed. So the zone  
11 commander has acted upon that.

12 It is akin to a situation where a head of state grants an  
13 amnesty. The amnesty is issued with -- all the names on the amnesty  
14 are so amnestied after receiving a proposal by the relevant sections  
15 of society and so on.

16 JUDGE METTRAUX: And you said, to use your words, that some of  
17 these amnesties were issued - I'm trying to find your phrase -  
18 "during symbolic moments in the year." Are you also aware that the  
19 General Staff made use of that possibility, issuing amnesties at  
20 symbolic junctures?

21 A. I am not aware, no.

22 JUDGE METTRAUX: Now, looking at the document you have in front  
23 of you, would you agree with the suggestion that, looking at the  
24 first paragraph, the authority of the zone commander to release KLA  
25 detainees derives from declarations of the General Staff and other

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1 regulations adopted by the General Staff? Do you agree with that?

2 A. That is by way of reference in the preamble. That is why it  
3 features here in this document.

4 JUDGE METTRAUX: Thank you. Now I want to ask you about a  
5 specific release that you were asked about, the release of a Serbian  
6 inspector or an inspector of Serbian ethnicity called Goran Zbilic.  
7 Do you recall being asked this question in particular by Mr. Misetic?

8 A. Yes.

9 JUDGE METTRAUX: Now, just to be clear, were you personally  
10 involved in the process of releasing Mr. Zbilic?

11 A. Yes.

12 JUDGE METTRAUX: Now, were you -- did you -- I'll start that  
13 way. Did you ever see a written decision pertaining to his release?

14 A. When I say that I took part in the -- for his release, I was  
15 part of the negotiations that ended up in his release. It was --  
16 Adem Demaci made a request to this end, and this is a person who I  
17 had known.

18 JUDGE METTRAUX: So let me ask it in that way: Do you know who  
19 Adem Demaci approached to have Goran Zbilic released? In particular,  
20 are you aware of him approaching the General Staff?

21 A. I do not have such knowledge, but I know that he spoke to the  
22 zone command, the commander, and other members of his command,  
23 including myself.

24 JUDGE METTRAUX: And are you aware of the fact that certain  
25 members of the General Staff became involved in the process of

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1 releasing Mr. Zbilic? Are you aware of that?

2 A. No.

3 JUDGE METTRAUX: Now I want to ask you about two names. And,  
4 again, if you can assist, I would be grateful. If you cannot, that  
5 would be it. But in January 1999, among your KLA colleagues, can you  
6 remember someone with a first or last name Behlul or Behluli? Do you  
7 recall someone with that first or last name?

8 A. No.

9 JUDGE METTRAUX: You don't know Ramadan Behluli or Behlul Limaj,  
10 for instance?

11 A. No, I don't.

12 JUDGE METTRAUX: What about the last name Murati? Did you have  
13 in January 1999 a fellow KLA member by that name?

14 A. Not someone with a surname Murati, but somebody whose first name  
15 was Murati, yes.

16 JUDGE METTRAUX: Can you give us the name of that person, sir?

17 A. Murat Ajeti.

18 JUDGE METTRAUX: And are you aware or do you know individuals by  
19 the name of Vallon Murati and Skender Murati? Do you know these  
20 individuals?

21 A. Vallon Murati, yes, whilst Skender Murati is not someone that I  
22 am able to remember at this point.

23 JUDGE METTRAUX: And can you tell us what was the position of  
24 Vallon Murati in January 1999, if you know?

25 A. As far as I know, he's a member of this Movement for the

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1 Liberation of Kosovo, LKCK. And if I'm not mistaken, he was head of  
2 the unit for morale. As far as I remember, that is. But that's what  
3 I know. The sector on morale.

4 JUDGE METTRAUX: And when you say the sector of morale, do you  
5 mean the sector of morale within the zone command of the Llap zone?

6 A. Yes.

7 JUDGE METTRAUX: And --

8 A. He did that for a period of time. I don't think he held that  
9 position all the time.

10 JUDGE METTRAUX: Do you know if he used a nickname at the time?

11 A. No, I don't.

12 JUDGE METTRAUX: Thank you, sir, for your patience. Those were  
13 my questions.

14 PRESIDING JUDGE SMITH: Judge Gaynor.

15 JUDGE GAYNOR: Thank you, Judge Smith.

16 Good afternoon, Mr. Witness. First of all, I want to deal with  
17 the expression "intelligence and counter-intelligence section."

18 Could I ask the, Court Officer, please to bring up P1765 and to  
19 display the first page in English and Albanian.

20 Am I right in understanding, Mr. Witness, that this is a brigade  
21 formation template which is brought from the General Staff to the  
22 Llap zone command by Commander Remi?

23 A. I can't say it with that certainty. I know that it was brought  
24 to the zone. I don't know whether by Commander Remi or someone else.  
25 What counts, though, is that this organisational chart did exist in

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1 the Llap operational zone.

2 JUDGE GAYNOR: And was it the intention, one can assume, that  
3 the General Staff intended this organigramme to be followed by the  
4 zone commands?

5 A. I assume so.

6 JUDGE GAYNOR: Now, I'd like you to, Mr. Court Officer, focus on  
7 the third box from the left in the Albanian original. So under the  
8 top two boxes, the third box on the left.

9 Now, could you just read out what's in the third box on the  
10 left.

11 A. "Intelligence and counter-intelligence sector."

12 JUDGE GAYNOR: Now, is that consistent with the acronym ZKZ?

13 A. It depends in what way acronyms were used. If you were to take  
14 this at the brigade and zone level, what stands out is that under the  
15 zone models, it is not called an intelligence and  
16 counter-intelligence sector. It is called the informative section,  
17 group. So I do not know in -- to, you know, what extent this acronym  
18 ZKZ applies with respect to the question that I'm asked.

19 I encountered that kind of language in this kind of  
20 organigramme.

21 JUDGE GAYNOR: Could you please move to the fourth page in the  
22 Albanian and English, please. Could I ask the Court Officer to focus  
23 on the third box from the left in the Albanian original.

24 This, Mr. Witness, appears to be an organigramme of the zone  
25 command and the units which reported to the zone command; isn't that

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1 right?

2 A. Correct, yes.

3 JUDGE GAYNOR: Could you read what appears in the third box from  
4 the left above the words "Latif Gashi"?

5 A. "Chief of sector of intel and counter." Given that that box was  
6 not able to accommodate the words in their entirety, these words were  
7 truncated. They were truncated, that is, to accommodate the text  
8 within.

9 JUDGE GAYNOR: So is it fair to say that that box states: Chief  
10 of intelligence and counter-intelligence section?

11 A. Yes, yes.

12 JUDGE GAYNOR: And is it fair to say that the words  
13 "intelligence and counter-intelligence" are consistent with the  
14 acronym ZKZ as they appear in this box?

15 A. It may be so.

16 JUDGE GAYNOR: Now, if we stay on this particular organigramme.  
17 Did Latif Gashi report directly to you as the chief of staff, or did  
18 he report to the deputy zone commander, or did he report to the zone  
19 commander? It's not entirely clear from this chart.

20 A. The staff operated within the auspices of the zone command and  
21 what that entailed is the entire staff, which means that the zone  
22 commander, the deputy zone commander, and the chief of staff were all  
23 together in this group that included the brigades and their  
24 subordinate sectors.

25 So that is what I have to say *vis-à-vis* this question.

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1 JUDGE GAYNOR: Who reported to the zone ZKZ commander  
2 Latif Gashi?

3 A. Who reported to him or who did he report to? Because the  
4 question was not asked clearly as far as I'm concerned.

5 JUDGE GAYNOR: We've dealt with the question of who he reported  
6 to. My question is now who reported to him, Latif Gashi.

7 A. He had a deputy, Hydrin Alla -- Hyzri Alla [as interpreted], who  
8 I can't see. He was killed in December 1998. And -- and there were  
9 people spread around the brigades who served as chiefs of  
10 intelligence and counter-intelligence. They reported to the brigade,  
11 to the relevant brigade commanders, but also, because the sector was  
12 under him, they reported to Latif Gashi too.

13 JUDGE GAYNOR: Yes, you've focused in on an issue that I'm very  
14 interested in.

15 If the brigade level ZKZ commander, which in Brigade 151 was  
16 Sabit Rrahimi, if he had two reporting lines, one to the brigade  
17 commander and one to the zone level ZKZ commander, could you please  
18 explain the matters in respect of which he would report to the  
19 brigade commander and the matters in respect of which he would report  
20 to the chief of ZKZ at the zone level, which is to say Latif Gashi.

21 A. Routinely, Mr. Sabit would report to the brigade commander.  
22 Whereas at particular moments where issues of major importance for  
23 the zone were concerned, he would report to the chief of the sector.  
24 And that is why I am saying that this was a two-pronged approach. So  
25 he would -- generally speaking, on Serbian forces, and so on, where

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1     there was a need for a more general overview of the situation, he  
2     would report to the chief of the sector at that zone level.

3             JUDGE GAYNOR: Now, we'll stay with the zone command for the  
4     moment.

5             And, perhaps, Mr. Court Officer, if you can zoom out a little  
6     bit.

7             We see that the zone military police commander was Nazif  
8     Mehmeti, and could you clarify who he reported to?

9     A. He reported to the chief of staff, to the deputy commander, and  
10    the commander on a case-by-case basis, as you can see from the chain  
11    of command. And he was not a regular member of the staff, but where  
12    the situation demanded it, he requested his presence and he reported  
13    before the staff, namely, the command of the zone.

14            JUDGE GAYNOR: How often did the zone command hold meetings  
15    while you were a member of it?

16    A. It depended on the circumstances on the front line and the needs  
17    for such a meeting. They could be monthly, depending on the  
18    situation, but there were occasions where it would be less frequent.  
19    But either monthly or a bit less frequent. Sometimes there would be  
20    meetings during the month where the situation was such that the  
21    meeting was necessary. And at times when there were no major  
22    military operations underway, these meetings would be less frequent.

23            JUDGE GAYNOR: If the military police commander or the ZKZ  
24    commander had come into possession of information which was very  
25    important from the intelligence or counter-intelligence perspective,

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1 how would they get that information quickly to the zone command?

2 A. Where there is a situation of immediate impact, the information  
3 reached the level of the staff or the zone command. It all depended  
4 on the urgency of the situation. There were occasions where you did  
5 not have to wait for the meeting that had been set because the  
6 information needed to get out very quickly.

7 So from this point of view, you can see how the communication  
8 was in a horizontal and a vertical axis on the organigramme, where  
9 you're talking about the command and their subordinate units and the  
10 way they operated.

11 JUDGE GAYNOR: And what means of communication would you use to  
12 receive urgent information from the military police or from the ZKZ?

13 A. We had everything at our disposal. If you're a chief of staff  
14 or commander of a zone or deputy commander, or regardless of whether  
15 you are the chief of a sector or brigade, the set of tasks remains  
16 the same.

17 As chief of staff, I had tasks to surveil the Serbian forces,  
18 and I did that through radio communications during the offensive, and  
19 this was not a specific task that was assigned to someone else. We  
20 did all kinds of things. We dealt with logistics. We dealt with  
21 other issues that are not necessarily described in this organigramme.

22 So the gathering of information and the processing of such  
23 information had to be precipitated given that we were in a situation  
24 of war and in direct confrontation with the enemy forces. Any delay  
25 would have been fatal. So information reaches us from all over the

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1 place, from all the military structures and all the levels of the  
2 military organisation.

3 Where the risk of an offensive or an operation by the enemy was  
4 imminent, measures had to be taken similarly to be able to withstand  
5 it.

6 JUDGE GAYNOR: And if you came into possession through the  
7 structure you have just described of particularly important  
8 information, how would you get that information as quickly as  
9 possible to the General Staff?

10 A. I don't have an example to illustrate these powers that we had  
11 at a zone level, so I don't have one to illustrate how we  
12 communicated with the General Staff. However, were that to have been  
13 the reality, it would have been the commander of the zone who would  
14 have contacted the General Staff to convey that piece of information.

15 JUDGE GAYNOR: Now, I'd like to move to the third page, please,  
16 which is an organigramme of Brigade 151 and it lists you as the  
17 commander. So my questions concern the period during which you were  
18 the commander of Brigade 151.

19 Now, the -- I think you've described the reporting line from the  
20 ZKZ chief at the brigade level. My questions are about the military  
21 police commander at the brigade level, who is named on this as Naip  
22 Gubetini.

23 Could you tell me whether he reported to you as the brigade  
24 commander or whether he reported to the military police commander at  
25 the zone level that we saw in the previous organigramme?

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1 A. On a permanent basis, the reporting was to me or my deputy, the  
2 deputy brigade commander. Whereas to -- the reporting to the  
3 military police at a zone level depended on the mutual needs and the  
4 mutual needs of the military police at a brigade level as well as a  
5 zone level. That is why the line of reporting was doubled. So it  
6 was put -- on a permanent basis the reporting was to the brigade  
7 commander and my deputy, Arif Muqolli.

8 JUDGE GAYNOR: By what technological means did you speak to Naip  
9 Gubetini while you were brigade commander and he was the military  
10 police commander of the brigade?

11 A. He was close by where he was positioned, close by to the command  
12 of the brigade. So I would say that the communication was in person,  
13 covering a short distance.

14 JUDGE GAYNOR: Who reported to military police commander Naip  
15 Gubetini himself?

16 A. He reported to me or to my deputy, Arif Muqolli, in my absence,  
17 because we had other services, the chief of operation. But usually  
18 to myself or to the deputy commander of the brigade.

19 JUDGE GAYNOR: Thank you. My question was who reported to him,  
20 to Gubetini. How many units were under him?

21 A. Well, he had a small group. I wouldn't be able to give its  
22 exact strength, but I think there were three or four in that group  
23 who carried out the duties of military police. And he was their  
24 leader.

25 JUDGE GAYNOR: And how did you remain in contact with Sabit --

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1 excuse me, I have trouble with this one, Sabit Rrahimi. How did you  
2 maintain contact with Sabit?

3 A. The contact depended on the need for information; that is, to  
4 offer or request certain information. He would carry out its duties,  
5 and when he would get to an information of major interest for the  
6 region or the area of responsibility of the brigade, he would inform  
7 me immediately so that we would be able to undertake the necessary  
8 measures immediately and respond to any potential risk.

9 JUDGE GAYNOR: And by what technological means did you maintain  
10 contact with him?

11 A. On the majority of the occasions in person, physically, because  
12 he was based close to the 151 Brigade staff or headquarters.

13 JUDGE GAYNOR: I want to move now to the serious problem of  
14 dealing with perceived collaborators, and I'd just like to go back to  
15 some evidence you gave us a couple of days ago in the transcript on  
16 24 October 2024, page 39 of the provisional transcript. You drew our  
17 attention to the seriousness of this. And you said:

18 "In the framework of the prerogatives of the Llap operative zone  
19 and the defence of the civilians in that zone, we had a  
20 responsibility to protect them from the collaborationists of the  
21 enemy, because in the 1990s the intelligence services and the Serbian  
22 police developed a network of collaborators. For this reason, the  
23 decision was left within the framework of the civilian defence, and  
24 upon their request regarding some individuals of collaborating with  
25 the occupying Serb structures or forces, so they identified some

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1 persons, and the procedure was to go through the brigade commander,  
2 the military police, until the detention centre in Llapashtice."

3 Do you remember giving that evidence?

4 A. Yes.

5 JUDGE GAYNOR: Now, I'm particularly interested in the process  
6 of assessing whether somebody that the civilian defence had  
7 identified as a collaborator was indeed a collaborator. Could you  
8 describe the process in place to verify that somebody was indeed a  
9 collaborator.

10 A. Well, first of all, every village had its civilian defence that  
11 looked after the population and supported us. We did not know the  
12 people. That is, we, the command and the zone, we did not know the  
13 collaborators. However, the civilian population, the civilians  
14 themselves, through the civilian defence that was created, they were  
15 aware of those who collaborated with the enemy forces, with the  
16 police forces and intelligence forces of the enemy, and they informed  
17 them.

18 In order to avoid any anarchy and to avoid any retaliation  
19 actions by the collaborators, steps had to be taken to normalise the  
20 situation. So the identification was done through the civilian  
21 population, they would inform the brigade in the area of  
22 responsibility. Then the military police at the zone level would be  
23 informed. They would be kept for several days. They would be told  
24 about the reasons for their detention. And once these reasons were  
25 confirmed and verified, then they would be released. This was the

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1 procedure in short.

2 It was not an easy situation for us because we would take that  
3 responsibility. However, the reality was such that there was a  
4 chance for retaliation by those who had been identified as  
5 collaborators of the enemy and who were still active. And that would  
6 have consequences both for us as KLA and for civilians, because there  
7 were cases when soldiers of the KLA would be recruited from their  
8 ranks, and I've mentioned such cases.

9 In that time, we did not have any other body or organ except for  
10 the military police. We did not have military courts. We didn't  
11 have investigative judges or investigators at the level of our  
12 organisation.

13 JUDGE GAYNOR: I want to focus on the moment when the suspected  
14 collaborator would arrive at Llapashtice, and I would like to know  
15 whether there was an informative conversation or interview with the  
16 suspect upon their arrival at Llapashtice.

17 A. Yes. There was no informative interview or conversation, just a  
18 short notification of the reasons for the detention by the military  
19 police. And, of course, the person would be notified of the reasons  
20 and of their release after their verification.

21 While I was brigade commander, I have this example with one  
22 person. If need be, I can mention it again. I mentioned it in one  
23 of the previous sessions. And just by purely requesting from that  
24 person not to collaborate, that proved to be successful and it ended.

25 JUDGE GAYNOR: Now, in one of your previous statements - this is

1 P1754, page 9, I'm simply saying that for the other people in the  
2 courtroom - you said:

3 "We had received information that many of them gave very  
4 important information to the Serbs about the position of the civilian  
5 population and also about our military actions."

6 So, obviously, these suspected collaborators might have  
7 extremely sensitive, including time-sensitive, information on them  
8 when they arrived at Llapashtice; is that fair to say?

9 A. Yes, certainly. They were there, they lived there, and, of  
10 course, they communicated with the area that was still under the  
11 occupation of the Serb forces. And they would pass information on  
12 the positioning of our forces or other activities on our part, and  
13 our zone had severe consequences from this collaboration.

14 And I will mention it again, the killing of Hyzri Talla and two  
15 others while he was visiting his family, and then the killing of Adem  
16 Gashi, chief of logistics, and part of the personnel of this brigade.  
17 He was also killed during his visit to his family. So we had severe  
18 consequences.

19 I don't want to make it personal, because it happened to me as  
20 well. And Mr. Shaun Byrnes intervened when my family was removed  
21 from the accommodation where they were staying when my house in the  
22 village was set on fire, and when seven family members were killed,  
23 most of them children, precisely because of this information that was  
24 passed by collaborators.

25 So the consequences were severe, and we had to take measures in

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1 the absence of military courts and judiciary institutions.

2 JUDGE GAYNOR: And given the extremely serious consequences that  
3 you've just described for us, did those measures include  
4 interrogating the suspected collaborators so that you were able to  
5 get time-sensitive information from them in order possibly to save  
6 human life?

7 A. No.

8 JUDGE GAYNOR: Why not?

9 A. No, because they were not credible. And because of their rights  
10 and violation of their rights by such interviews, informative  
11 conversations, the military police was strictly ordered not to carry  
12 out informative interviews, but just to notify them for the reasons  
13 of their detention and to notify them of their release once the  
14 reasons of their detention were verified.

15 JUDGE GAYNOR: So what, might I ask, was the purpose of having  
16 intelligence and counter-intelligence units at the brigade level and  
17 at the zone level and, indeed, at the General Staff level if you had  
18 no intention whatsoever of interrogating suspected collaborators?

19 A. The purpose was to stop their activity; i.e. their reporting to  
20 the enemy forces. When we would receive the information that they  
21 were not active, and once somebody from their families would  
22 guarantee us that they will not collaborate with the enemy, they  
23 would be immediately released.

24 JUDGE GAYNOR: Could I ask the Registrar to bring up P1754, page  
25 8 in the English and page 9 in the English.

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1 Mr. Witness, I'll read out the section that's at the bottom of  
2 page 8. That's what I'm interested in. It reads as follows:

3 "Asked why we would protect collaborators who had done so much  
4 harm to us when our numbers were small, we decided to detain them so  
5 that after liberation, they could be tried in the courts. It is true  
6 ... that we intended to keep them for reasons of [our] own safety as  
7 there was no other authority there. We kept them [with] regard to  
8 their past."

9 Do you remember saying that?

10 A. Yes.

11 JUDGE GAYNOR: Now, you've given evidence that you've had a  
12 comprehensive knowledge of the four Geneva Conventions and the two  
13 Additional Protocols. Did you at any stage arrange for the detainees  
14 to have access to lawyers?

15 A. The conditions were not such that would allow that. When I  
16 referred to Geneva Conventions, I referred to Article 75. And,  
17 secondly, it was in their own interest, in the interest of their own  
18 security. If they continued to live in the areas where they had been  
19 labelled as collaborators, they could become subject of an attack by  
20 civilians for their collaboration.

21 In the absence of military courts, we did not undertake actions  
22 such as interviews and the like. And to offer them lawyers was not  
23 possible due to the circumstances.

24 JUDGE GAYNOR: Did you give them any opportunity to challenge  
25 the lawfulness of their detention?

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1 A. Of course, they expressed this to the military police -- or,  
2 rather, when they were brought, and guarantees were offered, which  
3 often resulted in their release.

4 JUDGE GAYNOR: But did you give them any opportunity to  
5 challenge the lawfulness of their detention was the question. Could  
6 they go before a judge to claim they were unlawfully detained?

7 A. I said it before. During the war, we did not have a military  
8 court. We had the military police, and within its discretion was the  
9 detention, as it is in other countries of the world. It was war.

10 JUDGE GAYNOR: On page 9 in the English language of this  
11 statement, you said:

12 "The fact was, there was no power or authority of the Serbs in  
13 place and we had the mandate of the people to prevent anarchy and we  
14 were following the orders of the general staff and the Zone Command.  
15 In arranging for people to attend and then detaining those persons,  
16 we were acting according to the evaluation and decisions of the  
17 general staff, not pursuant to any particular written rules."

18 Do you recall giving that evidence?

19 A. Yes.

20 JUDGE GAYNOR: How did the General Staff communicate the orders  
21 to you to arrest and detain those individuals?

22 A. We did not have -- or, rather, I did not see a decision for  
23 detention. I learned about that later. The reality is that the  
24 General Staff had Communiqué No. 53 on detention of persons who posed  
25 a risk. It is referring to the Albanian militia that was being

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1 recruited. And we undertook prevention measures because in Decan and  
2 Gjakove municipalities, such a body was being created by the Serbian  
3 police and authorities in those municipalities; that is, armed forces  
4 that would fight against the KLA.

5 So this was in Communiqué 53 of the General Staff, and that's  
6 why we referred to it in general terms to offer security both to the  
7 KLA military structures and the civilians in that area.

8 JUDGE GAYNOR: And in detaining suspected collaborators, am I --  
9 at Llapashtice and in other locations in the Llap operational zone,  
10 am I right in understanding that you believed you were acting in  
11 accordance with the instructions of the General Staff?

12 A. We undertook measures. We didn't have a strict order to refer  
13 to. And we acted under the discretion of Llap operational zone with  
14 the intention to prevent any negative consequences, in the sense that  
15 these collaborators do not become subject of attacks by the civilians  
16 where they lived.

17 I think that what we did was fair and just because, in such a  
18 way, we managed to prevent such consequences, as I said, in the  
19 absence of military courts at the time.

20 JUDGE GAYNOR: Can I ask the Court Officer, please, to bring up  
21 P225. If you move on to about the fourth page of this,  
22 Mr. Court Officer. Oh, sorry. Sorry. Excuse me, you can -- yes,  
23 about the fourth page in the English and Albanian. That one will do  
24 perfectly.

25 Now, I'm just taking this example, Mr. Witness. In the Decision

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1 section of this document dated the 31st of an unclear date 1999, it  
2 refers to the detention of this person for the criminal offence of  
3 "counterfeiting travel documents and collaboration with Serb occupier  
4 for material gain and illegal enrichment." Those are the reasons set  
5 out in this document for his detention; isn't that right?

6 A. It wasn't only that, because this person was suspected of  
7 collaboration with the authorities of the enemy, counterfeiting  
8 travel documents for special purposes. So this was sort of offering  
9 citizens travel documents, legal travel documents, and as soon as  
10 they did that, they would report this to the police, and then the  
11 police would intimidate the citizens for counterfeiting travel  
12 documents.

13 So this had consequences for civilians who wanted to leave  
14 Kosovo due to the pressure exercised by the Serbs at the time. So  
15 this was a collaborator with the Serb occupier who counterfeited  
16 documents, offered citizens passports and other personal documents so  
17 that they would be able to leave the country, and then report them to  
18 the police. And then the citizens would have to suffer the  
19 consequences for being in possession of counterfeited documents.

20 As far as I can read this, this is what the document is about.

21 JUDGE GAYNOR: And how would you, in the Llap operational zone  
22 command, how would you know that this person had, in fact,  
23 participated in counterfeiting travel documents in collaboration with  
24 the Serb occupier? What was your source of information for knowing  
25 that?

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1 A. From the family of the victims. This person, say, would offer a  
2 counterfeited document and then would report those persons to the  
3 police. He would report them as persons in possession of  
4 counterfeited documents, but he would not report to the police that  
5 he offered those documents to the citizens.

6 So these cases were reported only by the citizens, because there  
7 were many of them who were reported to the police for possession of  
8 counterfeited documents and for wanting to leave the country in the  
9 time of war.

10 JUDGE GAYNOR: So is it your evidence, in summary, that in  
11 detaining a person, the sole evidentiary basis, the sole reason for  
12 detaining somebody was because private citizens made a complaint  
13 about that person, that you had no structure in place for interview  
14 of the detained person to assess whether there was any truth  
15 whatsoever behind the allegations brought forth by civilians?

16 A. We wanted to put an end to the ill-treatment by these persons,  
17 ill-treatment of citizens. We did not have other possibility. This  
18 was the only way to put an end to such activity. We wanted to  
19 diminish the consequences of such activities.

20 For example, as brigade commander, I undertook measures to  
21 prevent hooliganism, stealing, theft, because there was no other  
22 police authority or any other authority. It was the area of our  
23 responsibility, and we had to, in a way, prevent negative  
24 consequences. If we had the police, the military or civilian courts,  
25 we would have acted differently. This was what we could do in the

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1 circumstances prevailing at the time.

2 JUDGE GAYNOR: Those are my questions.

3 Thank you, Mr. President.

4 PRESIDING JUDGE SMITH: Ms. D'Ascoli, any follow-up questions?

5 MS. D'ASCOLI: More a clarification, Your Honour, thank you, of  
6 the record.

7 Further Re-examination by Ms. D'Ascoli:

8 Q. Witness, in answering to Judge Gaynor's questions today at page  
9 87, line 22, I believe a name was not recorded properly. You were  
10 asked about who reported to Mr. Latif Gashi. And your answer is  
11 recorded at line 22:

12 "He had a deputy, Hydrin Alla -- Hyzri Alla, who I can't see.  
13 He was killed in December 1998."

14 Can you please repeat the name for the record?

15 A. Hyzri Talla.

16 Q. Thank you.

17 A. I thought -- I thought it was improved once, but it appears to  
18 have happened again. Hyzri Talla.

19 Q. Thank you, Witness.

20 MS. D'ASCOLI: Thank you, Your Honours.

21 PRESIDING JUDGE SMITH: Thaci Defence?

22 No questions?

23 MR. MISETIC: [via videolink] Yes, Mr. President. No, I have  
24 questions, yes. Thank you, Mr. President.

25 Further Cross-examination by Mr. Misetiç:

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1 Q. Witness, I have questions for you based on the questions that  
2 the Judges asked you. And first I'd like to take you to a question  
3 that was posed to you by Judge Barthe at transcript page 53, line 22.  
4 And the question that was asked of you was:

5 "Are you aware of a case where Commander Remi released or  
6 pardoned a person against the express will of the General Staff?"

7 And your answer was -- sorry. And my question to you to follow  
8 to up is: Are you aware of a case where the General Staff expressed  
9 its will to Commander Remi on the arrest or release of any person?

10 A. So in respect of the General Staff, it was the zone commander  
11 Remi who was in charge, so I cannot specifically state what decision  
12 would have arrived with respect to your question.

13 PRESIDING JUDGE SMITH: Witness, Witness, we don't have a lot of  
14 time left. Try to listen to the question. That called for a "yes"  
15 or a "no" answer. Try to answer just the question that's asked.

16 Go ahead, Mr. Misetic.

17 MR. MISETIC: [via videolink] Yes, thank you.

18 Q. And, sorry, let me repeat the question then. My question was  
19 simply are you aware of a case where the General Staff expressed its  
20 will to Commander Remi on the arrest or release of any person?

21 A. No, I am not.

22 Q. Thank you. Now, during the questions asked of you by  
23 Judge Mettraux, beginning at transcript page 70, you were talking  
24 about how the structure or model that you used to set up the zone  
25 came from the General Staff as part of the structure or model that

1 you used but was modified for your needs and the specificities in the  
2 Llap zone. You said that this was transmitted to you in the form of  
3 a reference document. And then Judge Mettraux suggested to you that  
4 you had told the SPO at Part 4, pages 9 to 10 in English, that as  
5 part of this model or structure was the creation of detention  
6 facilities. And I'd like to read to you what you told the SPO.

7 MR. MISETIĆ: [via videolink] So could we please have on the  
8 screen P1775.4, page 9, beginning at line 12; and in Albanian, page  
9 8, starting at line 18. Do we have it on the screen? Okay.

10 Q. Let me read to you what you actually said. The question was:

11 "Shortly before or a long time -- well, let me ask the question  
12 again. Was the detention site in Llapashtice, was it set up in  
13 response to that General Staff order?"

14 Your answer was:

15 "I believe so. It should be after the war.

16 "Q. Yes, but was the detention centre established because the  
17 General Staff had ordered that it should be so?"

18 Your answer is:

19 "I could only presume here, but it could be possible because no  
20 one - Remi or whoever - could take a decision without having an order  
21 in place.

22 "Q. The detainees that were held in Llapashtice, could they  
23 have been detained without an order of the General Staff?"

24 "I believe that was -- that -- no. Except for cases like  
25 extraordinary examples, like Stankovic, like Fadil, or the soldier I

1 arrested, except for these cases. So when we talk about a detention  
2 centre, it's logical to think that that would follow an order to  
3 establish such a detention centre."

4 Do you see that?

5 A. Yes.

6 Q. Now, as I understood your testimony there, you were saying that  
7 you were only presuming this to be the case and that these were your  
8 deductions based on what you thought was logical; is that correct?

9 A. Correct. It is my assumption and that is what I have told the  
10 Prosecutor, given that I had no such information. As I said, that  
11 fell within the remit of the command of the Llap operational zone.  
12 The issue of the detention centre, that is.

13 So I -- I am not aware of the communications between the  
14 commander of the zone and the General Staff. Commander Remi, that  
15 is. So that is the reason why I have said that I assume and I am  
16 unable to confirm.

17 Q. Okay. Then am I correct that you have no first-hand knowledge  
18 that any such order to set up detention facilities had come from the  
19 General Staff?

20 A. I don't.

21 Q. Okay. Now, you told Judge Mettraux that what you had seen  
22 coming from the General Staff was a "reference document" on the  
23 structure or model to set up the Llap zone. Now, if you can only  
24 speculate about whether the General Staff had ordered the setup of  
25 detention facilities, am I correct that that means that there was no

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1 such instruction in the reference document that you mentioned to  
2 Judge Mettraux?

3 A. There wasn't.

4 Q. Thank you. Now, I'll go back to Judge Mettraux's questions.  
5 But on a related topic, you again mentioned Communiqué 53 in a  
6 response to Judge Gaynor.

7 MR. MISETIĆ: [via videolink] And I'd like to take you now to  
8 P1775.7 at page 24 in the English, and in the Albanian on page 19,  
9 beginning at line 11.

10 Q. And I'd like to show you what you said to the SPO when  
11 discussing Communiqué 53. Now, beginning at line 21, the one  
12 sentence from Communiqué 53 that's at issue here is read to you:

13 "'Various punitive actions are being taken against  
14 collaborationist elements who continue to serve the occupying rule.'"

15 Then you're asked:

16 "So what punitive actions were being taken against  
17 collaborationist elements?"

18 And your answer is:

19 "We didn't have any examples as such in our zone. Perhaps in" -  
20 if we turn the page in the English - "other zones."

21 And, Witness, if you need we to turn the page in Albanian,  
22 please let me know.

23 And you're then asked:

24 "Do you know what what's being [referenced] to there, in terms  
25 of punitive actions? So what was the KLA General Staff referring

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1 to?"

2 And your answer in 2019 was:

3 "I'm not sure here to what it refers to in terms of what  
4 measures, punitive measures, but it does refer to those that were  
5 siding with the occupator. And as it cites, the ones that are  
6 continuing to serve the occupator and its power and to keep the  
7 occupator in power."

8 And then you're asked again:

9 "But do you know what punitive actions the General Staff was  
10 referring to?"

11 And your answer is:

12 "I don't think I can assume here."

13 Do you see that?

14 A. Yes.

15 Q. So in 2019, you told the SPO that you didn't know what that  
16 sentence was referring to in terms of punitive measures in  
17 Communiqué 53; correct?

18 A. Correct. That's what I said.

19 Q. Yes. So --

20 A. The other issue, if you allow me to explain, I spoke earlier  
21 about a parallel uniformed militia which would be created to oppose  
22 the Kosovo Liberation Army, which would have been the greatest of  
23 perils, and that is what I referred to. We did take preventive  
24 actions in this regard. However, it was only in Gjakove and Decan  
25 that we had instances of Albanians being co-opted into a parallel

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1 militia, militia force. And that is the context in which I offered  
2 that explanation.

3 Q. Yes. But do you accept that by the time Communiqué 53 was  
4 issued, that there were people being detained by the Llap zone in  
5 Bajgore since at least early August?

6 A. Yes, there were.

7 Q. Thank you. Now, turning your attention to three documents that  
8 were put to you by Judge Mettraux.

9 MR. MISETIĆ: [via videolink] And these would be P885, P225, and  
10 SITF00242574.

11 Q. Before I turn to those documents, just as a foundational  
12 question, you were Commander Remi's chief of staff from December 1998  
13 through at least April 1999; correct?

14 A. Yes.

15 Q. And as part of your duties as chief of staff, did you have the  
16 responsibility to assist in the preparation of documents for  
17 Commander Remi's signature?

18 A. Yes, I did.

19 Q. Okay.

20 MR. MISETIĆ: [via videolink] Now, let me show you P225, the  
21 amnesty of 31 December 1998 that Judge Mettraux showed you earlier.  
22 And if we could have that on the screen, please.

23 Q. Now, Witness, this is the document that you discussed with  
24 Judge Mettraux. And I want to disclose to you that Judge Mettraux  
25 showed this same document to Rustem Mustafa, Commander Remi, when he

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1 testified here in July 2023. And at transcript page 5913, lines 5 to  
2 6, he said, meaning Commander Remi said, speaking of this document:

3 "My staff drafted it as we read it, and I had no reason to not  
4 sign it. I signed it."

5 Now, you must have been involved as chief of staff in preparing  
6 this document for Commander Remi to sign; correct?

7 A. No, not -- I was not involved in this document. Someone else,  
8 possibly the military police, would have submitted this proposal.  
9 No, it wasn't me.

10 Q. Okay. Well, the first paragraph mentions the KLA rules and  
11 regulations, General Staff communiqués, civilian administration rules  
12 and regulations, but it doesn't specify any specific KLA rule or  
13 regulation, does it?

14 A. It doesn't.

15 Q. And it doesn't specify any specific General Staff communiqué  
16 which encouraged the zones to release detainees; correct?

17 A. Correct. There is only mention here of General Staff  
18 communiqués but not one in particular.

19 Q. Okay. Now, would standard practice in drafting such documents  
20 have been for the person drafting the document to be very specific  
21 about the provisions he or she was relying on to issue an order?

22 A. Do you mean with respect to this document? Certainly, yes.

23 Q. Yes. Exactly. So you were not shown any particular communiqués  
24 that encouraged zones to release detainees. Are you familiar with  
25 any such communiqué that encouraged the zones to release detainees?

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1 MS. D'ASCOLI: Your Honours, objection. The witness said he  
2 wasn't involved in the drafting of this document.

3 PRESIDING JUDGE SMITH: He asked a broader question than that.  
4 Your objection is overruled.

5 You may answer. [Microphone not activated].

6 You may answer the question.

7 THE WITNESS: [Interpretation] Apart from this one, we had the  
8 public declaration No. 2, which, in a manner of speaking, sets out  
9 the need to observe the international conventions, the communiqué or  
10 declaration of 2 April 1998, which can be taken as a point of  
11 reference for the issue at hand.

12 MR. MISETIĆ: [via videolink]

13 Q. Okay. So other than a communiqué that was issued in April 1998,  
14 well before anybody, to your knowledge, had been detained in the Llap  
15 zone, you're not familiar with any communiqués around the time of  
16 December 1998 to release detainees by the General Staff; correct?

17 A. This happened later. I did not see that in the course of the  
18 war. I did see it after the war. And I'm referring to that  
19 communiqué. I did not have that in my possession during the war. I  
20 only saw it afterwards.

21 Q. You're talking about the communiqué of 2 April 1998?

22 A. No, not that one. That was public even then. But I'm referring  
23 to what you're mentioning, the document that has to do with the  
24 release of some people and the involvement of the General Staff that  
25 you are mentioning.

1 Q. Okay. Now, I showed you on cross-examination an order that had  
2 been issued by Bislim Zyrapi to the zones, and it was 1D29, and you  
3 had also seen it from the Prosecution. It's fair, is it not, that by  
4 the time of this document, Mr. Zyrapi and the General Staff knew how  
5 to issue orders to the zones; correct?

6 A. Yes.

7 Q. If Mr. Zyrapi and the General Staff wanted to issue an order to  
8 the zones to release detainees, they didn't need to communicate  
9 through communiqués with the zone command; correct?

10 A. Yes, that was one way of doing things. I cannot pre-judge the  
11 communications between the zone commander and the General Staff.  
12 Their meetings were so rare, so reference to the communiqués at the  
13 time would have been made. Whilst other orders and things were --  
14 orders and such things were stuff that I saw only after the war, not  
15 during.

16 Q. Okay.

17 MR. MISETIĆ: [via videolink] If we could please put on the  
18 screen P885 in English and P150 in Albanian.

19 Q. This is the document of 17 January 1999 that you were shown by  
20 Judge Mettraux. And we'll wait for the Albanian version. And now  
21 you see it.

22 This one begins:

23 "Based on the political declarations of the General Staff of the  
24 KLA ..."

25 And, again, Mr. Ibishi, I'll put to you that Mr. Mustafa told

1 the Trial Panel at transcript page 5914, line 11:

2 "I have signed these documents as provided by my staff."

3 Now, you were involved as chief of staff in preparing this  
4 document?

5 A. As I said earlier, no. I was not. No, I was not.

6 Q. The document does not identify any particular political  
7 declaration of the General Staff, does it?

8 A. No, it doesn't. The other one mentioned communiqués. This one  
9 mentions political declarations. So this refers to political  
10 declarations. The prior examples had communiqués. And given that I  
11 had no role in drafting this document, all I can see is the  
12 references that are visible.

13 The first one referred to communiqués whilst this one points to  
14 political declarations.

15 Q. Okay. Similar question as the previous document: Are you  
16 familiar with any political declarations from the General Staff which  
17 discuss the release of detainees?

18 A. I don't. I don't have it here. We heard it at the time, but I  
19 saw such decision after the war. In fact, it does not mention an  
20 amnesty, but it talks about measures to be taken at the level of a  
21 brigade level so that there would be no abuse allowed.

22 But I am unable to refer to a specific political declaration or  
23 communiqué in relation to this matter.

24 Q. Okay. And you can't identify any particular one and, did I  
25 understand you correctly, you're talking about something you saw

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1 after the war?

2 A. I did not see them during the war -- these decisions during the  
3 war. I saw them afterwards.

4 Q. Okay.

5 MR. MISETIĆ: [via videolink] And if we could please have on the  
6 screen SITF00242574, please.

7 Q. Okay. Witness, on the screen you see the document that you  
8 discussed with Judge Mettraux. This one starts, again, with a slight  
9 difference. It says:

10 "Based on the political Memorandums of the General Staff, the  
11 Internal Regulation of the KLA, the Regulation on the Civil  
12 Administration ..."

13 Again, it doesn't specify any particular political memoranda,  
14 does it?

15 A. I have the English version in front of me, but that is what I am  
16 led to understand. Yes.

17 Q. Okay. And are you aware of any political memoranda issued by  
18 the General Staff relating to the issue of detainees?

19 A. I'm not.

20 Q. Okay. Witness, thank you very much for answering my questions.

21 MR. MISETIĆ: [via videolink] Thank you, Mr. President. That  
22 concludes my questioning.

23 PRESIDING JUDGE SMITH: Thank you.

24 Mr. Dixon.

25 MR. DIXON: Thank you, Your Honours.

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1 Further Cross-examination by Mr. Dixon:

2 Q. Mr. Ibishi, just a few matters arising. First of all, you were  
3 asked by Judge Mettraux, at page 59, line 8, about certain matters in  
4 relation to the application of international humanitarian law. And  
5 just one matter that I wanted to check with you was you mentioned  
6 Article 87 of Additional Protocol II.

7 Did you, in fact, mean Article 87 of Additional Protocol I?

8 A. If I remember correctly, it is the second Additional Protocol  
9 that has to do with domestic conflicts. Even though the war in  
10 Kosovo was -- was double or two-pronged. It was a domestic conflict  
11 as well as an international conflict because of the involvement of  
12 international forces. And I referred to protocol number 2 and  
13 Article 87, which I think has to do with an internal conflict.

14 Q. Yes, additional protocol II does deal with internal conflicts,  
15 but are you aware that Article 87 of Additional Protocol I deals with  
16 the duty of commanders? Is that what you had in mind, the duties of  
17 commanders in times of armed conflict?

18 A. From what I recall, my reference was to the second Additional  
19 Protocol. Maybe the articles coincide. I referred to 75 which has  
20 to do with the detention of persons, and 87 has the obligations of  
21 commanders *vis-à-vis* detainees. With respect to the accountability,  
22 that is.

23 Q. Yes, very well. Can I move on to a question that was asked by  
24 Judge Barthe, and that was at page 48, line 8, and onwards. You were  
25 asked about the intelligence being involved with the civilian defence

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1 in identifying collaborators. Do you recall that question?

2 A. Yes.

3 Q. I want to take you to a section of your SPO interview on this  
4 very subject. I'm going to read it out to you and then ask you just  
5 a few questions about it.

6 You were asked -- and here reference was being made to  
7 Mr. Gashi, who we've heard about today. The question was put like  
8 this --

9 MS. D'ASCOLI: Sorry to interrupt, can we please have a  
10 reference.

11 MR. DIXON: Yes, sorry, I apologise. It's P1755, Part 3, and  
12 it's from page 17, line 25 onwards is the relevant section.

13 Q. The question was:

14 "As the head of the intelligence service for the zone, did that  
15 mean he was responsible for gathering intelligence?"

16 And your answer is:

17 "Yes."

18 "Did that mean he'd have any intelligence on the enemy?"

19 Your answer was:

20 "Yes.

21 "Did it also include those who could be assisting the enemy?"

22 You then said:

23 "What [do] you have in mind?"

24 And the SPO said:

25 "Well, civilians who were also assisting the enemy. Disloyal

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1 civilians assisting the enemy."

2 And your answer was:

3 "But it could have been, yes. That wasn't his role. His role  
4 and the agenda there was to gather information that consisted in  
5 enemy points, enemy strategy, and information that was valuable in  
6 that respect. [That] was counter-intelligence to use for purposes."

7 You were then asked, so this is a question again:

8 "But did someone have to gather intelligence on citizens who  
9 were assisting or who it was believed were assisting the enemy?"

10 And your answer was:

11 "I don't think we had the capacity at the time to bring the  
12 structure to such levels or to stretch to such a degree. It was  
13 impossible."

14 Do you recall saying that to the SPO?

15 A. Yes.

16 Q. And what I want to ask you, when you say that you don't think  
17 you had the capacity, is that because, as you've referred to  
18 previously, you had limited resources in this area, firstly;  
19 secondly, there was a lack of training in intelligence; thirdly, that  
20 Mr. Gashi was performing a multiplicity of tasks; and, fourthly, that  
21 there were countless military battles and actions that were being  
22 undertaken?

23 So four reasons that you've previously mentioned. Is that what  
24 you mean here when you say you "don't think we had the capacity at  
25 the time"?

1 A. Yes. That is why we did not have the capacities. We did have  
2 knowledge of collaboration, but all of this derived from the  
3 information we were receiving from the civilian defence and they from  
4 civilians. In this aspect, what you mentioned, and what I am  
5 repeating, this is what the reality was and what happened.

6 Q. Yes, that's what I want to ask you about, the actual reality on  
7 the ground at the time in the conflict that you were facing.

8 MS. D'ASCOLI: Sorry, Your Honour. Objection. This goes beyond  
9 the Judges' questions.

10 PRESIDING JUDGE SMITH: Sustained.

11 MR. DIXON: Your Honour, I'm simply asking about the capacity to  
12 deal with the alleged collaborator issue. That was the question that  
13 was asked by the Judge. Was intelligence involved in this --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. DIXON: -- and I'm asking --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. DIXON: -- well, were they.

18 PRESIDING JUDGE SMITH: All right. In a very limited way, if  
19 you want to ask that question, you may, but it's close to being  
20 irrelevant.

21 MR. DIXON: Well, I'm just asking about the resources --

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. DIXON:

24 Q. Again, Witness, if you can answer the question, all I was doing  
25 was introducing it by saying that given the realities at the time,

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1 when you talk about the resources you had available, you mentioned in  
2 your brigade, the 151 Brigade, that there was an intelligence unit.  
3 That unit really only consisted of one person, didn't it, Mr. Rrahimi  
4 that you've given evidence about?

5 A. Yes, only one person.

6 Q. I'm going to now go on to a topic that was asked of you by  
7 Judge Mettraux in relation to the interim regulations that came from  
8 the KLA General Staff.

9 MR. DIXON: And that was at page 65, line 18 onwards. And it  
10 was in relation to P163. Judge Mettraux mentioned that particular  
11 exhibit.

12 Q. You weren't sure, you said, when you had received those interim  
13 regulations; is that right?

14 A. I'm not. That's right.

15 Q. I just want to try and get the chronology of this in place  
16 because certain questions were then asked about documents with  
17 certain dates.

18 You know that Commander Remi gave testimony here at the Court.  
19 He said --

20 MR. DIXON: And his evidence was live. So this is not a P  
21 number, but the ERN for those following is 082894, Part 2, and it's  
22 at line 10 onwards.

23 Q. He was asked to summarise when he thought the regulations came  
24 into his possession, and he said it was not until about November,  
25 December 1998. Would that be a date that helped you recall when you

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1 may have seen them or when they may have been circulating in your  
2 zone?

3 A. As I said earlier, I cannot refer with certainty and precision  
4 in terms of time to these regulations, interim regulations from the  
5 General Staff.

6 As I said, we had our regulations, provisional ones, that we  
7 used until we would receive those from the General Staff. This was  
8 my answer.

9 Q. Yes. Thank you. If you can't go further with the dates, then  
10 I'll would just ask one other question about this which came from  
11 Commander Remi's evidence as well, and this was over the page at line  
12 10 onwards. He said that you in the zone were trying to implement  
13 these:

14 "... but I'm telling you that the war found us still trying to  
15 consolidate without having achieved it. We had better fortune than  
16 we thought we would."

17 I just want to ask: Were you able to put these provisional  
18 regulations in some practical form in reality, or how far could you  
19 take it?

20 MS. D'ASCOLI: Objection, Your Honour. This also goes beyond  
21 the Judges' questions.

22 PRESIDING JUDGE SMITH: Same thing. That wasn't discussed by  
23 the Judges.

24 MR. DIXON: Your Honour, it was just that the regulations were  
25 looked at as the basis, allegedly, for certain things to take place.

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1 I'm trying to explore --

2 PRESIDING JUDGE SMITH: This is to answer --

3 MR. DIXON: -- whether they were, in fact, operating and able to  
4 be implemented.

5 PRESIDING JUDGE SMITH: This is for questions that came up as a  
6 result of the Judges' questions.

7 MR. DIXON: Very well, Your Honour. That is evidence of  
8 Commander Remi, so I won't take it any further. I will move on to my  
9 final few issues.

10 Q. And that is, Mr. Ibishi, in relating to a question that was put  
11 to you by Judge Gaynor, and that was at page 88, line 12 onwards,  
12 where you were asked about, in his words, the ZKZ and the reporting  
13 structures in relation to the 151 Brigade and within the zone. And  
14 you gave this answer, just to remind you and so we are orientated:

15 "Routinely, Mr. Sabit would report to the brigade commander.  
16 Whereas at particular moments where issues of major importance for  
17 the zone were concerned, he would report to the chief of the sector.  
18 And that is why I'm saying there was a two-pronged approach."

19 Do you remember giving that evidence?

20 A. Yes.

21 Q. Now, once again, I want to ask you to draw on what was happening  
22 in reality. When you say "routinely, Mr. Sabit would report to the  
23 brigade commander," do you mean that that was the norm, that that  
24 would happen on a regular, let's say, if this is correct, daily  
25 basis?

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1 A. That's correct. Because it was part of the brigade's structure.

2 Q. Yes. So then you say:

3 "... at particular moments where issues of major importance  
4 arose ..."

5 Would that be on rare occasions that he would then make contact  
6 with the chief of the sector; is that right?

7 A. Not rare. Of course, it depended on the information, whether it  
8 was of particular interest for the zone.

9 Q. Yes. And what kind of information are we talking about here?  
10 Is this information in relation to the Serbian forces and attacks and  
11 advances that are being made; is that right?

12 A. Yes. Everything that had directly to do with the movements and  
13 the positioning of Serb forces and the intentions of the Serb police,  
14 military and paramilitary forces, and intelligence services.

15 Q. Yes. And then just finally also in relation to a question that  
16 Judge Gaynor was raising at page 87. He was referring to this  
17 abbreviation ZKZ. You gave evidence earlier that you hadn't heard of  
18 that abbreviation until after the war.

19 What I wanted to confirm is whether the intelligence units, both  
20 at the brigade or zone level, were ever referred to as the ZKZ while  
21 you were there in the zone?

22 A. I mentioned it earlier. At zone level, what was used was the  
23 informative service section. As to ZKZ, it was not used that often  
24 at the time.

25 Q. Thank you very much, Mr. Ibishi.

1 MR. DIXON: Your Honours, thank you. Those are my questions.

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

3 Mr. Roberts, anything?

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

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MS. V. ALAGENDRA: No questions from me, Your Honour.

7 PRESIDING JUDGE SMITH: Witness, your testimony is completed.  
8 You are free to leave the courtroom. You have no further obligation  
9 to the Court. We appreciate your attendance and, as I said earlier,  
10 your patience. Thank you for being with us, and we wish you well in  
11 the future.

12 The Court Attendant will escort you out.

13 THE WITNESS: [Interpretation] Thank you.

14 [The witness withdrew]

15 PRESIDING JUDGE SMITH: Thank you all. And especially thank you  
16 to the translators for staying a bit later for us. It was important.  
17 This witness couldn't come back later for a while. Thank you all.

18 We're adjourned until Monday at 9.00 a.m.

19 --- Whereupon the hearing adjourned at 4.14 p.m.

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