

1 Tuesday, 4 June 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

6 PRESIDING JUDGE SMITH: 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: I note that the accused are all present
12 in court today except Mr. Krasniqi, who is following via videolink
13 with permission.

14 Before we resume with the witness, we have some oral orders and
15 a preliminary matter to deal with.

16 First, the Panel will issue an oral order on the
17 reclassification as public of Exhibit 1D00131, admitted through
18 Witness W02540 and W03881, and currently classified as confidential.

19 Noting that the parties indicated via e-mail that they do not
20 object to the reclassification, the Panel hereby orders that
21 Exhibit 1D00131 be reclassified as public.

22 This concludes the first oral order.

23 Mr. Court Officer, please bring us into private session.

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21 [Open session]

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

23 Thank you.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: [Microphone not activated].

1 THE INTERPRETER: Microphone.

2 PRESIDING JUDGE SMITH: Good morning, Witness.

3 THE WITNESS: [Interpretation] Good morning.

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

9 Also, please remember to try to indicate the basis of your
10 knowledge of the facts and circumstances upon which you will be
11 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 yesterday.

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

17 And if you feel a need to take a break, please let us know.

18 Are you ready to proceed?

19 THE WITNESS: [Interpretation] Yes, yes.

20 PRESIDING JUDGE SMITH: All right. We continue with questions
21 from Judge Mettraux at this time.

22 JUDGE METTRAUX: Thank you, Judge Smith.

23 WITNESS: W03170 [Resumed]

24 [The witness testified through interpreter]

25 Questioned by the Trial Panel: [Continued]

Witness: W03170 (Resumed) (Private Session)

Page 16571

Questioned by the Trial Panel (Continued)

1 JUDGE METTRAUX: And good morning, Witness. Good morning.

2 A. Good morning.

3 JUDGE METTRAUX: Well, we'll go back to where we left off
4 yesterday, but I just want you to listen carefully to my questions
5 this morning, to focus on those, and to answer my questions as
6 briefly as you can. You understand?

7 A. Yes, I do.

8 JUDGE METTRAUX: Can we please go into private session for the
9 protection of the witness.

10 [Private session]

11 [Private session text removed]

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Witness: W03170 (Resumed) (Private Session)

Page 16572

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16573

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16574

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16575

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16576

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16577

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16578

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16579

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16580

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16581

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16582

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16583

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16584

Questioned by the Trial Panel (Continued)

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Witness: W03170 (Resumed) (Private Session)

Page 16585

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16586

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16587

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16588

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16589

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16590

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16591

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16592

Further Cross-examination by Mr. Misetic

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12 [Open session]

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

14 Thank you.

15 PRESIDING JUDGE SMITH: So we're adjourned until 10.20.

16 --- Break taken at 10.10 a.m.

17 --- On resuming at 10.20 a.m.

18 MR. MISETIC: Mr. President, I hope to be less than five
19 minutes.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. MISETIC: Yeah.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. EMMERSON: Nothing, Your Honour.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. TULLY: None from us, Your Honour. Thank you.

1 MR. ELLIS: No, nothing from us. Thank you.

2 PRESIDING JUDGE SMITH: Thank you all.

3 We'll take about ten minutes when it's time to bring the new
4 witness in so that everybody can get reorganised and get your papers
5 the way you need them, just for advance notice.

6 [The witness takes the stand]

7 PRESIDING JUDGE SMITH: Witness, welcome back. You'll be happy
8 to know we are almost finished with you.

9 THE WITNESS: [Interpretation] Okay. Thank you.

10 PRESIDING JUDGE SMITH: We have a few more minutes and then
11 we'll be finished.

12 Go ahead.

13 MR. MISETIC: If we can move into private session,
14 Mr. President.

15 PRESIDING JUDGE SMITH: All right.

16 Into private session, please.

17 [Private session]

18 [Private session text removed]

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Witness: W03170 (Resumed) (Private Session)

Page 16594

Further Cross-examination by Mr. Misetic

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Witness: W03170 (Resumed) (Private Session)

Page 16595

Further Cross-examination by Mr. Misetic

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1 [Open session]

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

4 PRESIDING JUDGE SMITH: All right. We will take a ten-minute
5 break and then be back to begin with the next witness.

6 We're adjourned.

7 --- Break taken at 10.30 a.m.

8 --- On resuming at 10.41 a.m.

9 PRESIDING JUDGE SMITH: First of all, Mr. Misetic, we're going
10 to ask you to do your relevance discussion at the -- prior to the
11 next start. Okay?

12 The Panel is seized of an application from the SPO to amend its
13 exhibit list and to add one item. The Defence has objected to the
14 admission on a variety of grounds, including a lack of adequate
15 notice, the untimeliness of the application, and the suggestion that
16 the SPO is unfairly or improperly trying to impugn its witness.

17 The Panel finds as follows. First, the extent of the additional
18 material which the SPO seeks to add to its exhibit list is, in
19 effect, a few lines from a marked-up version of an item that is
20 already on the SPO exhibit list.

21 Secondly, this item has been in the possession of the Defence
22 for several years.

23 Thirdly, the relevance of the annotations contained in the
24 document in question only became apparent during the preparation
25 session of Witness W04410. The Defence suggestion that the SPO

1 should have put these annotations to the witness during preparation
2 session is not supported by authority. What the SPO decides to put
3 to a witness during a preparation session is a matter of discretion
4 that belongs to the party concerned.

5 Fourth, the Panel will not decide, for the purpose of this
6 application, whether the proposed item is admissible or whether it
7 can be used or for what purpose. This will be decided, if necessary,
8 if and when the SPO seeks to rely upon it.

9 Based on the above, the Panel is satisfied that the requirements
10 for amendment of the exhibit list in respect of this item are met,
11 and that the addition will not cause undo prejudice to the Defence,
12 that it is in the interest of justice to allow for leave to be
13 granted, and that no unfairness is caused to the Defence.

14 The Panel therefore grants the SPO application to amend its
15 exhibit list in respect of this item.

16 This concludes the Panel's order.

17 Please bring the witness in, Madam Usher.

18 Mr. Halling, will there be [Microphone not activated].

19 MR. HALLING: We currently don't intend any, Your Honour.

20 [The witness entered court]

21 PRESIDING JUDGE SMITH: The Court Usher will now provide you
22 with the text of a solemn declaration which you are asked to take
23 pursuant to our Rules of Procedure and Evidence. Please take a look
24 at the document and then read it aloud.

25 THE WITNESS: [Interpretation] Conscious of the significance of

Witness: Nuhi Bytyqi (Open Session)
Procedural Matters

Page 16599

1 my testimony and my legal responsibility, I solemnly declare that I
2 will tell the truth, the whole truth, and nothing but the truth, and
3 that I shall not withhold anything which has come to my knowledge.

4 WITNESS: NUHI BYTYQI

5 [The witness testified through interpreter]

6 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated.

7 Witness, today we will start your testimony, which is expected
8 to last approximately 11 hours, or two days. As you may know, the
9 Prosecution will ask you questions first. Once they are finished,
10 the Defence has right to ask questions of you and members of the
11 Panel might also ask questions of you.

12 The Prosecution estimate for your examination is between three
13 to four hours. The Defence estimates that it will need around seven
14 and a half hours. As regards each estimate, we hope that counsel
15 will be judicious in the use of their time. The Panel may also allow
16 redirect examination by the SPO if conditions for it are met.

17 Witness, please try to answer the questions clearly with short
18 sentences. If you don't understand a question, feel free to ask
19 counsel to repeat the question or tell them you don't understand and
20 they will try to clarify.

21 Also, please try to indicate the basis of your knowledge of
22 facts and circumstances that you will be asked about.

23 In the event you are asked by the SPO to attest to some
24 corrections made regarding your statements, you are reminded to
25 confirm on the record that the written statement, as corrected by the

Witness: Nuhi Bytyqi (Open Session)
Procedural Matters

Page 16600

1 list of corrections, accurately reflects your declaration.

2 Please also speak into the microphone and wait five seconds
3 before answering a question, and then speak at a slow pace so the
4 interpreters can catch up.

5 During the next days while you're giving evidence in this court,
6 you are not allowed to discuss with anyone the content of your
7 testimony outside of this courtroom. If any person asks you
8 questions outside the court about your testimony, please let us know.

9 Please stop talking if I ask you to do so. Also stop talking if
10 you see me raise my hand. These indications mean that I need to give
11 you an instruction.

12 If you feel the need to take breaks, please make an indication
13 and we'll make an accommodation for you.

14 We begin with the questions from the Prosecution. They are
15 seated to your left. Please give them your attention.

16 You have the floor, Mr. Halling.

17 MR. HALLING: Thank you, Your Honour.

18 Just before commencing, just a small point of procedure. There
19 was a request of the witness to have certain notes in front of him,
20 which we forwarded to the Panel last week. The Panel's ruling on
21 that was yesterday in the hearing. We just wanted to confirm that
22 it's been conveyed to this witness.

23 PRESIDING JUDGE SMITH: Yes.

24 You understand that you have no notes right now. If notes are
25 needed, it will be up to the Prosecution to provide those notes, or

Witness: Nuhi Bytyqi (Open Session)

Page 16601

Examination by Mr. Halling

1 to the Defence if they're asking the questions at that time, based
2 upon the notes that they already have.

3 Go ahead.

4 MR. HALLING: Thank you, Your Honour.

5 Examination by Mr. Halling:

6 Q. And good morning, Witness. We've met before. But my name is
7 Matt Halling for the Specialist Prosecutor's Office, and I'll be
8 asking you questions today.

9 We'll start with what is your name?

10 A. My name is Nuhi Bytyqi. I am a journalist.

11 Q. And your date and place of birth?

12 A. 17 August 1955.

13 Q. And the place of birth?

14 A. In Shkoze village, Malisheve commune.

15 Q. Have you been previously interviewed by the SPO?

16 A. Yes.

17 MR. HALLING: And if we could ask the Court Officer to please
18 put on the screen 061426-TR-AT Part 1 RED, page 1.

19 Q. And, Witness, just one moment while the document is put on the
20 screen.

21 A. It's okay.

22 MR. HALLING: And for this document, we actually don't need the
23 English version. Just the Albanian suffices. Thank you.

24 Q. Witness, now that you can see the document on the screen, is
25 this your SPO interview?

Witness: Nuhi Bytyqi (Open Session)

Page 16602

Examination by Mr. Halling

1 A. Yes.

2 Q. Did you also write a book about your experiences during the KLA
3 war called "*Libri i Luftes*"?

4 MR. HALLING: And just for the record, the translated range for
5 this book is SPOE00128571 to 0128948-ET.

6 THE WITNESS: [Interpretation] Yes, I wrote this book and
7 published it in 2011.

8 THE INTERPRETER: Correction: 2012.

9 MR. HALLING:

10 Q. Witness, we have in the transcript that this book was published
11 in 2012; is that right?

12 A. 2019.

13 Q. Thank you. Witness, have you recently had an opportunity to
14 refamiliarise yourself with the contents of your SPO interview and
15 book?

16 A. Yes.

17 Q. In your preparation session, you indicated some changes and
18 clarifications to this interview and book; is that correct?

19 A. That's correct.

20 Q. And these changes were reflected in a note that was read back to
21 you; yes?

22 A. Yes, yes.

23 Q. Do you confirm that what was read back in that note reflects
24 your changes fully and accurately?

25 A. Yes.

Witness: Nuhi Bytyqi (Open Session)

Page 16603

Examination by Mr. Halling

1 Q. Subject to the changes provided in that note, does your
2 statement and book accurately reflect what you said and what you
3 would say if asked again in court today?

4 A. Yes, definitely.

5 MR. HALLING: Your Honour, having fulfilled the Rule 154
6 criteria, and in accordance with decision F02328, the SPO hereby
7 tenders all of 061426-TR in Albanian and English along with
8 Preparation Note 1, 121256 to 121259. This also includes the
9 associated exhibits identified in footnote 83 of filing F02328.

10 And if we could make two additional small submissions here,
11 Your Honour.

12 Certain of the videos in the Rule 154 annex have limited
13 subtitles added for purposes of today's examination. We would
14 suggest that the version of these videos admitted into evidence be
15 the versions that have those subtitles in the presentation queue.

16 Secondly, in relation to the book, the witness's entire book is
17 not associated with the interview, only a few pages. And so we
18 eventually, and we've announced this, intend to tender the full
19 translated range of this witness's book in the examination, and we
20 only note for present purposes that he has just said that his book,
21 subject to the corrections in the note, would meet the standard for
22 Rule 154 had it qualified as a Rule 154 statement.

23 And with that, we tender the Rule 154 items and the book will
24 come later.

25 PRESIDING JUDGE SMITH: Objection?

Witness: Nuhi Bytyqi (Open Session)

Page 16604

Examination by Mr. Halling

1 MR. EMMERSON: There's no objection from the Veseli Defence as
2 far as the application is put.

3 We would like to consider with the other teams during the
4 adjournment whether it's fair for the book to be put partially rather
5 than in whole. In other words, it's a very large section of the book
6 going in, but there are certain significant but lesser sections that
7 have been removed from that which is tendered. And it may be, having
8 considered it amongst ourselves, we would make an application for the
9 entire document to go in.

10 MR. MISETIC: Yes. It's unclear to me if the SPO is saying it's
11 going to tender it all as 154 or just the portion.

12 MR. HALLING: It is not a Rule 154 statement, so we can't tender
13 it under the rule. We just find it important evidentially that the
14 witness is attesting to the reliability of the book to this extent.

15 As for what Mr. Emmerson was just saying, we can -- it sounds
16 like we may be able to solve this right now. If the entire
17 translated range of the book can be admitted, plus whatever
18 additional pages the Defence provides, we would have no objection to
19 that.

20 MR. EMMERSON: I'm sorry. I reiterate my position, we would
21 need to have a discussion about that amongst the Defence teams
22 because there are some difficulty with the translations of certain
23 pages, as I understand it. May we return to this question? At the
24 moment there's no objection to the application as it has been put.

25 PRESIDING JUDGE SMITH: They're only -- they're only offering

Witness: Nuhi Bytyqi (Open Session)

Page 16605

Examination by Mr. Halling

1 the statement, the first statement anyway at this point --

2 MR. EMMERSON: Precisely.

3 PRESIDING JUDGE SMITH: -- and the note. So, yes, there's no --
4 and I would urge you to have an *inter partes* discussion about it too
5 and perhaps you can work this out.

6 MR. TULLY: Yes. Just to say we don't object to the 154 as
7 presently put, and we would appreciate being heard later on the book.

8 PRESIDING JUDGE SMITH: Okay. Thank you very much.

9 Mr. Ellis, any objection?

10 MS. ALAGENDRA: Our position is the same, Your Honour.

11 You were on your feet.

12 MR. MISETIC: I was just going to say our position is the same
13 as well.

14 PRESIDING JUDGE SMITH: 061426-TR-AT Part 1 RED, page 1 -- or,
15 I'm sorry, not page 1, the document plus the English translation is
16 admitted together with Note 12156 and -- I don't think I got the
17 number. 12156?

18 MR. HALLING: 121256 to 121259.

19 PRESIDING JUDGE SMITH: 259. Yeah, okay. Those are all
20 admitted plus the associated exhibits.

21 THE COURT OFFICER: Thank you, Your Honours. So the first --
22 the statement 061426-TR, both in English and Albanian, and I note,
23 Your Honours, there are three parts of this statement, will be
24 assigned the exhibit number, Part 1, P01252.1; Part 2, P01252.2; and
25 Part 3, P01252.3.

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16606

1 The Preparation Note, which is the ERN 121256 to 121259, will be
2 assigned Exhibit P01253.

3 As for the associated exhibits, the ERN 061422 to 061424, both
4 in Albanian and English, will be assigned Exhibit P01254.

5 The ERN 061427-01 and transcripts in both Albanian and English
6 will be assigned Exhibit P01255.

7 The ERN 061427-02 and transcripts in both Albanian and English
8 will be assigned Exhibit P01256.

9 As for the 061427-3, Your Honours, we note that the shorter
10 version of this video has already been assigned P01086. Now the full
11 version of the video will be replacing the shorter version and will
12 retain the same exhibit number, which is P01086.

13 Next ERN is 061427-06, which will be assigned Exhibit P01257.

14 ERN 061427-07 will be assigned Exhibit P01258.

15 As for the ERN 061427-08 and its corresponding English
16 translation, it has been already assigned Exhibit P01221.

17 The next ERN is 061427-09 and its corresponding transcripts in
18 both Albanian and English will be assigned Exhibit P01259.

19 The next ERN is 061427-15 and corresponding transcripts in both
20 Albanian and English will be assigned Exhibit P01260.

21 The ERN 061427-14 and corresponding transcripts in both English
22 and Albanian will be assigned Exhibit P01261.

23 The ERN 055418-01 and corresponding English and Albanian
24 transcripts will be assigned Exhibit P01262.

25 The ERN U000-3337 to U000-3339 and the English translation will

1 be assigned Exhibit P01263.

2 And the SPOE00128571 to 00128954, in particular pages
3 SPOE00128632 to SPOE00128636 and the corresponding English
4 translation, will be assigned Exhibit P01264.

5 Thank you, Your Honours.

6 PRESIDING JUDGE SMITH: Thank you.

7 Witness, we take normal breaks in the morning and again in the
8 afternoon for the benefit mostly for the translator and interpreters
9 because this is a difficult job. We will be taking a break right now
10 that was already scheduled from 11.00 to 11.30, and we'll come back
11 for an hour and a half. We'll break for lunch at 1.00, and then come
12 back at 2.30. So you know the plan for the morning.

13 So we are in public session.

14 You may escort the witness out of the room.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: And we are adjourned now until 11.30.

17 --- Recess taken at 11.03 a.m.

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

19 PRESIDING JUDGE SMITH: Mr. Misetic, can you do this in about
20 five minutes? No, no, I mean can you use about five minutes with
21 your reasoning.

22 MR. MISETIC: It should be much less, Mr. President.

23 PRESIDING JUDGE SMITH: Okay. Go ahead.

24 MR. MISETIC: The reasoning is simply that it tracks the status
25 of the investigation into the incident that was the subject of the

1 last witness's evidence. There is a charge of failure to prevent or
2 punish on this. As the Chamber is by now certainly aware, our case
3 is that, as of June 1999, UNMIK was responsible for the investigation
4 and prosecution of war crimes.

5 You know, based on the witness's first statement in the year he
6 gave it in, and I'm being careful because we're in public session,
7 the year he gave it in, that by no later than that date, and perhaps
8 earlier, UNMIK was informed of the basic allegations in the case, and
9 this document is the end of that chain of several years between when
10 that started and how it ended.

11 And so to the extent there is going to be an argument at the end
12 of the case about failure to investigate, failure to punish on that
13 incident, we think there is relevance as to the status of that
14 investigation and under -- for purposes of Rule 138, you can put
15 however much weight you want on it in deliberation, but I don't see
16 there's any prejudice that arises out of it, and we think it meets
17 the threshold, which has not been very high, to admission of
18 documents thus far, and we think it meets at least that threshold.
19 Thank you.

20 PRESIDING JUDGE SMITH: Thank you very much.

21 Anybody else from the Defence wish to join, or do you just join
22 the argument?

23 MR. EMMERSON: On the principle, as of course it doesn't
24 directly impact my client, on the principle, we join and support the
25 submissions of Mr. Miletic and emphasise fundamentally that,

1 obviously, the ultimate assessment of relevance and weight is for
2 Your Honours. And to effectively make a sort of *in limine* ruling
3 which denies yourself the benefit of something which may later prove
4 to be containing important factual information or other information
5 when you're sifting, it doesn't, with respect, seem necessary.

6 PRESIDING JUDGE SMITH: Understood.

7 MR. TULLY: We join that and have nothing to add.

8 PRESIDING JUDGE SMITH: All right.

9 MR. TULLY: Thank you.

10 MR. ELLIS: The same, Your Honour.

11 PRESIDING JUDGE SMITH: All right. Thank you for the
12 submission. We'll get a decision made as soon as possible.

13 Does the Prosecution wish to weigh in on this at all? I know it
14 wasn't your witness when this happened, but if you have something.

15 MR. HALLING: Yes. I mean, just we maintain our relevance
16 objections. Without saying much in public session, the document in
17 question is so long after the indictment timeframe, we can't imagine
18 it would be relevant for failure to prevent or punish or superior
19 responsibility as charged.

20 PRESIDING JUDGE SMITH: Thank you.

21 All right. We're ready to proceed.

22 You may bring the witness in, Madam Court Usher.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right. Witness, we are ready to
25 proceed. The Prosecution will continue with their questioning.

Witness: Nuhi Bytyqi (Open Session)
Procedural Matters

Page 16610

1 MR. HALLING: Thank you, Your Honour. And actually before we
2 continue, there are a few more procedural points to pick up following
3 the end of the last session. They can all be discussed in the
4 presence of the witness.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. HALLING: First, in relation to the book, the Defence has
7 not gotten back to us yet on the results of the foreshadowed
8 consultation they were going to have, but we would suggest a
9 procedure going forward because it sounds like at least the
10 translated range of the book is acceptable for admission, and we
11 intended to tender it anyway.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. HALLING: We also have --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. HALLING: The entire translated range, which is -- it's
16 SPOE00128571 to 128948. It's actually just over half the book.

17 We also have an exhibit number already for what few pages were
18 associated with the interview, which is P01264. So we would tender
19 our translated range of the book now and add that to P01264. And
20 then when the Defence is ready with whatever additional pages they
21 have, they could also tender it, and perhaps it could just be added
22 to that same exhibit.

23 PRESIDING JUDGE SMITH: Is that acceptable?

24 MR. MISETIC: It is for us.

25 PRESIDING JUDGE SMITH: Mr. Emmerson.

Witness: Nuhi Bytyqi (Open Session)

Page 16611

Procedural Matters

1 MR. EMMERSON: And for us.

2 MR. TULLY: That's fine with us. Thank you.

3 PRESIDING JUDGE SMITH: All right. The tender of SPOE00128571
4 to 0028948-ET -- I'm sorry, it should be 128948-ET is admitted, and
5 you may proceed then.

6 MR. HALLING: Yes, Your Honour. Almost done, but I have two
7 more.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. HALLING: Yes.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 THE COURT OFFICER: Your Honours, if I may come back on this.

12 PRESIDING JUDGE SMITH: [Microphone not activated]. We need to
13 add it to the previously admitted document.

14 THE COURT OFFICER: That's correct.

15 PRESIDING JUDGE SMITH: So, yes, you can come back to us on
16 that.

17 THE COURT OFFICER: Thank you so much. Thank you, Your Honours.

18 MR. HALLING: There are two left. The second one is we did have
19 a short summary under Rule 154 for this witness. It's very short.
20 We'd propose to read it now.

21 PRESIDING JUDGE SMITH: Go ahead.

22 MR. HALLING: Thank you.

23 W04410 is a journalist who covered the KLA during the war. He
24 took footage of important moments, including those involving the
25 accused. He wrote a book about his experiences published in 2019

Witness: Nuhi Bytyqi (Open Session)

Page 16612

Procedural Matters

1 entitled "*Libri i Luftes*." Thank you.

2 And the last point, and then we can continue with the
3 examination.

4 Because this witness is so audio-visually based, we thought it
5 might be helpful to have the video of the SPO interview, which was
6 admitted in the last session as P01252, also tendered. We actually
7 disclosed this in April and asked the Defence teams at the beginning
8 of last month whether they'd have any objection to us proceeding that
9 way. The Thaci Defence had no objection; the other three teams did.

10 We think it would just facilitate the Judges' understanding to
11 also have the video accompanying the transcript for this specific
12 witness, so we'd bring this to the Court's attention and would tender
13 the videos. They're on our presentation queue as 061426b Parts 1 to
14 3 RED.

15 PRESIDING JUDGE SMITH: Yes.

16 MR. EMMERSON: We're content to proceed on the basis outlined
17 and as accepted by Mr. Thaci's team.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. EMMERSON: We're not opposing it, Your Honour.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. TULLY: Neither are we, Your Honour.

22 MS. ALAGENDRA: We don't oppose so either.

23 PRESIDING JUDGE SMITH: No opposition. So, yes.

24 MR. HALLING: Now we can continue.

25 PRESIDING JUDGE SMITH: The video is -- is it already admitted?

Witness: Nuhi Bytyqi (Open Session)

Page 16613

Examination by Mr. Halling

1 MR. HALLING: It is on the presentation queue. It is the video
2 accompaniment to P01252. So whether it gets a different exhibit
3 number or a related number.

4 PRESIDING JUDGE SMITH: It should be tagged 1252 though.

5 MR. HALLING: We would suggest this.

6 PRESIDING JUDGE SMITH: All right. We will admit the video and
7 allow its immediate playing, but it is a part of P01252.

8 MR. HALLING: Thank you.

9 PRESIDING JUDGE SMITH: Mr. Court Officer, do you have that?

10 THE COURT OFFICER: Yes, Your Honour. It will be added to
11 P01252. And I'll come back with exact numbers. Thank you,
12 Your Honours.

13 PRESIDING JUDGE SMITH: All right. Thank you very much.

14 Go ahead.

15 MR. HALLING: Thank you.

16 Q. And, Witness, thank you for your patience.

17 To continue with my questions for you, we've already talked
18 about your book. Your book has lots of dates in it, and I was
19 wondering if you could describe a little bit of how you were able to
20 keep tracks of dates as you were reporting the war.

21 A. First of all, given the circumstances of the war, and me working
22 as an independent journalist, a voluntary one, as the KLA was a
23 volunteer-based army, I had difficulties in doing my work. I did not
24 personally recognise the authorities and state of Serbia and I was
25 not accredited by them, so I had to deal with police checkpoints.

Witness: Nuhi Bytyqi (Open Session)

Page 16614

Examination by Mr. Halling

1 Therefore, in my statement in front of the Prosecutor in
2 Prishtine, on 30 and 31 July 2019, I have stated that there are dates
3 and names in the book which might not be accurate. It could be the
4 case that a name is not accurate because I was not able to keep an
5 accurate diary as other reporters would be able to do in normal
6 circumstances.

7 Q. Were you able to keep notes somehow during the war?

8 A. Yes. I kept notes on the TV programmes broadcasted on the
9 Albanian television. They had the date, name of the programme, and
10 the participants. Based on that, several years after the war, I
11 started refreshing my memory and was able to include the most
12 important events in my book, my opinions, my thoughts, my personal
13 thoughts. And I wouldn't want this Court, and in particular the
14 Prosecutor, to view this book as an evidence to accuse or
15 substantiate charges against the freedom fighters.

16 Q. Yes. Just focusing only on the reporting. When you had an
17 opportunity to review the book in the preparation session with any
18 changes or corrections to dates, you reported them in the note as you
19 read; is that right?

20 A. Yes. At a later stage, I was able to find the exact dates, some
21 of the days. However, with respect to the events, these are my
22 opinions, my thoughts, my personal viewpoints.

23 Q. During the war, did you act as an independent journalist at all
24 times?

25 A. Yes, I was an independent journalist. I worked as a volunteer,

Witness: Nuhi Bytyqi (Open Session)

Page 16615

Examination by Mr. Halling

1 thinking that Kosovo was in information darkness from 1980 when the
2 Serb police shut down the radio television of Kosovo. It was my
3 obligation as a citizen, as a journalist, as a reporter, to give my
4 contribution to inform people especially in war-torn areas but also
5 at a national factor.

6 Q. Was the aim of your work to objectively report the facts of the
7 war?

8 A. Certainly. Objectivity is the -- is the objective and the aim
9 of every independent journalist and reporter, such as I was.

10 Q. Yes, because you were talking a moment ago about your opinion,
11 but were you trying to present the KLA war as it was in reality?

12 A. Yes, I made attempts, that the KLA war, which was a fight for
13 freedom, a fight against the terror exercised by the Serbian army,
14 and after having exhausted peaceful means, and knowing that this war
15 was imposed on us, and this war was supported by every Albanian in
16 Kosovo and outside Kosovo.

17 This was a voluntary war because Kosovo did not have a
18 government. It did not have a state. It did not have a regular army
19 like other countries do in normal circumstances.

20 Q. Thank you. And this next question can just be answered with a
21 yes or a no. Did anyone ever manipulate or change your reporting in
22 a way which made it inaccurate?

23 THE INTERPRETER: Interpreter's note: Could the witness kindly
24 be asked to slow down a little bit.

25 MR. HALLING:

Witness: Nuhi Bytyqi (Open Session)

Page 16616

Examination by Mr. Halling

1 Q. Witness, I don't know if you heard the interpreter, but if you
2 could please slow down in your answers.

3 Would you like me to repeat my question? The witness nodded.

4 Did anyone ever manipulate or change your reporting in a way
5 which made it inaccurate?

6 A. Absolutely not. Nobody influenced me to report based on their
7 needs or dictated by them. I never was influenced in my work. I
8 never ceded to censorship. I was never influenced in what I did.

9 Q. Did you give a copy of your book to former KLA General Staff
10 members referenced in it either prior to or after its publication?

11 A. Before the publication, my book was seen only to editors and to
12 the publisher. Obviously, the reviser as well. But no one from the
13 General Staff or any other citizen in the Republic of Kosovo saw this
14 book that was in the process of being prepared for publication.

15 Q. After publication, did you give a copy of your book to any of
16 the former KLA General Staff members referenced within it?

17 A. Yes. After its publication, to the president of the Republic of
18 Kosovo, Mr. Hashim Thaci. I offered him a copy. I don't know if I
19 offered a copy to Mr. Krasniqi, but I do know that I did not offer a
20 copy to Mr. Veseli and Mr. Selimi. I gave a copy to Fatmir Limaj,
21 who at the time was deputy minister in the government of the Republic
22 of Kosovo, upon his request.

23 Q. Did you receive any feedback about the book from any KLA
24 General Staff members after it was published?

25 A. No, I did not receive any specific feedbacks. We just made

Witness: Nuhi Bytyqi (Open Session)

Page 16617

Examination by Mr. Halling

1 general comments on specific events that had taken place in Kosovo.
2 Again, these were my opinions, my -- this is my experience, my
3 memory, not as a historian but as a journalist, as a reporter.

4 MR. HALLING: Your Honour, if we could have permission to show
5 Preparation Note 2, 121260 to 121171, paragraph 3, and to read that
6 part back to the witness.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MR. HALLING:

9 Q. Witness, I want to re-read part of the preparation note from
10 last week and ask you a question. First it says:

11 "W04410 never gave any copies of his book to the KLA General
12 Staff members, either before or after its publication."

13 It sounds like you're changing this now because it now says
14 you've now given a copy to Hashim Thaci.

15 MR. MISETIC: Objection, it's argumentative, and I think -- I
16 don't want to do it in front of the presence of the witness, but the
17 witness make a distinction, and I'm not sure that it's clear on the
18 record of who's at fault for how it's written in the prep note.

19 PRESIDING JUDGE SMITH: The objection is overruled.

20 Go ahead.

21 MR. HALLING:

22 Q. Witness, you can answer the question, unless you'd like it
23 repeated.

24 A. I stated already I did not give any copies of the book to anyone
25 before its publication with the exception of the reviser and editor.

Witness: Nuhi Bytyqi (Open Session)

Page 16618

Examination by Mr. Halling

1 After its publication, I gave a copy to Mr. Thaci and Mr. Limaj. I
2 don't know if we commented the content of the book in detail because
3 it consists of over 700 pages. These are my opinions, my writings,
4 my experience, my memory, and I wouldn't want anyone, including the
5 Prosecution, to distort those in order to charge or accuse the
6 leaders of the Kosovo Liberation Army.

7 Q. You mentioned you didn't receive any specific feedback. The
8 next sentence of the preparation note provides:

9 "The KLA General Staff members who spoke with [you] about what
10 [you] had written in the book said the book was [very] real,
11 including Hashim Thaci."

12 Is that correct?

13 A. Yes, that's correct.

14 Q. I'll move on. Witness, were you ever a soldier in the KLA?

15 A. No.

16 Q. Are you in a position to speak to the organisation or the
17 hierarchy of the KLA during the war?

18 A. As I have said it in the book and in my statement to the
19 Prosecutor, my main aim was to inform the opinion about the
20 developments in war zones, where the Serbian army and police
21 terrorised the Albanian civilians and the Kosovo Liberation Army was
22 protecting these civilians.

23 I must add that I was not interested in the organisation or the
24 structure of the Kosovo Liberation Army. My aim was to cooperate
25 with competent people to -- with journalists and with people who

Witness: Nuhi Bytyqi (Open Session)

Page 16619

Examination by Mr. Halling

1 were -- like President Thaci who was in charge, with
2 Mr. Jakup Krasniqi who was in charge of information. I cooperated
3 with Mr. Adem Demaci in his office in Prishtine as well.

4 Q. Witness, you said that you weren't interested in the
5 organisation or in the structure. My question was different. I'll
6 ask it again. Are you in a position to speak to the organisation or
7 the hierarchy of the KLA during the war? You can answer with just a
8 yes or a no.

9 A. No. I did not know at the time and even now I don't know what
10 was exactly the organisational structure of the KLA. I must say
11 there was not a strict hierarchy as the one you find in regular
12 armies.

13 When I went to war zones, for example, in Dukagjin, when I went
14 with Mr. Thaci, who was in charge of information, soldiers of Ramush
15 Haradinaj did not allow us to take footage with my cameraman. Idriz
16 Vehapi, a local commander in another area. Although we were in the
17 presence of Mr. Hashim Thaci, the soldiers did not allow us to take
18 footage to film. This demonstrates that there was no strict
19 hierarchy in the Kosovo Liberation Army.

20 Q. So, Witness, if I understand your evidence, you do not know
21 about the organisational structure of the KLA and it wasn't a strict
22 hierarchy; is that correct?

23 Yes, I saw you nod, but just for the record --

24 A. There was no hierarchy. I was not aware of the existence of any
25 strict hierarchy within -- in the Kosovo Liberation Army. I said

Witness: Nuhi Bytyqi (Open Session)

Page 16620

Examination by Mr. Halling

1 before it was a voluntary army, which is based on the will of free
2 people. They took up weapons to liberate Kosovo. They were not
3 fighting for positions in the army.

4 Q. Witness, let's go to a page of your book.

5 MR. HALLING: Your Honours, as indicated in our e-mail of last
6 week, just for speed, we're just going to refer to the page numbers
7 of the book rather than the full ERN string.

8 If we could go to page 233 of the book, and this is P01264 in
9 Albanian and in English. That said, although it was our proposal, if
10 it assists the Court Officer, we can also give the ERN of the pages
11 as needed.

12 Q. Witness, just bear with us. We are going to get a specific page
13 of your book on the screen, and then I'm going to ask you a question
14 about it.

15 A. Understood.

16 MR. HALLING: So, again, the page number is 33. It's
17 SPOE00128603. So it's 433 on the English now, and it needs to be
18 233.

19 THE COURT OFFICER: At this point, I would kindly ask for the
20 ERN number just to be sure that we are showing the right number.

21 MR. HALLING: I'll give it again. It's SPOE00128603. Yes.
22 Thank you to the Court Officer.

23 Q. So, Witness, I'm interested in this page where you're having a
24 meeting with Rexhep Selimi, and it says as follows:

25 "Rexhep expressed his satisfaction that both Abaz and I went to

Witness: Nuhi Bytyqi (Open Session)

Page 16621

Examination by Mr. Halling

1 the war zones, but he had some remarks concerning the way the
2 Albanian Television was informing about the war of Kosovo Liberation
3 Army. Rexhep said that the reporting was not the real reflection of
4 the situation there."

5 And my question is, is this a description of your first meeting
6 with Rexhep Selimi?

7 A. Yes, this is the first meeting I had with Mr. Rexhep Selimi.
8 And he was absolutely right to say that not only KLA fighters but the
9 entire population were dissatisfied with the information given
10 regarding the war zones, because we were protecting our homes, and
11 this was a right remark. The Kosovo Liberation Army was protecting
12 Kosovo, not only the doorstep of our homes.

13 Q. Yes. When approximately did this meeting occur?

14 A. This was towards the end of April or beginning of May 1998.

15 Q. Thank you.

16 MR. HALLING: And now if the Court Officer could please pull up
17 P286 - this is KLA political statement No. 2 - and its English
18 translation. The English translation is U016-2145 to U016-2147. And
19 we would like page 2 of the English transcript on the screen, which
20 is U016-2146. P286 itself is a single page.

21 Q. And, Witness, I'm aware that the type is very small in the
22 Albanian. I will read to you the relevant part in English that is
23 the basis of my question.

24 So, Witness, this is dated 29 April 1998. And at point 8 on the
25 second page --

Witness: Nuhi Bytyqi (Open Session)

Page 16622

Examination by Mr. Halling

1 MR. HALLING: So if you scroll down to the bottom of the page in
2 English. And then one more page over.

3 Q. At point 8, it says --

4 MR. HALLING: And if we could scroll down in the Albanian so
5 that point 8 is visible on the screen. Thank you.

6 Q. "We appeal to the Albanian media for an objective presentation
7 of the reality in war. The KLA does not need public promotion and
8 publications for beneficiary aims, nor does it need the denial and
9 distortion of its war."

10 And so, Witness, if this was 29 April, this is right around the
11 same time as what Rexhep Selimi was talking to you about in your
12 book; is that right?

13 A. Yes, it was a little bit later, because on 29 April I was in
14 Dukagjin, in Gllogjan, and I didn't see this communiqué. I was
15 initially in Gjakove, then in Gllogjan.

16 MR. HALLING: Your Honour, just as a bit of housekeeping,
17 P280 -- this is already admitted in the Albanian, but for some reason
18 the English transcript doesn't seem to be likewise admitted. So we
19 would just ask that U016-2145 to U016-2147 be admitted and related to
20 P286 in Legal Workflow.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. MISETIC: No.

23 PRESIDING JUDGE SMITH: There appears to be no objection. So
24 U016-2145 to U016-2147 is admitted and attached to P286.

25 THE COURT OFFICER: Thank you, Your Honours. And it is

Witness: Nuhi Bytyqi (Open Session)

Page 16623

Examination by Mr. Halling

1 currently classified as confidential.

2 MR. HALLING: I think it can be classified as public,
3 Your Honour.

4 PRESIDING JUDGE SMITH: Without objection, it'll be classified
5 as public.

6 THE COURT OFFICER: Thank you, Your Honours.

7 MR. HALLING: Incidentally, as regards classification of videos
8 later in the examination, many of them area also classified as
9 confidential. We have picked sections for today that by their nature
10 do not require any confidentiality. And unless otherwise indicated,
11 we would say they can be broadcast when we have videos.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. HALLING:

14 Q. But, Witness, the --

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. HALLING:

17 Q. -- next document I want to show you is actually a notebook.

18 MR. HALLING: If the Court Officer could please put up
19 SPOE00226527 to 226613, and specifically page SPOE00226545 in the
20 Albanian and English.

21 Q. And, Witness, perhaps while that's being put up on the screen,
22 you talk in your book about making your initial KLA connections with
23 a gentleman called Shaban Hoxha; is that correct?

24 And, again, Witness, just for the record, if you could vocalise
25 the answer. I just saw you nod.

Witness: Nuhi Bytyqi (Open Session)

Page 16624

Examination by Mr. Halling

1 A. Yes. I met Shaban Hoxha in Prishtine because I had information
2 that he was a member of the emergency team and that he provided a lot
3 of assistance to the civilian population in the war zone.

4 MR. HALLING: Okay. Now, if we could go to the page of this
5 book, and I'll repeat it, it's SPOE00226545. I see it as 19 on the
6 Albanian on the left side of the screen. Thank you.

7 And on the bottom of this page in the Albanian, there's an
8 entry -- a little further down on the Albanian side. The English is
9 fine. Further down to the bottom of the page. There. Thank you.

10 Q. So, Witness, there's an entry in this notebook dated 18.05.98,
11 and it says:

12 "Request

13 "Nuhi Bytyqi - journalist at RTP - is asking to report on aid
14 supply and family life."

15 Now, first question: Witness, did you at one point in your life
16 work as a journalist for RTP?

17 A. Yes. Until 5 July 1990 I was a journalist at Prishtine Radio
18 Television.

19 Q. And on around 18 May 1998, were you reporting on aid supply and
20 family life in Kosovo?

21 A. Yes. I prepared a special programme on the situation in Drenica
22 and about the supply of humanitarian aid for the civilian population.

23 MR. HALLING: Your Honour, we would tender this notebook for
24 admission into evidence. It was seized from Rexhep Selimi's house.
25 Your Honours have already heard evidence that Mr. Selimi met this

Witness: Nuhi Bytyqi (Open Session)

Page 16625

Examination by Mr. Halling

1 witness within a month of this entry, and the witness has been able
2 to affirm that he was doing the very same things as stated in the
3 entry and worked previously for the journalist outfit indicated. We
4 would say that it's sufficient for *prima facie* admissibility.

5 MR. TULLY: Yes, Your Honour. We object to it. We quite
6 clearly dispute the authorship of this notebook. It's filled with
7 several different types of handwriting. It's also -- the Prosecution
8 is applying a close-enough approach with the dates. The witness
9 clearly said the beginning of May, and this is later in May, the
10 second half of May.

11 We also dispute that the activities that are described here are
12 the ones that he's purported to have had with Mr. Selimi in that
13 earlier meeting in May. Thank you.

14 PRESIDING JUDGE SMITH: Anybody else?

15 MR. EMMERSON: We would simply reiterate our standing objection
16 that unauthenticated documents of this kind should not be admitted.

17 THE WITNESS: [Interpretation] Your Honour, may I add something
18 regarding this issue?

19 PRESIDING JUDGE SMITH: Yes, you may.

20 THE WITNESS: [Interpretation] It is the handwriting of Imer
21 Halimi, member of the emergency council in Prishtine. With Imer
22 Halimi I met and talked, being a member of this council, to help in
23 the preparation of special programme on the supply of the
24 humanitarian aid and other things for the civilian population. So I
25 prepared this programme and involved also the chairman,

Witness: Nuhi Bytyqi (Open Session)

Page 16626

Examination by Mr. Halling

1 Mr. Novasella, chairman of the emergency council, and the leader of
2 the humanitarian association in Prishtine and some other activists.

3 THE INTERPRETER: Can the witness be asked to slow down? It's
4 impossible for us to interpret, please.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Slower, please.

7 So you're saying this is an accurate accounting?

8 THE WITNESS: [Interpretation] I apologise. I have worked for a
9 long time with news editions and I'm used to speaking fast.

10 So as I said --

11 PRESIDING JUDGE SMITH: Witness, are you saying this is an
12 accurate statement?

13 THE WITNESS: [Interpretation] The Prosecutor is trying to give
14 it another edge. I want to say that Imer Halimi was not a uniformed
15 military man, but he was a professor at the university and member of
16 the emergency council for Kosovo.

17 PRESIDING JUDGE SMITH: That's not my question. That's not my
18 question. My question is are you saying that this statement is
19 correct?

20 THE WITNESS: [Interpretation] The programme was prepared.

21 PRESIDING JUDGE SMITH: Could you answer my question? Are you
22 saying this is correct; yes or no?

23 THE WITNESS: [Interpretation] Yes. Yes, it is.

24 MR. TULLY: Your Honour, Your Honour, please may I be heard on
25 one issue? This is -- if --

Witness: Nuhi Bytyqi (Open Session)

Page 16627

Examination by Mr. Halling

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. TULLY: No, my -- my --

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. TULLY: My apologies. I sat down a little bit too quickly.

5 If you are minded to admit this document, we have a separate
6 objection to admitting the entire document. There's one entry. And
7 as we said, we clearly dispute the authorship in general, but it also
8 appears to be from several different authors. The witness may give
9 evidence that can verify this but not the entire document. There's
10 85 pages, I believe.

11 PRESIDING JUDGE SMITH: I'm going to mark it for identification
12 right now. We'll take a look at it and then we'll decide. Thank you
13 for your input.

14 Go ahead.

15 MR. HALLING: And all that we would add to that is that we have
16 repeatedly tendered notebooks of this kind in this trial. They have
17 been admitted in full because they need to be understood
18 contextually. We would also say we had never said that Rexhep Selimi
19 wrote this entry. We said it was seized from his house.

20 And as to the reporting, the witness has given accurate answers
21 to the Panel, and we believe that it's sufficient for *prima facie*
22 admissibility, and we'll move on from there.

23 MR. TULLY: Then perhaps I can ask for clarity. Is it the
24 Prosecution's case that this is not Mr. Selimi's notebook or are they
25 attributing it to him?

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16628

1 MR. HALLING: The evidence is not clear one way or the other who
2 wrote this entry. It was found in Rexhep Selimi's house which we
3 would say is itself indicia of authenticity.

4 PRESIDING JUDGE SMITH: Thank you. We've heard enough.
5 Please continue.

6 MR. HALLING:

7 Q. Witness, I want to move on to a different point. And maybe we
8 don't need to put the page of the book on the screen. But on page
9 235 of your book, you are talking about Sami Lushtaku, and you said
10 that you had read interviews in the media, and you had read an
11 interview that he'd given to the *Kombi*, the *Nation* newspaper, where
12 he was interviewed by Haqif Mulliqi; is this correct?

13 A. Haqif Mulliqi, a colleague, he conducted an interview for *Kombi*
14 newspaper with Sami Lushtaku. That's correct. It was a public
15 interview. It was published.

16 Q. Yes. And was that interview that you read in May 1998?

17 A. Yes.

18 [Trial Panel and Court Officer confers]

19 PRESIDING JUDGE SMITH: We forgot to say on the record the MFI
20 number.

21 THE COURT OFFICER: Thank you so much, Your Honours. So the
22 SPOE00226527 to SPOE00226613-ET and the English version revised will
23 be marked for identification with P01265. Currently classified as
24 confidential. Thank you, Your Honours.

25 MR. HALLING: Thank you.

Witness: Nuhi Bytyqi (Open Session)

Page 16629

Examination by Mr. Halling

1 Q. And getting back to what we were just discussing with
2 Sami Lushtaku's interview.

3 MR. HALLING: If we could now pull up SPOE00230057 to
4 SPOE00230058. And we will start on page 2, which is SPOE00230058.

5 Q. Witness, this is an interview with Sami Lushtaku from 28 May
6 1998. Now, I understand you only saw this interview for the first
7 time in the preparation session; is that right?

8 A. Yes, I saw it during the preparatory session and said that this
9 interview was published in *Bota Sot*, not in *Kombi* newspaper. So I
10 would kindly ask you that in the case of interviews conducted by my
11 colleagues, don't ask me.

12 Q. Witness, again, all I'm asking is for you to answer my
13 questions. Why the interview is being shown to you is not part of my
14 question.

15 I'll just read a small part of it into the record.

16 Sami Lushtaku says:

17 "To this day we have killed neither women and children, as they
18 do every day. We have killed police officers, soldiers and their
19 collaborators. Here we must take into account a very important fact,
20 that all the collaborators who have been liquidated to date, have all
21 been part of the occupying forces of the military-police system in
22 Kosovo and that none of them has been unarmed."

23 Now, if we go to the first page of the interview, Witness, you
24 see the journalist's name on the upper left-hand corner of the page
25 in Albanian. Is that the same journalist that you talk about in your

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16630

1 book interviewing Sami Lushtaku for *Kombi*?

2 A. Yes. Yes, it's the same journalist. But as I already said, and
3 I told you also during our meeting, in the case of interviews
4 conducted by my colleagues, please don't ask me. I am not
5 responsible for them.

6 Q. Thank you, Witness.

7 MR. HALLING: Your Honour, this item we would argue is bar table
8 eligible. It was seized from Rexhep Selimi's house as well. It's an
9 interview with Sami Lushtaku with a journalist. The witness has
10 provided evidence he saw an interview in a different media outlet
11 with the same two people. We would say that it's sufficient for
12 *prima facie* admissibility, and we would tender it at this time.

13 [Trial Panel confers]

14 MR. TULLY: Your Honour.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. TULLY: Yeah, we object to the use of documents seized from
17 Rexhep Selimi's house as being indicia of authenticity.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. EMMERSON: I'm sorry. My objection is slightly different.
20 As far as I understand it, this witness has simply been shown a
21 newspaper and asked to identify whether he knows the journalist.
22 Which -- well, that's not a basis for admitting evidence through this
23 witness. It's like me opening a copy of *The Times* newspaper and
24 saying I recognise the name of the journalist.

25 MR. HALLING: It's a little more than that, Your Honour. The

Witness: Nuhi Bytyqi (Open Session)

Page 16631

Examination by Mr. Halling

1 witness said that he saw an interview in a different publication with
2 these same two people. Given how infrequently the KLA were giving
3 interviews at this time, we actually find that the witness has given
4 quite a bit of contextualisation as to the *prima facie* reliability of
5 this interview.

6 PRESIDING JUDGE SMITH: It will be admitted under 138. It meets
7 the minimum *prima facie* standard. It is relevant.

8 THE WITNESS: [Interpretation] Your Honour.

9 PRESIDING JUDGE SMITH: No. It is authentic and it is
10 probative, and the probative value is not outweighed by any
11 prejudicial matter.

12 SPOE00230057 to SPOE00230058. You're just offering the single
13 page, 2?

14 MR. HALLING: Both pages, the full interview.

15 PRESIDING JUDGE SMITH: All right. Page 1 and page 2 are
16 admitted.

17 THE COURT OFFICER: And will be assigned Exhibit P01266,
18 currently classified as confidential. Thank you, Your Honours.

19 PRESIDING JUDGE SMITH: Thank you.

20 Go ahead.

21 MR. HALLING:

22 Q. Witness, I'd now like to turn to a documentary that you made in
23 honour of Agim Qelaj. When was this work broadcast?

24 A. This was broadcast on the anniversary of the falling of Agim
25 Qelaj. In 2009, I think.

Witness: Nuhi Bytyqi (Open Session)

Page 16632

Examination by Mr. Halling

1 Q. Thank you.

2 MR. HALLING: Now, this is the first video that we would ask to
3 be played. If the Court Officer could please pull up 077572-01 and
4 its English translation, and we can have them half and half on the
5 screen.

6 Q. Witness, the Albanian will be -- I'll play a part of the video,
7 so you'll be able to hear through interpretation the part of the
8 video I'm interested in.

9 MR. HALLING: The timestamp will be from the 3-second mark to
10 the 01:01 mark. And it's the first page of the English transcript.
11 If the Court Officer can please play the video.

12 [Video-clip played]

13 THE INTERPRETER: [Voiceover] "On 12 March, after the murder of
14 Jashari people, 14 military men came, Agim Celaj among them. Then
15 there was Bislum as usual, Sali, Kemal Shaqiri, Rrustem Berisha.
16 They were all ready to go to the front line. There was some front
17 line fighting. Kadri Veseli was at the front line and he called us
18 by phone. And he said, 'Professor, listen to the shells that Serbia
19 is firing against the population. We are on the front line.' Agim
20 Celaj asked me to give him the phone. I gave him the phone, and he
21 began teaching him how to set up the trenches, how to go there. We
22 ended the meeting with tears in our eyes, and it was there that Agim
23 declared his wish to go immediately to the front line."

24 MR. HALLING:

25 Q. Witness, is this from your Agim Qelaj documentary?

Witness: Nuhi Bytyqi (Open Session)

Page 16633

Examination by Mr. Halling

1 A. Part. Part of the documentary. Only part of it.

2 Q. Right. And who was speaking in the part that was played?

3 A. Professor Muje Rugova.

4 Q. And from when are the events Muje Rugova is describing in this
5 excerpt?

6 A. We are talking about events that happened after the glorious
7 *épopée* of Kosovo liberation war in Prekaz in 1998, after the heroic
8 fall of legendary commander Adem Jashari and his family, which served
9 to mobilise all the Albanian people and our immigrants to join the
10 KLA.

11 Q. With a month and a year, Witness, when was this?

12 A. In March of 1998.

13 MR. EMMERSON: I'm sorry, the question, with respect, is
14 misleading. This is an interview with somebody describing an event
15 that happened after the Jashari massacre, in other words, after
16 12 March 1998, when the conflict [Overlapping speakers] ... began --

17 PRESIDING JUDGE SMITH: Yeah, the question was a little unclear.

18 MR. EMMERSON: It's of no relevance -- nothing here is of any
19 relevance to the dates on which the incident being described is said
20 to have occurred, other than that it was at the time of a battle.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. HALLING:

23 Q. So when Muje Rugova is specifically talking about the phone call
24 he received from Kadri Veseli, when in that time was that phone call?

25 A. I can't be precise, but I think he's talking about 12 March

Witness: Nuhi Bytyqi (Open Session)

Page 16634

Examination by Mr. Halling

1 1998.

2 Q. Thank you.

3 MR. HALLING: I think that clarifies.

4 A second excerpt in this same video. If we could play 05:39 to
5 05:56, which is on page 3 of the English transcript. The same video.

6 [Video-clip played]

7 THE INTERPRETER: [Voiceover] "Through the northern part of the
8 Albania, Kadri Kastrati, Agim Cela, and some others, we entered into
9 Kosovo.

10 "The terrain was rather unknown to us ..."

11 MR. HALLING: Thank you.

12 Q. Now, Witness, is that Hashim Thaci speaking for the same Agim
13 Qelaj documentary?

14 A. Yes.

15 Q. And around when are the events Hashim Thaci was describing in
16 that excerpt played to you?

17 A. Mr. Thaci is not accurate about the period. I think he's
18 talking in general.

19 Q. He is describing in the excerpt that was played that "all of us
20 went from northern Albania into Kosovo." And my question is, to the
21 extent that you know, when did Hashim Thaci in that group go from
22 northern Albania into Kosovo?

23 MR. MISETIC: Object as to foundation.

24 PRESIDING JUDGE SMITH: Overruled.

25 MR. EMMERSON: Objection as to -- excuse me, objection as to

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16635

1 asked and answered as well. The witness says he's not clear in what
2 he's saying.

3 PRESIDING JUDGE SMITH: You may answer the question, Witness, if
4 you know.

5 THE WITNESS: [Interpretation] I already gave my answer. He
6 doesn't know exactly when.

7 PRESIDING JUDGE SMITH: Just answer the question.

8 THE WITNESS: [Interpretation] I don't know.

9 MR. HALLING: Thank you. Then if we could ask to refresh the
10 witness's recollection with paragraph 64 of Preparation Note 2.

11 PRESIDING JUDGE SMITH: You may.

12 MR. HALLING: Thank you.

13 Q. Now, Witness, this is the part of the preparation note that
14 corresponds to this part of the video which you saw in the
15 preparation session. And it says:

16 "The events Hashim Thaci is describing here occur around 28 May
17 1998, based off information Isuf Gashi provided in the Agim Qelaj
18 documentary."

19 Is that correct?

20 A. The interpreter is making some mistakes in names. Not Adem
21 Qelaj but Agim Qelaj. Not Jusuf -- I don't know what she said, but
22 Isuf Gashi.

23 Q. I'll read it again. Witness, this is what you said and is
24 recorded in the preparation note about this excerpt:

25 "The events Hashim Thaci is describing here occur around 28 May

Witness: Nuhi Bytyqi (Open Session)

Page 16636

Examination by Mr. Halling

1 1998, based off information Isuf Gashi provided in the Agim Qelaj
2 documentary."

3 Witness, is that correct?

4 A. It must be correct from the footage we saw.

5 Q. Thank you.

6 MR. HALLING: If we could now go to 077573-01, and it would be
7 page 1 of the English transcript. And specifically the timestamp is
8 from the 00:30 mark to the 01:07 mark.

9 [Video-clip played]

10 MR. HALLING: So from 30 seconds to 1 minute, 07.

11 [Video-clip played]

12 THE INTERPRETER: [Voiceover] "With the arrival of this group,
13 military people on the -- or on a decision by the General Staff of
14 the Kosovo Liberation Army, all these military men were distributed
15 to all of Kosovo's operational zones. Agim Qelaj was charged by the
16 General Staff of Kosovo Liberation Army to work for the training of
17 specialised units of Kosovo Liberation Army at the level of the
18 General Staff but also at the operational zone level and with the
19 inspection of the operational zones."

20 MR. HALLING:

21 Q. Witness, is what we just played another part of the same Agim
22 Qelaj documentary we've been discussing?

23 A. Yes.

24 MR. HALLING: Your Honours, in line with the Panel's previous
25 directions, we are going to extract many of the videos today to the

Witness: Nuhi Bytyqi (Open Session)

Page 16637

Examination by Mr. Halling

1 extent that they're long and only parts of them are relevant.

2 In this case, these two ERNs are themselves just part of the
3 broader Agim Qelaj documentary, but we would suggest that they be
4 tendered in full because those are the minutes that we are interested
5 in. So at this time, we would tender 077572-01 and 077573-01 for
6 admission into evidence at this time.

7 PRESIDING JUDGE SMITH: Any objection?

8 MR. MISETIC: No objection.

9 MR. TULLY: No, Your Honour.

10 PRESIDING JUDGE SMITH: 077572-01 is admitted in evidence. It
11 can be given an exhibit number.

12 THE COURT OFFICER: It will be assigned Exhibit P01267. Your
13 Honours, the video itself is classified as public, yet the transcript
14 is confidential.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 It should be public.

17 THE COURT OFFICER: Thank you. It's noted. Thank you,
18 Your Honours.

19 PRESIDING JUDGE SMITH: And then 077573-01 is admitted.

20 THE COURT OFFICER: And will be assigned Exhibit P01268,
21 classified as public. Thank you, Your Honours.

22 PRESIDING JUDGE SMITH: Thank you.

23 Go ahead.

24 MR. HALLING: Thank you, Your Honour.

25 Q. Witness, the next item I'd like to show you is another item from

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16638

1 the preparation session.

2 MR. HALLING: If the Court Officer could please pull up
3 SPOE00225778 to 00225779 in Albanian and English, and we would want
4 the second page on the screen, which is SPOE00225779.

5 Q. Witness, you had not seen this page before the preparation
6 session; is that correct?

7 A. Correct.

8 Q. What is that number, 26 625, on that page?

9 A. It must have certainly been my landline phone number in my
10 apartment.

11 Q. Thank you.

12 MR. HALLING: Now if we can flip the page back over and go to
13 page 1.

14 Q. Witness, what we see here is a report to be delivered to
15 Mr. "Daja" on 31 May 1998 from Drenoc. Now, as I understand it, you
16 had not read this report previously prior to last week?

17 A. Correct.

18 Q. Are you familiar with someone with the nickname Gjermani at the
19 Drenoc base as indicated in the second paragraph of this report?

20 A. Yes, there were many fighters in the Kosovo Liberation Army by
21 the nickname Gjermani. In Drenoc, to my knowledge, Gjermani was
22 Xheme Gashi. But there were, again, other fighters in other areas
23 within the KLA who went by the same nickname.

24 Q. And are you able to indicate who Daja or Bis are in this report?

25 A. In the Kosovo Liberation Army, again, there were many fighters

Witness: Nuhi Bytyqi (Open Session)

Page 16639

Examination by Mr. Halling

1 who went by the nickname Daja. There was Azem Sylja, Daja. There was
2 Kadri Kastrati, Daja. Then there was little uncle, Daja Vogel.

3 But with respect to Bis, I don't know. Certainly there were
4 many of them as well, but I don't know who we are talking about here.

5 Q. Yes.

6 MR. HALLING: Your Honours, given the combination of the witness
7 identifying his name and number on the back of the report, the fact
8 that he is able to identify one of the people's nicknames in
9 indication to the place reference which is Drenoc, and the fact that
10 this item was seized from Jakup Krasniqi's house and indicates at
11 least nicknames of people who the witness has just affirmed are also
12 -- there are KLA members with this name, we would tender this report
13 for admission into evidence.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. ALAGENDRA: Your Honours, we object to the tendering of this
16 document. We don't have any information as to who wrote this
17 document. The fact that it's seized from Mr. Jakup Krasniqi's house
18 does not authenticate it.

19 MR. TULLY: Your Honour, I just wanted to add that the witness's
20 name and reported number being on the back of this document appears
21 disconnected with the content of the document itself. There's been
22 no connection drawn between the two things, simply that he recognises
23 his own name. So the connection to asking this witness to
24 substantiate the document is beyond us.

25 Now, he also gives -- I'd contest that he's given enough

Witness: Nuhi Bytyqi (Open Session)

Page 16640

Examination by Mr. Halling

1 information to verify the content because he was able to give one or
2 two nicknames and even then he was unsure. Thank you.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. EMMERSON: It simply falls within the standing objection
5 from the Veseli Defence.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 We'll give it an MFI number at this time and take a closer look
8 at it. Go ahead. Oh, wait, let's get the number.

9 THE COURT OFFICER: Thank you, Your Honours. SPOE00225778 to
10 SPOE00225779 will be marked for identification with P01269, currently
11 classified as confidential. Thank you, Your Honours.

12 PRESIDING JUDGE SMITH: Sorry, did you say 1269?

13 THE COURT OFFICER: This is correct, Your Honours. 1269 MFI'd.

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. HALLING: And, Your Honour, we would just ask that item be
16 considered in the context of other items from the same place talking
17 about the same people at around the same time.

18 Q. Witness, we'd now like to go to your book again.

19 MR. HALLING: And if we could please go to page 243, which would
20 be SPOE00128613.

21 Q. And, Witness, while that's being pulled up, who had the nickname
22 Baca in your book, B-a-c-a?

23 A. There were many fighters who went by this until Baca. One of
24 them was Isuf Gashi.

25 Q. And who is Flurim Gashi?

Witness: Nuhi Bytyqi (Open Session)

Page 16641

Examination by Mr. Halling

1 A. Flurim Gashi is my nephew, the son of Baca.

2 MR. HALLING: So again the page is SPOE00128613.

3 [Microphone not activated].

4 Q. "We rested, ate dinner and spent the night there. The next day,
5 we got up and told Flurim and 'Baca' that it would be better if we
6 met with somebody of information at the KLA General Staff, because
7 until then, nobody knew who they were. Flurim said 'Uncle, it is
8 better to wait a little longer, because we need the person in charge
9 for this'."

10 Now, Witness, around when does this conversation occur that you
11 describe in your book?

12 A. This must have been towards the end of May or beginning June
13 1998.

14 Q. And does this conversation precede you meeting Hashim Thaci for
15 the first time?

16 A. Yes, with -- I met with Flurim, my nephew, in Prishtine. He was
17 a journalist of the magazine *Zeri*. We worked together. Then we went
18 together to his house in Rahovec. This was the first time when we
19 met with Mr. Thaci.

20 MR. HALLING: And if we go to the next page, it talks about that
21 meeting, so that would be page 244 of the book. And -- just one
22 moment.

23 Q. And here it says:

24 "After a short while a tall young man arrived in ... Kosovo
25 Liberation Army/ uniform, a short military tunic top. We greeted

Witness: Nuhi Bytyqi (Open Session)

Page 16642

Examination by Mr. Halling

1 each other. He introduced himself to us as Commander 'Gjarper
2 /Snake/'. Later I learned that he was Hashim Thaci, who was in the
3 meantime appointed as the political leader of the KLA."

4 You write "after a short while" here in the book. Does this
5 happen the same day as the Flurim Gashi conversation on the previous
6 page?

7 A. Yes. This was on the same day. At the time, Mr. Thaci was in
8 charge of information. And then in November 1998, he was the KLA
9 political spokesperson.

10 Q. What we have here is that Hashim Thaci was the KLA political
11 spokesperson. Is that your evidence?

12 A. He -- it didn't say that he was a spokesperson but in charge of
13 the information.

14 Q. So why don't we go to page 247 of the book then, SPOE00128617,
15 and it's describing a phone call that Hashim Thaci had with you.

16 Yes. So it says:

17 "On the night of 10th-11th June 1998, very late, Hashim Thaci
18 telephoned me ..."

19 Now, Witness, I'll stop there. So is this about ten days or so
20 after your first meeting with Hashim Thaci we were just discussing?

21 A. Yes, that's correct. It's correct. On the night -- between the
22 10th and the 11th June 1998.

23 Q. And now:

24 "He said to me: 'The KLA General Staff has appointed Professor
25 Jakup Krasniqi to be the spokesman of the Kosovo Liberation Army.

Witness: Nuhi Bytyqi (Open Session)

Page 16643

Examination by Mr. Halling

1 Can you come to the Llapushnik Gorge tomorrow in order to carry out
2 an interview with the KLA spokesman?'"

3 Now, just to stop there. So was Jakup Krasniqi appointed the
4 spokesman of the KLA and you learned this on 11 June 1998?

5 A. Yes, I learned this from Mr. Thaci, and then the news was
6 published in the media at the time.

7 MR. HALLING: So now if we could open U015-8743 to U015-8935,
8 and specifically page U015-8833.

9 Q. And, Witness, while this is being pulled up, are you familiar
10 with a book written by Jakup Krasniqi entitled "The Big Turn"?

11 A. Yes, Mr. Krasniqi published this book. He offered me a copy. I
12 read it partially. I didn't manage to read it entirely. And this is
13 what I've stated previously.

14 MR. HALLING: And the specific page in both Albanian and English
15 would be U015-8833.

16 Q. And, Witness, do you know where Mr. Krasniqi was living at the
17 time that he became the spokesperson?

18 A. I don't know where exactly was he living, but I know he's from
19 the village of Negroc, municipality of Drenas.

20 Q. Thank you. So on this page, I only see the English version on
21 the screen, but maybe I'll just proceed with it and you can hear
22 through the interpretation. It provides -- this is from
23 Jakup Krasniqi's book:

24 "... the KLA GS announced on 11 June 1998 by political statement
25 no. 3 that the spokesperson of the KLA GS was Jakup Krasniqi, the

Witness: Nuhi Bytyqi (Open Session)

Page 16644

Examination by Mr. Halling

1 history teacher from Negroc of Drenica."

2 So, Witness, is what Jakup Krasniqi has written here -- you
3 learn the same information on the same day; is that right?

4 A. Yes, it would appear it's the same date.

5 Q. And it says a little bit further down on the page, and if maybe
6 we could scroll, this make -- Jakup Krasniqi then gives the makeup of
7 the KLA General Staff at the time, and he says:

8 "This make up of the KLA GS was confirmed in the GS Meetings
9 held in Negroc ..."

10 Witness, are you familiar with GS meetings held at Negroc around
11 this time?

12 A. No, I'm not.

13 Q. Did you meet with any KLA General Staff members in the days
14 around 11 June 1998?

15 A. I met with Mr. Kadri Veseli in Negroc before preparing the first
16 interview with the spokesperson, Mr. Jakup Krasniqi, in June 1998.

17 Q. Now, Witness, you made a map during the preparation session; is
18 that right?

19 A. Yes.

20 MR. HALLING: If we could get that up on the screen. It's in
21 Preparation Note 2, and it's the last page, 121260 to 121271, and
22 it's page 121271.

23 Q. And, Witness, you talk at length in your book about this
24 sequence of events. I'll just ask a few quick questions about
25 geography.

Witness: Nuhi Bytyqi (Open Session)

Page 16645

Examination by Mr. Halling

1 MR. HALLING: But the relevant pages of the book are 249 to 251
2 in particular. Thank you.

3 Q. Now, Witness, is this the map that you drew during the
4 preparation session?

5 A. Yes.

6 Q. So on 13 June 1998, you met Kadri Veseli at Negroc, and then he
7 made an arrangement for an Idriz Hysenaj to drive you to Terpeze; is
8 that correct?

9 A. Correct.

10 Q. And in order to get from Negroc to Klecke, was it necessary to
11 go through Terpeze at this time?

12 A. Yes.

13 Q. So once at Terpeze, as I understand it, you are then taken by
14 Haxhi Shala from Terpeze to Klecke?

15 A. Yes, by Haxhi Shala.

16 Q. Then at Klecke, you eventually meet up with Fatmir Limaj and
17 Kadri Veseli again, where on June 14 you film the first spokesperson
18 appearance?

19 A. Yes.

20 Q. Before playing a small part of that video, I just wanted to look
21 at a couple -- one photo in addition to the map that you've drawn.

22 MR. HALLING: Could the Court Officer please pull up
23 SPOE00213798 to 00213850, and it would be page SPOE00213800.

24 Q. And, Witness, while that's being pulled up, just to confirm it's
25 on the record, about how far is Negroc from Terpeze?

Witness: Nuhi Bytyqi (Open Session)

Page 16646

Examination by Mr. Halling

1 A. About 15 to 20 minutes drive, knowing that at the time the road
2 was not asphalted so you had to drive at a slower pace.

3 Q. So, Witness, on this page, what is the building on the far left,
4 the left-most building on the photo?

5 A. This was the seat of the unit Pellumbi, where I filmed the first
6 public appearance of Mr. Krasniqi.

7 Q. And on which side of the building was the appearance filmed?

8 A. On this side.

9 Q. Now, there's a field in the upper left-hand corner that we can
10 see in this photo. Did you film anything in that field later in the
11 war?

12 A. Yes.

13 Q. What was it?

14 A. During the war, we filmed the solemn oath ceremony of the Kosovo
15 Liberation Army for the purpose of the first documentary dedicated to
16 the Kosovo Liberation Army.

17 Q. Thank you.

18 MR. HALLING: Your Honours, at this time we would tender the
19 witness's annotated map from the preparation session, this would be
20 page 121271 of Preparation Note 2, as well as this aerial photo of
21 Klecke, including the witness's annotation, which would be
22 SPOE00213800. It's part of a broader photo array, but we only intend
23 to tender that picture at this time.

24 PRESIDING JUDGE SMITH: Any objection?

25 No --

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16647

1 MR. MISETIC: No.

2 PRESIDING JUDGE SMITH: -- objection. The map at 121260 -- I'm
3 sorry, 121271 is admitted.

4 THE COURT OFFICER: So from the ERN 121260 to 121271, exact page
5 121271, will be assigned Exhibit P01270. Thank you, Your Honours.

6 PRESIDING JUDGE SMITH: And SPOE00213800, the photograph, is
7 admitted.

8 THE COURT OFFICER: And this particular page being annotated
9 will be assigned Exhibit P01271. Thank you, Your Honours.

10 MR. HALLING: Thank you.

11 Now, we'd ask if the Court Officer could please pull up P01255,
12 which is a video. And specifically from timestamp 01:17 to 01:44.
13 But once we get it on the screen, I'd actually like to pause for a
14 moment before the video is played and ask the witness a question.
15 The corresponding transcript page would be transcript page 1.

16 Q. And, Witness, I suppose as this is being pulled up. At the
17 moment on June 1998 where you're filming the first public appearance
18 of Jakup Krasniqi as spokesperson, who was everyone there when that
19 was being filmed?

20 A. In the background, there was Fatmir Limaj and Ferat Shala.
21 Behind the camera was Mr. Veseli.

22 MR. HALLING: And just to confirm for the Court Officer, it's
23 061427-01. That's the ERN of the video. It was one of the
24 associated exhibits, so it got admitted into evidence today. The
25 number I had was P01255.

Witness: Nuhi Bytyqi (Open Session)

Page 16648

Examination by Mr. Halling

1 PRESIDING JUDGE SMITH: It's gotta be 1255.

2 MR. HALLING: Thank you.

3 PRESIDING JUDGE SMITH: We have not made it to the 2000s yet.

4 MR. HALLING: We will yet get there, but, yes, thank you for the
5 correction, Your Honour. 1255.

6 Q. And, Witness, just to complete the answer: Who was the
7 cameraman that was filming this with you?

8 A. The cameraman was Abaz Reka [as interpreted].

9 MR. HALLING: And if we go to the 01:17 mark of the video. And
10 just -- so 10 seconds later. Thank you.

11 Q. Now, Witness, just going from left to right in the still at
12 minute 01:17, who are these people?

13 A. As I stated before, in the middle you see Mr. Jakup Krasniqi; on
14 the left-hand side, Mr. Ferat Shala; and on the right-hand side,
15 Mr. Fatmir Limaj.

16 Q. And this is the first appearance video that you shot at Klecke
17 on 14 June 1998?

18 A. Correct.

19 MR. HALLING: Could the Court Officer please play from here
20 until 01:44.

21 [Video-clip played].

22 THE INTERPRETER: [Voiceover] "... is of the opinion that at this
23 stage of the -- that political pluralism at this stage of the war is
24 a luxury. Our people need a serious political military force that
25 fights for freedom, liberation, and unification. The Kosovo

Witness: Nuhi Bytyqi (Open Session)

Page 16649

Examination by Mr. Halling

1 Liberation Army is prepared to fight until victory."

2 MR. HALLING: Thank you.

3 Q. Witness, we're about to start a new topic. There's a couple
4 minutes left. I can get started before the break.

5 MR. HALLING: If we could please go to SPOE00204122. It is a
6 photograph. And if we could just put that on the screen. This
7 photograph is also in the witness's book on page 350, but it's a
8 blown-up version of the photograph.

9 And just one moment for the persons in the photograph to be on
10 the screen. Thank you.

11 Q. Witness, around when was this photograph taken?

12 A. Exactly on 17 June 1998.

13 Q. Going from left to right, could you please identify the people
14 in the photograph?

15 A. Yes. We see Mr. Hashim Thaci, Mr. Kadri Veseli, myself, and
16 Xhavit Ferizi, Commander Raketa.

17 Q. And where is this photograph shot?

18 A. This was shot in Bardh i Madh.

19 Q. There's a video that you also filmed at this place.

20 MR. HALLING: And maybe we can sneak it in. It's only 20
21 seconds. 095692-01 is the video. It has no -- there's no need for a
22 transcript. It's just visuals. We want it played from the 20-second
23 mark to the 40-second mark.

24 THE COURT OFFICER: I kindly ask the ERN to be repeated. Thank
25 you.

Witness: Nuhi Bytyqi (Open Session)

Page 16650

Examination by Mr. Halling

1 MR. HALLING: 095692-01. And it's timestamp 20 seconds to 40
2 seconds.

3 And if we could just play those from 20 seconds to 40 seconds.

4 [Video-clip played]

5 MR. HALLING:

6 Q. Witness, is this also footage you took from Bardh i Madh on
7 17 June 1998?

8 A. Yes. This footage was filmed by the cameraman, Zeka, on 17 June
9 1998.

10 MR. HALLING: And if we could go to the 27-second mark and
11 pause. Just the still of that timestamp.

12 Q. Going from left to right, who are the people in this still?

13 A. Isak Qolli, Kadri Veseli in the middle, and Hashim Thaci on the
14 right-hand side.

15 MR. HALLING: Mr. Qolli is described further in the witness's
16 book. We would tender the photograph and this video, and then at
17 that point we would suggest taking the lunch break. So it's
18 SPOE00204122 for the photograph, 095692-01 for the video.

19 PRESIDING JUDGE SMITH: Any objection?

20 MR. MISETIC: No objection.

21 MR. TULLY: No, Your Honour.

22 PRESIDING JUDGE SMITH: SPOE00204122 is admitted.

23 THE COURT OFFICER: And will be assigned Exhibit P01272.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 I'm sorry, 095692-01 is admitted.

1 THE COURT OFFICER: And will be assigned Exhibit P01273.

2 Currently classified as public. Thank you, Your Honours.

3 PRESIDING JUDGE SMITH: All right. Thank you.

4 Witness, we'll take a lunch break now. It'll be an hour and a
5 half. We'll be back here at 2.30. Thank you for your attendance.
6 We hope you enjoy your lunch.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: Mr. Emmerson.

9 MR. EMMERSON: Obviously -- are you able to hear me okay?

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. EMMERSON: Obviously taking instructions on the evidence of
12 this witness because it involves a concentration of audio-visual
13 materials requires us to be able to speak to our client downstairs
14 with the benefit of a laptop.

15 Now, it's not the normal policy downstairs in the cell area to
16 allow counsel to carry a laptop into the unit. We have written for a
17 special request for this lunchtime break so that we can take a laptop
18 in and go through certain passages of video.

19 I'm sure it would greatly assist a positive resolution of that
20 if the Court were to indicate that that would be helpful to enable us
21 to be able to take instructions.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 [Trial Panel confers]

24 PRESIDING JUDGE SMITH: We assume this can be done without being
25 on wifi. It can be done within the laptop you have.

1 MR. EMMERSON: Yes, absolutely. It does not need wifi.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. EMMERSON: Thank you. Thank you.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. EMMERSON: Sorry, could you --

6 PRESIDING JUDGE SMITH: It would be helpful, but we obviously
7 don't want any type of broadcasting through wifi, so --

8 MR. EMMERSON: No, no. So the only -- it's to avoid us having
9 to ask you to take time out of court sitting time and do it in the
10 courtroom.

11 PRESIDING JUDGE SMITH: Understood. No problem. No, we have no
12 objection to it.

13 MR. EMMERSON: Thank you very much.

14 PRESIDING JUDGE SMITH: Yes.

15 MR. MISETIC: Mr. President, one other issue I've e-mailed the
16 SPO about an hour ago. The SPO on direct led evidence of the witness
17 having notes of specific dates, and I noted in the e-mail that in his
18 SPO interview the Prosecutor says that he had been served with a
19 subpoena to produce documents to the interview.

20 We've checked. We don't have a copy of the subpoena. We'd like
21 to be able to check the subpoena to see if those notes were subject
22 to the subpoena and then explore with him on cross-examination in
23 case they were. So we'd like to do that before cross-examination
24 begins.

25 PRESIDING JUDGE SMITH: Any problem with that?

1 MR. HALLING: No, Your Honour. We'll provide --

2 PRESIDING JUDGE SMITH: You may do that during the lunch hour.

3 MR. HALLING: Yes.

4 PRESIDING JUDGE SMITH: Fine.

5 Thank you very much. We'll be adjourned until 1.30.

6 [Microphone not activated] ... I'm sorry. [Microphone not
7 activated].

8 --- Luncheon recess taken at 1.06 p.m.

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

10 PRESIDING JUDGE SMITH: Before we bring the witness in, we have
11 a few items to take care of.

12 Mr. Court Officer, I think you wanted to straighten out the
13 admitted documents.

14 THE COURT OFFICER: Thank you, Your Honours.

15 I just wanted to confirm for the record about the SPOE0012857 to
16 00128954. That will be now the Exhibit P01264 instead of the excerpt
17 that was previously admitted to the record.

18 And I would like to ask the SPO if they can come back to us with
19 the clarifications of the classification of Rule 154. There are
20 still inconsistencies between the redactions and the videos. For
21 example, one of the items would be public; another one, confidential.
22 So if that could be put in an e-mail and sent to us, that would be of
23 a great help.

24 MR. HALLING: Yes, we're happy to do that. And just on this
25 regard, we were talking with the Registry also over the lunch break

1 about if there's anything that we can do to increase the speed when
2 we transition between documents.

3 The Court Officer, before the examination, already has a list of
4 everything that we intend to use today with timestamps and in order,
5 and we were talking and hopefully we've come up some things which may
6 assist this session. So we're grateful to the Registry for their
7 assistance.

8 PRESIDING JUDGE SMITH: All right. Judge Mettraux had a couple
9 of questions for two of you, I think.

10 JUDGE METTRAUX: Thank you, Judge Smith.

11 Starting with you, Mr. Halling, I'd like to ask you about the
12 purported relevance of Exhibit P1269 MFI. I'd like to be clear about
13 what you say is the relevance of the document. And in particular,
14 I'd like to know whether you are seeking to offer it to establish
15 what you say was the chain of command or hierarchy of the KLA in May
16 1998 or if it is for the purpose of corroborating the account of this
17 witness, in particular, and the accuracy of his book, or, of course,
18 in relation to both of these aspects or any other.

19 In other words, can you be more specific in relation to what you
20 say is the relevance of that document?

21 MR. HALLING: Yes. And it would primarily be the first of the
22 options that Your Honour gave. We have lots of evidence about Drenoc
23 in May 1998 and the significance of that place, the role of the
24 accused at that place, who was appointed to run that place. And I'm
25 happy to give exhibit numbers or witnesses, but I believe the Panel

1 is already familiar with them to hand.

2 This report fits within the totality of that evidence. And the
3 fact that this witness has identified his name and his contact number
4 at the time is a further indication that it is authentic because the
5 KLA General Staff that was in contact with this witness, one of its
6 members has this found at his house. So it goes to bolstering the
7 authenticity of the document.

8 JUDGE METTRAUX: And would your answer be the same about P1265
9 MFI, or does it have a different relevance to the case, according to
10 you?

11 MR. HALLING: It has -- it is also relevant to the KLA command
12 over the area. It is one of the earliest KLA notebooks that we have
13 on our list of exhibits, and it talks about many events in Likoc from
14 May 1998, including the first military police station being
15 established there in May 1998.

16 So the notebook itself has lots of significant details about the
17 way this part of the -- the way Drenica was working at this time.
18 And the fact that the witness is able to confirm that the entry in
19 relation to him is exactly what he was doing at exactly that time we
20 would argue is sufficient to give the document as a whole *prima facie*
21 admissibility.

22 In that sense, it's no different from documents used with
23 witnesses like W04748, where a notebook where the witness, despite
24 never having seen it, was able to comment on the part of it and
25 affirm its veracity, gave sufficient *prima facie* admissibility to the

1 whole.

2 JUDGE METTRAUX: Thank you, Mr. Halling.

3 And, Mr. Misetic, I have another question, but, of course, if
4 you feel you should respond to these submissions, I'll give you the
5 chance as well.

6 It's about your application of yesterday in relation to giving
7 you notice of Judges using 103 material. What I wanted to know from
8 you is this: When you asked us about giving you notice in relation
9 to 102(3) material, I understood your application to be based on the
10 fact that you did not necessarily have notice of the document, for
11 obvious reasons.

12 In relation to 103 material, the rule is quite different in the
13 sense that you are all four teams receiving the material in question,
14 so you are in possession of it.

15 So my question to you is simply to say what's the reason for you
16 to wish to have this indication? Is it simply to enable you -- or is
17 it to enable you to prepare in relation to that material or is there
18 any other reason you wish to have that notice?

19 MR. MISETIC: Yes, it is to -- for preparation purposes.
20 Obviously, the queues, the disclosures by the Prosecution and all
21 parties, serves a purpose, and that's -- for example, you wouldn't
22 allow the SPO to show up with a Rule 103 document and just say,
23 "Well, it's 103, you're on notice and we can use it." There's a
24 purpose behind it and it involves the rights of the accused.

25 The Appeals Panel's decision -- and I'm trying to pull it up

1 right now, if you just give me a minute, yes. The Appeals Panel's
2 decision on the issue of the questioning by Judges at paragraph 32
3 did put a limit on judicial questioning, and it says:

4 "Judicial questioning can be very broad provided that such
5 questioning does not lead to the apprehension of bias, suffering of
6 prejudice, or otherwise encroach upon the rights of the accused.
7 Similarly, the Panel finds that the Trial Panel is not constrained to
8 questioning witnesses on facts and issues already examined by the
9 parties provided that no party suffers prejudice and that the rights
10 of the accused are respected in accordance with Article 21 of the
11 Law."

12 And so our position is that in the appeal, the Appeals Panel
13 said that because we had notice of documents that are on the SPO
14 exhibit list, then we were on notice of it. But it didn't decide
15 question of what about materials from the internet, what about
16 materials under Rule 103, et cetera. We would argue that there has
17 to be some realm of reasonability in terms of what we're on notice of
18 in terms of being prepared to come to court and be ready to question
19 witnesses.

20 Our application is simply that since I know you're prepared
21 before the witness takes the stand of what you want to ask, if we
22 could get notice of that as well so that we could be fully prepared,
23 it would be very -- not only useful for the Defence, but I think
24 would be consistent with the rights of the accused. Thank you.

25 JUDGE METTRAUX: Thank you.

1 MR. TULLY: And, Your Honour, I just want to repeat our
2 objection at the very end of my objection to the notebook. And
3 Mr. Halling said that this is no different from documents used with
4 witnesses like W04748, and he said that the witness was able to
5 comment on part of it, and that, to us, is significant.

6 This isn't just one page that the witness is being asked to
7 comment on. It's two lines in one page. The entire book itself --
8 and I've put on the record our objections related to multiple
9 authors, so on and so forth. But for us, what the witness is able to
10 talk about in relation to this one or two lines in the book is simply
11 not enough to get the entire document in for the purposes of 138.

12 Thank you, Your Honour.

13 PRESIDING JUDGE SMITH: Thank you very much.

14 As to DHT03942 through DHT03946-ET, plus Albanian, that's the
15 one you talked about the relevance about this morning, Mr. Misetic,
16 that will be admitted as requested.

17 Please give it an exhibit number. That's the entire document.

18 THE COURT OFFICER: That's correct, Your Honour. And yesterday
19 we admitted only two first pages, which is DHT03942 to DHT03943. Now
20 the entire document will take over --

21 PRESIDING JUDGE SMITH: So it's 1D0155?

22 THE COURT OFFICER: That's correct, Your Honour. It's 1D00155.
23 Thank you, Your Honours.

24 PRESIDING JUDGE SMITH: All right.

25 Now, on the notebook, which is SPOE00226537 to 0022613, that is

Witness: Nuhi Bytyqi (Open Session)

Page 16659

Procedural Matters

1 marked as MFI P01265. We will admit the one page, which I believe is
2 00226545. The balance of it, you can submit -- you can request
3 through the bar table.

4 And the same goes to MFI P01269. That will maintain its MFI
5 status, and you can ask its submission through the bar table. And I
6 believe that brings us up to date. Yes.

7 So, Madam Court Usher, you may bring the witness in.

8 MR. MISETIC: While the witness is coming in, may I just inquire
9 with the Prosecution if you intend to go the rest of the day?

10 MR. HALLING: In part because of the issue that I mentioned, we
11 are going a little bit slower than anticipated. Our estimate would
12 naturally have us finishing in the first session tomorrow, and that's
13 my expectation, so I would expect the balance of today.

14 MR. MISETIC: Thank you.

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: Welcome back, Witness.

17 THE WITNESS: [Interpretation] Thank you.

18 PRESIDING JUDGE SMITH: We will continue now. I remind you once
19 again that you are still under an obligation to tell the truth as set
20 out in your declaration from yesterday.

21 Mr. Halling is still asking questions. We will continue with
22 him.

23 MR. HALLING: Thank you, Your Honour.

24 And we would ask the Court Officer to please pull up U015-8743
25 to U015-8935, and it's page U015-8838 in Albanian and English. This

Witness: Nuhi Bytyqi (Open Session)

Page 16660

Examination by Mr. Halling

1 is another page from Jakup Krasniqi's book, "The Big Turn."

2 Q. Witness, I have a few more questions for you in relation to
3 Bardh i Madh, which we were discussing just before the break. I want
4 to show you another page of Jakup Krasniqi's book. But while we're
5 waiting to have that pulled up, just to confirm, is Bardh i Madh and
6 Belacevac the same place?

7 A. Yes. Bardh i Madh is in Albanian, the equivalent of Belacevac
8 in Serbian, Croatian language. It's the same place.

9 Q. And I understand that the KLA captured this area around 17 June
10 1998; correct?

11 A. Yes.

12 Q. Why was this area of such strategic significance?

13 A. It was of extraordinary strategic importance because it was the
14 main line for the production of electricity in the thermo power
15 stations, Kosova A and Kosova B.

16 MR. HALLING: And again for the Registry, and it's indicated in
17 our chart, it's page 8838.

18 Q. And, Witness, you said it was a main line for the production of
19 electricity. It's a mine; correct?

20 A. Yes, it was a coal mine. It's a surface coal line. It's not
21 underground. It's above ground.

22 MR. HALLING: And thank you for the Court Officer.

23 Q. This is a page where Jakup Krasniqi has written the following:

24 "... Bislime Zyrapi to make a professional assessment of the
25 attack on Bardh i Madh and Rahovec ... concluded in both cases that

Witness: Nuhi Bytyqi (Open Session)

Page 16661

Examination by Mr. Halling

1 we had not made the necessary preparations yet to carry out such
2 operations. So, [the General Staff or] GS did not give consent to
3 carry out attacks against those two locations. However, after the
4 operations started, GS members were forced to get involved in the
5 organisation of the fight, and they were also active participants in
6 the fighting."

7 Witness, do you have any personal knowledge about the events
8 Jakup Krasniqi is describing here about Bardh i Madh?

9 A. I cannot comment on Mr. Krasniqi's analysis. I was not part of
10 the General Staff of the KLA. But as a journalist, I was informed
11 that the KLA entered the coal mine in Bardh i Madh and placed it
12 under its control.

13 Mr. Thaci and Mr. Veseli did not take part in the fighting that
14 took place in Bardh i Madh. But together with a television crew, me
15 and Abaz Zeka, we went there to shoot the situation there in this
16 open-pit mine. That was the main purpose of our visit together with
17 Mr. Thaci and Mr. Veseli. Only to monitor the situation and to shoot
18 the images that we did in order to broadcast them also in the
19 international media, from the AP News Agency and Euro News too,
20 broadcast the shots that my cameraman took there.

21 I have to add that the Kosovo Liberation Army showed great will
22 in its fight for the liberation of the country, but the ratio of the
23 forces between the KLA and the Serb police and army forces was not
24 favourable for the former because the latter had an extraordinary
25 potential of weapons, and the entire Serb apparatus was focused on

Witness: Nuhi Bytyqi (Open Session)

Page 16662

Examination by Mr. Halling

1 fighting not only against the KLA but also the civilian population.

2 It is a fact that the Serb police and army and the entire
3 Serbian regime conducted over 400 massacres against the civilian
4 population, killing over 10.000 civilians --

5 Q. Witness --

6 A. -- and violating 20.000 Albanian ladies.

7 Q. Witness, please. My questions are limited to the subject that
8 I'm asking you about. So do you have any reason to dispute what
9 Jakup Krasniqi has written in the excerpt I read to you?

10 A. I am not the one to admit or dispute it. We are talking about
11 his opinions. I just wanted to point out that the KLA lacked the
12 necessary potential to keep this mine under its control and along
13 with Rahovec.

14 Q. Witness, you were talking about the international media interest
15 in these events. How widely reported was the KLA seizing control of
16 Bardh i Madh?

17 A. It was a very important event for the international relevant
18 diplomatic factors. We cooperated with our colleagues from
19 international news media, and we have provided them news for them to
20 broadcast. We wanted the world to know what was going on in Kosovo
21 in an objective way.

22 MR. HALLING: [Microphone not activated].

23 THE INTERPRETER: Microphone, please.

24 MR. HALLING: Thank you. Could the Court Officer please pull up
25 IT-03-66 P233. It's a *New York Times* article of 30 June 1998. And

Witness: Nuhi Bytyqi (Open Session)

Page 16663

Examination by Mr. Halling

1 please go to the last page, which is U008-8014.

2 Q. Witness, did you yourself see some of the media reporting about
3 this event?

4 A. Yes, I did see the images broadcast in international media
5 outlets, like in CNN, BBC, Euronews, and other international media.

6 Q. So did you see references in that media to the KLA kidnapping
7 several Serbian mineworkers in this Bardh i Madh seizure?

8 A. No, I didn't have any such information. There was fighting
9 between a KLA unit and Serb forces and the security forces in Bardh i
10 Madh. I didn't have more detailed information.

11 Q. So on this page here, for instance, it says in the *New York*
12 *Times*:

13 "The rebels took over the huge open pit coal mine last week and
14 kidnapped several Serbian mineworkers, halting all mine production."

15 You never saw this reported in the international media you were
16 referencing?

17 A. No. We didn't receive such newspapers at that time in
18 Prishtine.

19 PRESIDING JUDGE SMITH: Witness, Witness, please do your best to
20 slow down. I know it's difficult. We all have the same problem.

21 MR. HALLING: Could the Court Officer now please pull up 101766
22 to 101767, and it's the first page.

23 THE INTERPRETER: Interpreter's note: The speaker is kindly
24 asked to indicate exactly the line that he's reading from as we don't
25 have it highlighted. Thank you.

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16664

1 MR. HALLING: So it's a little further down the page as it
2 appears now, and it is specifically in the paragraph that begins: "It
3 is unclear ..."

4 Q. In the last sentence, and, Witness, I'll read this for you
5 through the interpretation, it's talking about Belacevac, and:

6 "In the offensive by the KLA, the rebels took at least nine Serb
7 mineworkers hostage."

8 So, Witness, I ask again: You never saw any allegation in the
9 international media that you read about the KLA capturing Serb
10 mineworkers?

11 A. No. I didn't receive such detailed information. We only saw
12 some images depicting the open pit coal mine of Bardh i Madh.

13 MR. HALLING: Could we now pull up 101600 to 101600.

14 Q. And as that's being pulled up, Witness, did you hear about this
15 information about captured Serbian mineworkers anywhere, even beyond
16 the international media?

17 A. I did not hear then or up to now.

18 Q. So what I'm reading to you over the last two articles is news to
19 you?

20 A. It is.

21 Q. The beginning of this one, and it's from *The Times*, 2 July 1998,
22 that:

23 "Nine Serb hostages held by the Kosovo Liberation Army ... are
24 believed to have been murdered as Serb forces recaptured a crucial
25 coalmine which had been taken by ethnic Albanian rebels."

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16665

1 You've never heard any information about these people being
2 killed from Bardh i Madh?

3 A. I already told you, and I'm repeating, I didn't hear this then,
4 not -- and even now. No, I haven't.

5 Q. And, Witness, I'll just close this. I put it to you that anyone
6 as familiar with the international media on this incident as you say
7 would have inevitably seen these kind of allegations one way or
8 another. How do you respond to that?

9 MR. MISETIC: Mr. President, may I -- and I'm sorry to
10 interrupt. May I ask for a submission on relevance on this
11 particular incident? I'm trying to find where it is in the pre-trial
12 brief.

13 PRESIDING JUDGE SMITH: If we can get an answer first from the
14 witness.

15 MR. MISETIC: Okay.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. HALLING: The notice of the accused as to whether the KLA is
18 committing crimes is a central issue in this trial. And just like
19 the Rahovec offensive, which happens shortly after these events in
20 Bardh i Madh, there are lots of allegations both of crimes being
21 committed by the KLA in this area, it's done at an early point in the
22 charged timeframe, and, as indicated by the documents previously
23 shown and the witness's evidence, the General Staff was all over this
24 place during the period where the KLA was in control.

25 MR. MISETIC: Then I'm going to object. It's clearly not a

Witness: Nuhi Bytyqi (Open Session)

Page 16666

Examination by Mr. Halling

1 charged incident in the indictment. And there's, again, lack of
2 proper notice for the Defence to have investigated this incident
3 given that he's trying to impute knowledge to the accused
4 specifically.

5 And I say it looks like he's trying to impute it to the accused
6 specifically, according to that last submission. There's inadequate
7 notice, and we object.

8 MR. EMMERSON: May I add my voice to that objection. The
9 principle that I think Mr. Halling is adverting to is that where it
10 can be proved that a crime was committed, and it can be proved that
11 there was knowledge by a senior who had the knowledge and authority
12 to prevent or punish, then it's capable of being relevant to the
13 state of knowledge of the principle.

14 Here, these are allegations. There's no evidence being called
15 by the Prosecution to suggest that they're true. They're simply
16 allegations. They don't prove themselves. And to be tendering a
17 newspaper as proof of the truth of the content of an allegation which
18 isn't pleaded in the indictment, supported by the pre-trial brief, or
19 as evidence as fact, it's an entirely impermissible line of logical
20 reasoning.

21 PRESIDING JUDGE SMITH: Thank you.

22 [Trial Panel confers]

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 The material that is being discussed certainly cannot be used at
25 this point with this information to prove the truth of the facts

Witness: Nuhi Bytyqi (Open Session)

Page 16667

Examination by Mr. Halling

1 asserted therein, but it could go to credibility of this witness, and
2 we will accept it for that purpose only.

3 MR. HALLING: Thank you, Your Honour.

4 The proposition I put to the witness was never --

5 PRESIDING JUDGE SMITH: I wasn't very clear. The objection's
6 overruled.

7 Go ahead.

8 MR. HALLING: I followed.

9 PRESIDING JUDGE SMITH: Okay.

10 MR. HALLING: But in fairness to the witness, he never did get
11 to respond --

12 PRESIDING JUDGE SMITH: No.

13 MR. HALLING: -- to the proposition that I put to him.

14 Q. So, Witness, would you like me to repeat the proposition that I
15 put to you so that you can give your response?

16 A. Mr. Prosecutor, I gave you three replies. I told you I had no
17 information then or now. Please don't provoke me further.

18 PRESIDING JUDGE SMITH: Witness, please just do your best to
19 answer the questions that are given to you. Other people may have
20 more questions for you about the same subject.

21 Go ahead, Mr. Halling.

22 MR. HALLING: Thank you.

23 PRESIDING JUDGE SMITH: Repeat the question.

24 MR. HALLING: I mean, the witness's answer is his answer,
25 Your Honour. I don't need to repeat it. Our position is clear.

Witness: Nuhi Bytyqi (Open Session)

Page 16668

Examination by Mr. Halling

1 Given that we were permitted to use these documents, and in
2 light of Your Honours' ruling, we would tender the media articles.
3 This would be IT-03-66 P233, and then 101766-101767, and 101600 to
4 101600.

5 PRESIDING JUDGE SMITH: IT-03-66 P233 --

6 MR. HALLING: Correct, Your Honour.

7 PRESIDING JUDGE SMITH: -- is admitted.

8 Oh, you want to object? Go ahead. I'm sorry.

9 MR. MISETIC: Absolutely. Mr. President, this goes to the
10 submission I made this morning. They're not allowed, under the
11 rules, to do this. So your ruling is that you're admitting it for --
12 or you're allowing the questioning for purposes of credibility.

13 PRESIDING JUDGE SMITH: Yes.

14 MR. MISETIC: The Prosecution, under Rule 143, is not allowed to
15 admit it for purposes of impeaching the credibility of their own
16 witness. Subsection (1) is clear that if he made a prior
17 inconsistent statement, they could then move in to start trying to
18 impeach their witness. There has been no prior inconsistent
19 statement here. He's never claimed to have knowledge of these
20 events.

21 And so because 143 is *lex specialis*, they can't move in
22 materials here which are going to be admitted solely for the purpose
23 of them attacking their own witness's credibility.

24 PRESIDING JUDGE SMITH: Thank you.

25 Anybody else or are you just going to repeat the same thing?

Witness: Nuhi Bytyqi (Open Session)

Page 16669

Examination by Mr. Halling

1 MR. EMMERSON: Precisely.

2 PRESIDING JUDGE SMITH: Yeah.

3 [Trial Panel confers]

4 PRESIDING JUDGE SMITH: We will mark that MFI and take it into
5 consideration.

6 Thank you, Mr. Misetic.

7 Thank you, Mr. Halling.

8 MR. HALLING: Yes. And after the MFI records, I just had one
9 comment on the legal basis, but I'll leave it to the Court Officer.

10 THE COURT OFFICER: Your Honours, just to clarify if my
11 understanding is correct, all three ERNs will be marked as -- okay.

12 In that case, IT-03-66 P233 will be marked for identification as
13 P01274, and it's currently classified as public.

14 ERN 101766 to 101767 will be marked for identification as P01275
15 and is currently classified as confidential.

16 And the ERN 101606 to 101 -- I said 606, my apologies. Again,
17 ERN 101600 to 101600 will be marked for identification as P01276.
18 And it's currently classified as confidential. Thank you,
19 Your Honours.

20 PRESIDING JUDGE SMITH: Any reason these should stay
21 confidential?

22 MR. HALLING: No, Your Honour. They can be public.

23 PRESIDING JUDGE SMITH: We will reclassify all three as public.

24 THE COURT OFFICER: Thank you. That's noted. Thank you,
25 Your Honours.

Witness: Nuhi Bytyqi (Open Session)

Page 16670

Examination by Mr. Halling

1 MR. HALLING: The only point we wanted to make on the statutory
2 basis is, of course, we have gotten permission before to question
3 witnesses about matters which although they say they don't know or
4 don't remember, there are indications that they do. And truth be
5 told, Rule 143, which Defence made reference to, 143(2)(b) does give
6 us license to ask questions about a witness's credibility on "a
7 matter of which the witness may be -- reasonably be supposed to have
8 knowledge and about which it appears to the Panel that, when
9 questioned by a Party, the witness is not making a genuine attempt to
10 give evidence."

11 And once the Defence objected to Your Honours' ruling, and then
12 our tendering of it, we would say, is in conformity with that rule.

13 PRESIDING JUDGE SMITH: Thank you. We'll get a ruling out as
14 soon as possible.

15 MR. HALLING: Thank you.

16 In the course of that as well, Your Honours, we also used
17 another page from Jakup Krasniqi's book. We've actually used a
18 second page from -- in the previous session. This book has been
19 admitted already in parts. It's partly, I believe at P189, P729,
20 P765, but the chapters in which these pages are contained aren't
21 fully in evidence yet.

22 And just to clean up the record on this point, we would ask that
23 at least those 14 pages covering the ones I indicated, which would be
24 U015-8828 to U015-8841 of the longer book, U015-8743 to U015-8935,
25 that they be admitted so that the pages read can be understood in

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16671

1 their full context.

2 PRESIDING JUDGE SMITH: Any objection to that tender?

3 THE WITNESS: [Interpretation] Your Honour, with your permission.

4 PRESIDING JUDGE SMITH: No, not now.

5 MR. MISETIC: No objection.

6 MR. TULLY: No, thank you.

7 MS. ALAGENDRA: Your Honours, we ask only that the pages shown
8 to the witness be admitted.

9 MR. HALLING: This is precisely the purpose of my tender is to
10 provide the context around the pages.

11 PRESIDING JUDGE SMITH: U015-8828 to U015-8841 is admitted.

12 THE COURT OFFICER: And will be assigned Exhibit P01277. Thank
13 you, Your Honours.

14 MR. HALLING: Thank you, Your Honour.

15 Q. Witness, I wanted to move to a new topic with you. I want to
16 talk about the KLA oath ceremony you discuss in your book shot on 26
17 June 1998. But I first want to turn to what you were doing the day
18 before filming in Luzhnica on 25 June 1998. And this is pages 270 to
19 272 of the book.

20 MR. HALLING: Could the Court Officer please pull up 061427-27
21 and its English transcript.

22 Q. Witness, while this is being pulled up, did you conduct
23 interviews in Luzhnica on 25 June 1998?

24 A. Yes, I did. Before I explain this, I wish to note that the
25 document shown to me here previously was not shown to me before until

Witness: Nuhi Bytyqi (Open Session)

Page 16672

Examination by Mr. Halling

1 this moment. Therefore, this, in my view, is an inadmissible
2 provocation that tends to mislead me. This is the first time I see
3 this document.

4 Q. Witness, as a witness, it's not your role to rule on the
5 admissibility of evidence. Please just answer my questions.

6 You see a video on the screen. Who is this person on the
7 screen?

8 A. Yes. On 25 June 1998, I interviewed in Luzhnica
9 Mr. Bislím Zyrapi, who was the chief of the operational staff of the
10 KLA, and Agim Qelaj, a career officer who was one of the best
11 officers that the KLA had.

12 Q. And which of these two people is the one on the screen now?

13 A. Bislím Zyrapi.

14 Q. Thank you.

15 MR. HALLING: Now, if the Court Officer could please play this
16 from here until the 01:04 mark.

17 [Video-clip played]

18 THE INTERPRETER: [Voiceover] "I am a senior military officer
19 trained in military schools. But I also have the experience of the
20 previous wars. We, as senior officers of the Kosovo Liberation Army,
21 are working with all the bodies of the Kosovo Liberation Army to
22 train the officers and soldiers of Kosovo Liberation Army. During
23 our training of the soldiers and officers we are very much impressed
24 by the ability and the speed at which the soldiers and officers of
25 Kosovo Liberation Army, who are trained and become so quickly

Witness: Nuhi Bytyqi (Open Session)

Page 16673

Examination by Mr. Halling

1 prepared to meet the needs of the Kosovo Liberation Army and the
2 needs related to the battles and fighting waged on the territory of
3 Kosovo."

4 MR. HALLING: Thank you.

5 Now could the Court Officer please pull up 061427-26 and its
6 English transcript.

7 Ah. As that's being pulled up, a reminder that I received over
8 the lunch. Apparently some of the videos that are being called up
9 today are not being publicly broadcast. As I indicated, these
10 videos, even the ones with confidential classification, we have
11 picked extracts that can be played for the public. So at least as
12 regards videos, these can be publicly broadcast.

13 PRESIDING JUDGE SMITH: The Court agrees with that.

14 MR. HALLING:

15 Q. And, Witness, as the transcript is being pulled up, who is this
16 person?

17 A. This is General Agim Qelaj.

18 Q. And is this also from Luzhnica on 25 June 1998?

19 A. No, he's not from Luzhnice. He's from Strelle in Decan, lived
20 for a while in Peje, then in Germany, after which he joined the KLA,
21 and he was a senior officer of the KLA. But the interview was
22 conducted in Luzhnice.

23 Q. Yes, you understood me at the end, my question. And this was on
24 25 June 1998 as well? The interview.

25 A. Yes.

Witness: Nuhi Bytyqi (Open Session)

Page 16674

Examination by Mr. Halling

1 MR. HALLING: Could the Court Officer please play from here to
2 44 seconds.

3 [Video-clip played]

4 THE INTERPRETER: [Voiceover] "I'm a Kosovo Liberation Army
5 officer. As soon as the war broke out in the territory of the
6 Republic of Kosovo, I came here from the West and joined Kosovo
7 Liberation Army to pay back the debt I have as an Albanian and as a
8 citizen of the Republic of Kosovo to this land and to these people.
9 There is one thing I noticed when I came here. I noticed a great
10 determination of the civilian population and the members of the
11 Kosovo Liberation Army. However, I also noticed another thing, the
12 fact that a great part of our young people have not done military
13 service. Nevertheless, such a lack has been compensated by their
14 commitment and our maximum engagement. Therefore, the level of
15 combat readiness of our forces, our units on the ground, is ..."

16 MR. HALLING: The last word of the interpretation was cut off,
17 but it was "satisfactory" in the transcript.

18 Your Honour, we would tender these two videos, 061427-26, which
19 is the Agim Qelaj video, and 061427-27, which is the Bislim Zyrapi
20 video, into evidence.

21 PRESIDING JUDGE SMITH: And the transcripts.

22 MR. HALLING: Correct.

23 PRESIDING JUDGE SMITH: Any objection?

24 MR. MISETIC: No objection.

25 MR. TULLY: No, Your Honour.

Witness: Nuhi Bytyqi (Open Session)

Page 16675

Examination by Mr. Halling

1 MS. ALAGENDRA: No objections, Your Honour.

2 PRESIDING JUDGE SMITH: 061427-27 plus the English transcript is
3 admitted. Please assign an exhibit number.

4 THE COURT OFFICER: It will be assigned Exhibit P01278,
5 Your Honours. For the record, it's currently classified as
6 confidential, both video and the transcripts.

7 PRESIDING JUDGE SMITH: Reclassified as public.

8 THE COURT OFFICER: Thank you, Your Honours.

9 PRESIDING JUDGE SMITH: 061427-26 plus the English transcript is
10 admitted and will be assigned an exhibit number.

11 THE COURT OFFICER: It will be assigned Exhibit P01279. As for
12 the classification, it stands the same. It's classified as
13 confidential.

14 PRESIDING JUDGE SMITH: Reclassified as public.

15 THE COURT OFFICER: Thank you, Your Honours.

16 PRESIDING JUDGE SMITH: You may proceed.

17 MR. HALLING: Thank you, Your Honour.

18 The next video to pull up will be 061427-25 and its English
19 transcript, and the timestamp we'll be starting from is at 01:52
20 mark.

21 Q. And, Witness, as that's being pulled up, I now want to ask you
22 about the oath ceremony that you talk about filming in pages 272 to
23 273 of your book.

24 We talked about the field in Klecke. Is this the one that was
25 shot at the field in the picture you identified earlier?

Witness: Nuhi Bytyqi (Open Session)

Page 16676

Examination by Mr. Halling

1 A. Yes, in Klecke, on 26 June 1998.

2 MR. HALLING: And if we can just get the video to the 01:52
3 mark. It would be page 2 of the English transcript.

4 And if the Court Officer could please play from 01:52 to 2:02
5 and then freeze the picture.

6 [Video-clip played]

7 THE INTERPRETER: [Voiceover] "Company, attention! Greetings!"

8 MR. HALLING:

9 Q. This is the oath ceremony footage; correct?

10 A. Correct.

11 Q. Going from left to right in this picture, who are these people?

12 A. Commander Muje Jashari, Commander Fatmir Limaj, and
13 Commander Ismet Jashari, Kumanova.

14 Q. Thank you.

15 MR. HALLING: And, Your Honours, this will be the longest single
16 extract we play with this witness. If we could please play from the
17 02:02 mark to 06:13.

18 [Video-clip played]

19 THE INTERPRETER: [Voiceover] "Mr. Commandant, the company is
20 ready for raising the flag and for taking the military oath.
21 Kumanova reports.

22 "Soldiers and officers! Honour ...

23 "Honour to you!

24 "Attention! Hail the raising of the flag! Attention!

25 "As a member of the Kosovo Liberation Army, I swear that I will

Witness: Nuhi Bytyqi (Open Session)

Page 16677

Examination by Mr. Halling

1 fight for the liberation of Albania's occupied lands and their
2 unification. I will always be a loyal soldier, worthy fighter of
3 freedom, vigilant, courageous, and disciplined, always ready, without
4 sparing my life, to fight to defend the sacred interests of the
5 fatherland. If I violate this oath, let me be punished with the most
6 severe laws of the war. And if I betray, let my blood be lost. I
7 swear!

8 "As a member of Kosovo Liberation Army, I swear that I will
9 fight for the liberation of Albania's occupied lands and their
10 unification. I will always be a loyal soldier, worthy fighter of
11 freedom, vigilant, courageous, and disciplined, always ready, without
12 sparing my life, to fight to defend the sacred interests of the
13 fatherland. If I violate this oath, let me be punished with the most
14 severe laws of the war. And if I betray, let my blood be lost. I
15 swear!"

16 MR. HALLING: Thank you to the Court Officer.

17 That's one more small portion of this video I want to play, and
18 it's actually from an earlier timestamp. It has no words, so if we
19 can make it full screen. And if we can play the 5-second mark to the
20 17-second mark and to freeze at the 17-second mark.

21 [Video-clip played]

22 MR. HALLING:

23 Q. Witness, is this footage of the KLA talking before the oath
24 ceremony that we just saw on 26 June 1998?

25 A. This was during the break in between taking the footage, because

Witness: Nuhi Bytyqi (Open Session)

Page 16678

Examination by Mr. Halling

1 the oath ceremony of the Kosovo Liberation Army was a very
2 significant event. However, we were ill-equipped. We only had a
3 small camera. We couldn't use different angles for the footage or
4 microphones, so we needed to have a break with the cameraman during
5 the shooting of the oath ceremony. So this was one of those breaks.

6 Q. And I think it's clear from your answer, but just for the
7 record, this was also in Klecke on 26 June 1998?

8 A. In Klecke on 26 June, not 25th. 26 June 1998.

9 Q. Understood. The gentleman in the white shirt around the middle
10 of the photo is sitting in a circle. Who is that person?

11 A. This gentleman is Nuhi Bytyqi, the journalist. So myself.

12 Q. Yes. And the person sitting immediately to your left in the
13 circle?

14 A. Mr. Hashim Thaci. Then Xhavit Ferizi, Raketa; then
15 Kadri Veseli; Mr. Fatmir Limaj next; Muje Jashari; and Ismet Jashari,
16 Commander Kumanova. On the left-hand side, there are some other
17 fighters, but I cannot clearly distinguish them.

18 Q. Thank you.

19 MR. HALLING: Now, we'd ask if the Court Officer could please
20 pull up 061427-21. There is no transcript for this one. There's no
21 audible words.

22 THE WITNESS: [Interpretation] The audio is audible. This was a
23 song sung by KLA fighters, songs which KLA fighters used to sing, and
24 this was some sort of a hymn for the KLA.

25 MR. HALLING:

Witness: Nuhi Bytyqi (Open Session)

Page 16679

Examination by Mr. Halling

1 Q. You have a good prediction of what I'm going to play next.

2 MR. HALLING: Yes, if the Court Officer could please play this
3 video, which does, indeed, have music in it, from where it is now to
4 the 02:13 mark.

5 [Video-clip played]

6 MR. HALLING:

7 Q. Witness, is this your footage?

8 A. This footage was filmed by my colleague, Abaz Zeka.

9 Q. When was this filmed?

10 A. This was in the village of Baje in the municipality of
11 Malisheve. This was the wedding of Naser Krasniqi, KLA fighter. So
12 on 26 June 1998, on the same day of the oath ceremony. This was a
13 wedding ceremony. It was the first time during the war when the
14 KLA -- a KLA fighter was getting married, and it was symbolically
15 significant and important. This was a signal that the Albanian
16 people would continue growing, that the liberation war would be
17 triumphant, and we participated in this wedding.

18 MR. HALLING: If we could please go to the 27-second mark and
19 just mark as a still.

20 Q. Witness, I'd just like your assistance in identifying the people
21 who are at this event.

22 So who are the two people on the screen here, from left to
23 right?

24 A. This is Commander Shukri Buja and Naser Krasniqi, who was
25 getting married on that day.

Witness: Nuhi Bytyqi (Open Session)

Page 16680

Examination by Mr. Halling

1 Q. Do you know Naser Krasniqi's nickname during the war?

2 A. Yes, Bashkim Fino.

3 Q. Okay.

4 MR. HALLING: Now, if we could go to the 34-second mark.

5 Q. Going again from left to right, who are these people?

6 A. From left to right, we have Fatmir Limaj, Kadri Veseli, and
7 Musa Jashari.

8 MR. HALLING: And finally at the 44-second mark.

9 Q. Once again, from left to right.

10 A. Xhavit Ferizi, Commander Raketa; Mr. Hashim Thaci; and myself.

11 MR. HALLING: Your Honours, at this time we would seek to tender
12 into evidence the extract of the oath ceremony video in our
13 presentation queue. This is 061427-25, and it's time stamped 00:00
14 to 06:13.

15 We would also tender the Naser Krasniqi wedding video of the
16 same day, 061427-21.

17 We did want to note we have attempted to tender this oath
18 ceremony video previously in August 2023, and it was not admitted on
19 that occasion because there was not sufficient indication as to
20 whether it was an oath ceremony, and the witness in question had not
21 attended the event. We would submit that we have addressed both
22 matters with our examination of this witness, and the items, both
23 videos, should be admitted.

24 PRESIDING JUDGE SMITH: Objection?

25 MR. MISETIC: No objection.

Witness: Nuhi Bytyqi (Open Session)

Page 16681

Examination by Mr. Halling

1 MR. TULLY: No, Your Honour.

2 MS. ALAGENDRA: No objections, Your Honour.

3 PRESIDING JUDGE SMITH: Both documents as enumerated will be
4 admitted and be assigned exhibit numbers.

5 THE COURT OFFICER: Thank you, Your Honours. 061427-25 will be
6 assigned Exhibit P01280, currently classified as confidential
7 together with the transcripts.

8 And 061427-21 will be assigned Exhibit P01281 together with the
9 transcripts in both English and Albanian, currently classified as
10 confidential. Thank you, Your Honours.

11 PRESIDING JUDGE SMITH: Thank you. We'll take a ten-minute
12 break now for the witness's convenience.

13 MR. TULLY: Your Honour, I'd just ask briefly to be heard - it
14 doesn't have to be now but maybe after the break or at the end of the
15 day - regarding Mr. Halling's reliance on 143(2)(b) for the admission
16 of that *New York Times* article.

17 We don't want to go forward with a ruling that doesn't take into
18 account our submissions on it. We believe he's reading that ruling
19 incorrectly, and we'd just like to have our submissions on the
20 record.

21 PRESIDING JUDGE SMITH: All right.

22 MR. TULLY: Thank you.

23 PRESIDING JUDGE SMITH: Not now, not right now.

24 [The witness stands down]

25 PRESIDING JUDGE SMITH: We're adjourned for ten minutes.

1 --- Break taken at 3.32 p.m.

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

3 PRESIDING JUDGE SMITH: All right, Mr. Tully.

4 MR. TULLY: Thank you, Your Honour. Very briefly.

5 Mr. Halling referred to Rule 143(2)(b) as a basis for him
6 tendering that document that was shown to the witness.

7 Now, there's no dispute between us that 143(2)(b) does give --
8 and I'll read it out. A party can ask questions on the -- relevant
9 to the witness's credibility on "a matter of which the witness may
10 reasonably be supposed to have knowledge and about which it appears
11 to the Panel that, when questioned by a Party, the witness is not
12 making a genuine attempt to give evidence."

13 And it finishes there.

14 Now, 143(2)(c) has a second part, which refers to prior
15 inconsistent statements, and that says any such prior inconsistent
16 statement may be admissible.

17 So it's only on the basis of 143(2)(c) that documents may be
18 admitted. That's what's written in the rules itself. 143(2)(b) does
19 not give the power for -- the legal basis for the admission of
20 documents as Mr. Halling is attempting to do.

21 Thank you, Your Honour.

22 MR. MISETIC: Mr. President, that is a point that I was also
23 hoping to make, is that, again, it's *lex specialis*. Only -- the only
24 part of that entire rule that allows document admission for purposes
25 of impeaching one's own witness is in part (c) of subsection (2), and

1 it only refers to a prior inconsistent statement.

2 Now, without even getting into the debate about what is the
3 meaning of prior inconsistent statement, these are newspaper
4 articles, so they can't even conceivably be considered as prior
5 statements of the person. And so therefore, again, we would ask that
6 they not be admitted.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 JUDGE BARTHE: I just wanted to ask both of you, maybe, what
9 about Rule 138?

10 MR. MISETIC: So that's why I say it's *lex specialis*.
11 Otherwise, there would be no need for Rule 143(2)(c) if anything
12 could come in under 138 anyway.

13 JUDGE BARTHE: My point is if both Rule 143(2)(a) and (b) don't
14 cover or -- prior inconsistent statements, as you said, where is the
15 problem to admit documents under Rule 138, because there's no *lex*
16 *specialis*?

17 MR. MISETIC: Yes, but you have to read it in the entire
18 context. The rule defines the circumstances and limits the
19 circumstances in which you can attempt to impeach your own witness.

20 Now, the Panel has already ruled that this material, it will
21 only be considered for purposes of credibility, which by definition
22 means you're only considering it for purposes of their ability to
23 impeach their own witness. And, again, I would argue that if you
24 read 138 so broadly that it can also cover different ways for parties
25 to impeach their own witness, then you essentially render Rule 143

1 superfluous.

2 JUDGE BARTHE: So if I understand you correctly, the *lex*
3 *specialis* character of Rule 143(2)(c), second sentence -- or the *lex*
4 *specialis* character is not only contained in the second sentence but
5 it's also contained in the entire rule?

6 MR. MISETIC: Yes.

7 PRESIDING JUDGE SMITH: So the entire Rule 143.

8 MR. MISETIC: Describes and defines and limits the circumstances
9 in which a party may refresh recollection of their own witness and
10 then proceed to impeach their own witness. Otherwise, I can't see
11 why it wouldn't be superfluous. Why is it there if under 138 you can
12 put anything to your own witness to impeach them for credibility
13 purposes?

14 JUDGE BARTHE: Mr. Misetic, I don't have -- I don't want to
15 engage into a long discussion, but just one brief point or one short
16 point.

17 I don't have the rule in front of me, but if I remember
18 correctly Rule 143 - thank you - paragraph (2) consists of two
19 sentences. At least, there is a second sentence in Rule 143(2)(c),
20 and the only sentence that deals with admission of evidence, or a
21 prior inconsistent statement as you correctly pointed out, is the
22 second sentence in letter (c). So all other -- and I think you also
23 correctly mentioned that. All other scenarios that are covered by
24 Rule 143(2) deal with the credibility of witnesses and the right or
25 the option to question witnesses, not with admission of evidence.

1 MR. MISETIC: Yes, but if you look at the second sentence of
2 (c), and you start from the proposition that Rule 138 allows any form
3 of impeachment evidence to come in, then that presumably would have
4 already included prior inconsistent statements. So if the drafters
5 wanted you to be able to move in anything, including prior
6 inconsistent statements, there would have been no reason to add that
7 second sentence there.

8 JUDGE BARTHE: I think I understood now your point and I thank
9 you for the clarification.

10 MR. MISETIC: Thank you.

11 JUDGE GAYNOR: Can I just --

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. HALLING: I don't want to cut off Your Honour.

14 PRESIDING JUDGE SMITH: Oh, sorry.

15 JUDGE GAYNOR: Yes, thank you. I have two questions on the *lex*
16 *specialis* point. What would you say to the proposition that
17 Rule 143(2)(c) is there to address the controversy as to whether a
18 prior inconsistent statement is admitted for the purpose of the truth
19 of its contents or only for credibility, which is a controversy which
20 has been going on for some time; and, secondly, what would you say to
21 the notion that the first sentence of 143(1), which reads:

22 "The examining Party may ask questions to the witness and may
23 show the witness any document or other evidence in compliance with
24 these Rules."

25 That applies here because the examining party wants to show the

1 witness a document, not a prior inconsistent statement.

2 MR. MISETIC: So the first sentence -- let me start backwards.
3 The first sentence is a general proposition that doesn't connect to
4 impeachment. You can show a witness any document.

5 It then goes into where they can recall -- where they wish to
6 recall facts, now you need leave of the Panel. So the first sentence
7 is now qualified by what's about to take place through the rest of
8 the rule. Otherwise, if you over-read the first sentence, there
9 would be no need to seek leave either for purposes of refreshing
10 recollection or for purposes of moving to impeach your own witness.

11 So by its very wording, it's starting to limit what you can do
12 and what you can put to your own witness.

13 In terms of your question about Rule 143(2)(c). Again, if it
14 was meant to clarify whether you could use a prior inconsistent
15 statement -- and I don't have with me at the moment the prior version
16 of the rule, I know this specific provision was amended from an
17 earlier version of the rule, so I'd have to look at that language as
18 well.

19 But if it didn't exist there at all, then you would go back to
20 the default provision of Rule 138, and you would just say that if
21 it's admissible under 138, it's by definition admissible for the
22 truth of its contents. So there would have been no need there to
23 specify that point. But, again, I'd have to look at the earlier
24 draft and compare it to the next draft.

25 But if Rule 138 is so broad that anything comes in or anything

1 that is relevant and has probative value, et cetera, then you
2 wouldn't need that specific provision. And it would take us into
3 the -- well, I'll leave it at that. I hope that answers your
4 question.

5 JUDGE GAYNOR: Thank you.

6 MR. MISETIC: Yeah.

7 PRESIDING JUDGE SMITH: Mr. Halling.

8 MR. HALLING: Thank you.

9 Briefly, Your Honour. And I have to admire the Defence's
10 courage in challenging the Bench on the drafters' intentions at a
11 tribunal where the Judges make the rules.

12 But all we would say is that I think Your Honours understand our
13 position. All we wanted to add to this is that prior statements of a
14 witness are a special class of evidence in the statutory scheme.
15 It's why there are special rules governing them, like Rules 153, 54,
16 and 55.

17 So we would submit that the far more logical reading of the
18 provision is that Rule 143(2)(c) is governing the admissibility
19 explicitly of that special class of documents, and that for
20 everything falling under Rules 143(2)(a) and (2)(b), the
21 admissibility of evidence rules would be the same general rules as
22 everything else.

23 Were that not the case, if the Defence's interpretation were
24 correct, then it would mean that you could only admit prior
25 inconsistent statements under the rules and not any other kind of

1 item when a witness credibility is challenged. And there is simply
2 no logical rational basis for why that would be the rule.

3 MR. MISETIC: If I may -- or I'll let Judge Mettraux, but I have
4 a response to that as well.

5 JUDGE METTRAUX: Well, I'll let you go first, Mr. Misetic. My
6 question is not a purely legal one.

7 MR. MISETIC: Okay. I would just say that I would stick to our
8 earlier position on the definition of what a prior inconsistent is.
9 And therefore, had our definition prevailed earlier in the
10 litigation, then this wouldn't even be an issue because things like
11 books and statements in the media, et cetera, would come in, which is
12 what we think is the proper interpretation of Rule 143(2)(c).

13 I don't think that now we're using the strict definition of
14 statement that the Panel has provided to now justify that anything
15 else comes in because of the strict definition that that comes in.
16 And I know that sounded a little convoluted, but we're getting into
17 use of the limited definition of "witness statement" that the Panel
18 has provided to now say that it's illogical that that's all that was
19 intended to be admissible.

20 So that's my position.

21 MR. EMMERSON: Again, whenever it is convenient. Very, very
22 short point going back to first principles, which is the Prosecution
23 are not in fact challenging the credibility of this witness. On any
24 of the primary issues, they're using the witness as a vehicle through
25 which to adduce video footage and identify individuals and dates.

1 The manufactured question of whether or not he had seen
2 international media reports in which the Serb police themselves made
3 an allegation of crime, which, as we know, there have been numerous
4 allegations made by Serb forces which turned out to be completely
5 bogus acts of war propaganda, and he says no, that is an entirely
6 collateral issue to the evidence he's come here to give. In other
7 words, they're not in fact, A, challenging, or, B, in a position to
8 challenge any of his substantive evidence. So his credibility as
9 such isn't being put in issue at all.

10 So since that document is only relevant to credibility, to be
11 honest, we're dancing on a pinhead in terms of which section it is,
12 which is fully irrelevant because there isn't a challenge or
13 otherwise as to his credibility. It can't justify itself otherwise
14 it becomes some legal animal eating its own entrails.

15 MR. MISETIC: If I may just briefly follow on that because it's
16 related to what Judge Barthe asked me.

17 138 now comes into play because precisely for that reason as you
18 balance the prejudice to the accused by this whole issue coming in
19 versus the probative value of it, I do think that in this case the
20 prejudice does outweigh the probative value. You're being asked to
21 say that the witness is not being truthful about an event that the
22 Prosecution cannot attempt to prove happened because it's not pleaded
23 in the indictment. So you're relying on a newspaper article without
24 having any basis to know whether what was printed in the newspaper
25 article is, for example, Serbian propaganda or whether it actually

1 took place. So the probative value of it is minimal compared to the
2 prejudice, which has now been stated by the Prosecutor, of an
3 intention to try to tarnish these four accused for being directly or
4 -- or in the area, and therefore imputing knowledge to them of a
5 crime.

6 And it's actually unfair to the witness because whether he's
7 credible or not on the point depends on whether the event actually
8 took place, which isn't going to be litigated in this trial.

9 JUDGE METTRAUX: Mr. Halling, I have a less metaphysical
10 question to ask of you.

11 It's the purpose for which you're seeking to tender these
12 articles, because the ruling to which reference has been made was a
13 ruling of the Panel in relation to a question, not in relation to the
14 document. So I want to be clear: Are these documents tendered
15 exclusively for the purpose of impugning the credibility of this
16 witness, or are they being tendered for broader purposes, including,
17 as I might have understood your submissions, to establish what you
18 say is the knowledge of the accused of allegations of crime within
19 the ranks?

20 MR. HALLING: The purpose by which we wanted to intend them is,
21 indeed, the broader purpose just identified by Your Honours. We
22 appreciate that there's a possibility that the ruling on these items
23 may be that they're admitted but only for the purposes within the
24 scope of the questioning on credibility.

25 We think it's relevant to credibility also. We would obviously

1 like it to be admitted with as few restrictions as possible.

2 JUDGE METTRAUX: Thank you.

3 MR. MISETIC: And, obviously, just for the record, then we
4 object to both bases that they're seeking admission for.

5 JUDGE BARTHE: Mr. Misetic, I just wanted to give you an answer
6 to the question whether the second sentence was contained in the
7 previous version of our rules. It was not. It was added in 2020.
8 So the previous version from 2017 did not contain the second
9 sentence.

10 MR. EMMERSON: Just to be clear, if I may, Mr. Halling's answer,
11 stripped of unnecessary words, is: We wish to rely on these
12 newspaper articles as evidence of the commission of the crimes.
13 Because without that, his entire submission falls.

14 Now, not only have you already ruled that that would be
15 improper, but it's absurd. Without any intent to prove the
16 underlying facts, how could a newspaper report ever sustain an
17 allegation that events took place as alleged in the newspaper report,
18 and then from that, a suggested connection to these accused because
19 they were standing in a photograph three weeks before in a similar
20 location.

21 I mean, we are -- you know, at this stage, we are -- it's not
22 metaphysics we're entering into. It's a completely illogical process
23 of reasoning if we were to allow the Prosecution to proceed in that
24 way. They may as well -- you know, we're descending into trial by
25 newspaper.

1 PRESIDING JUDGE SMITH: Thank you.

2 MR. HALLING: Yes. Could we just -- just one line on this.

3 What Judge Mettraux asked me about was not whether it goes to
4 knowledge of accused of allegations of crimes within the ranks, which
5 is a slightly different purpose than the one Mr. Emmerson just said.

6 MR. EMMERSON: Not -- I'm afraid there is no distinction because
7 knowledge of the report of the crimes presupposes that the crimes
8 occurred. So, you know, the report has to be tendered as truth of
9 its contents for any of the inferences the Prosecution wishes to draw
10 to have legs. I'm afraid Mr. Halling's position is entirely
11 untenable.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 We need to get back to the witness.

14 Please bring the witness in.

15 MR. HALLING: And if it assists the Court Officer, I can already
16 put on the record the next video to be played would be 061427-29, and
17 it's an extract of 15:06 to 17:11. And if it can just be opened at
18 the 00:00 mark.

19 THE COURT OFFICER: And, Your Honours, the video is currently
20 classified as confidential. Can I get guidance if this can be played
21 or it can be -- it can be public.

22 MR. HALLING: As previously indicated, all videos have been
23 pre-selected today that they can be publicly broadcast.

24 PRESIDING JUDGE SMITH: Yeah, we said that at the outset.

25 [The witness takes the stand]

Witness: Nuhi Bytyqi (Open Session)

Page 16693

Examination by Mr. Halling

1 PRESIDING JUDGE SMITH: This will be public as well.

2 THE COURT OFFICER: Thank you so much. Well noted.

3 PRESIDING JUDGE SMITH: Thank you, Witness. Sorry about the
4 delay. We are ready to proceed.

5 Go ahead, Mr. Halling.

6 MR. HALLING: Thank you.

7 Q. Witness, there's another video of yours that's being put up on
8 the screen. As that's being done, I just wanted to go to some events
9 you describe at pages 278 to 279 of your book where you talk about
10 filming Sahit Jashari in Likoc.

11 First of all, who is Sahit Jashari?

12 A. Sahit Jashari was one of the first soldiers of the KLA under the
13 command of the legendary commander Adem Jashari.

14 Q. Thank you.

15 MR. HALLING: Now, if we could make this full screen.

16 Q. And, Witness, from the first timestamp with the car with the
17 PU-101-A, are you able to tell from when this footage was shot and
18 where?

19 A. It was shot in Likoc of Drenica where the operative zone staff
20 was based.

21 Q. And when was it shot?

22 A. In June. It must be in June 1998.

23 Q. And what was Sahit Jashari's position in June 1998 at Likoc?

24 A. They said that he was the commander of the military police of
25 Drenica zone. I haven't seen any written decision, but this is what

Witness: Nuhi Bytyqi (Open Session)

Page 16694

Examination by Mr. Halling

1 soldiers said.

2 MR. HALLING: If we could please play the video now to the 01:07
3 mark.

4 [Video-clip played]

5 MR. HALLING:

6 Q. Witness, the gentleman who got out of the black car and was
7 first to go into the building in the video, who is that?

8 A. He was Sahit Jashari.

9 Q. And what building was he going into?

10 A. This is where the KLA soldiers must have stayed. In fact, I've
11 never entered that building myself.

12 MR. HALLING: Now, if the Court Officer could please pull up
13 P840, which is 061427-16, and go to the 21:14 mark.

14 Q. And as that is being pulled up, Witness, did you use some of the
15 footage you took of Sahit Jashari at Likoc in one of the July 1998
16 documentaries you write about in your book?

17 A. Yes, I did.

18 Q. And in which of the -- there was one broadcast, as I understand,
19 on the 17th and one on the 18th July. In which documentary did this
20 footage appear?

21 A. On the documentary of -- dedicated to the KLA, broadcast on
22 18 July 1998 in the Albanian television.

23 Q. Thank you.

24 MR. HALLING: Now if we go to 21:14, we can see Sahit Jashari,
25 but his words are easier to hear in this version. And if we can play

Witness: Nuhi Bytyqi (Open Session)

Page 16695

Examination by Mr. Halling

1 from 21:14 to 21:30.

2 [Video-clip played]

3 THE WITNESS: [Interpretation] There is no audio.

4 MR. HALLING: I noticed the same thing. Is it possible to play
5 it with the sound?

6 [Trial Panel and Court Officer confers]

7 PRESIDING JUDGE SMITH: There's no sound.

8 MR. HALLING: Okay. There is sound in the version in
9 Legal Workflow as we've done it, but we can work around it by just
10 reading into the record.

11 Q. Sahit Jashari said:

12 "The Military Police of Kosovo Liberation Army are
13 professionally prepared and always ready to carry out the orders
14 given by the General Staff of Kosovo."

15 MR. HALLING: And, actually, this could be played with the sound
16 off as well. If we can go to 20:35 and play from 20:35 to 20:57 of
17 the video that's on the screen now.

18 [Video-clip played]

19 MR. HALLING:

20 Q. And, Witness, I'm going to play this part and just ask you about
21 the building that the woman is walking out of in this footage.

22 [Video-clip played]

23 THE WITNESS: [Interpretation] There is no sound here either.

24 MR. HALLING:

25 Q. Yes, I understand that. But my question is just about the

Witness: Nuhi Bytyqi (Open Session)

Page 16696

Examination by Mr. Halling

1 building. What is this building that the woman identified as

2 Irfete Spahiu comes out of?

3 A. This is Irfete Spahiu who is coming out of the building of the
4 operative staff of Drenica operative zone. It was not the
5 General Staff of the KLA but the staff of Drenica operational zone.

6 Q. And am I correct this is at Likoc?

7 A. She's a senior officer.

8 Q. Sorry, just to get an answer to my question. Just to confirm
9 this is at Likoc that you're describing now?

10 A. Yes, it is in Likoc of Skenderaj municipality in Drenica.

11 MR. HALLING: And we'll play one last 5-second part of this
12 video from 22:55 to 23 minutes. Again, no sound is necessary.

13 [Video-clip played]

14 MR. HALLING: And play it to the 23-minute mark.

15 [Video-clip played]

16 MR. HALLING:

17 Q. And am I correct this is also from the 18 July 1998 KLA
18 documentary you made?

19 A. Yes.

20 Q. I understand that you don't know the three gentlemen on the
21 right side of the photo, but starting from the left and going to the
22 right, please identify the first four individuals to the extent that
23 you know.

24 A. The first on the left is Isuf Gashi, albeit Commander Baca; then
25 General Shaban Shala, hero of Kosovo; Xheme Gashi, albeit Gjermani;

Witness: Nuhi Bytyqi (Open Session)

Page 16697

Examination by Mr. Halling

1 and the one in the middle who is speaking is Bedri Zyberi. The other
2 three I don't know. I don't remember their names.

3 Q. And can you remember around when and where this was shot?

4 A. In June 1998. I don't remember the exact date. I haven't
5 mentioned it in my book also. As I said, I didn't keep a diary, so
6 I'm not precise. It was broadcast in the documentary devoted to the
7 KLA broadcast by the Albanian television on 18 July 1998.

8 Q. And where is this group that -- on the photo here, where are
9 they talking?

10 A. It is written there. It's a primary school, Frasheri brothers,
11 Drenoc of Rahovec municipality.

12 Q. Thank you. Now, Witness, these documentaries on 17th and 18th
13 July 1998, you write about in your book that Hashim Thaci saw them
14 before they were broadcast. And this is on page 294, 295 of the
15 book. Is that right?

16 A. That's correct. This was my idea, my request, since I had
17 worked for a while as a journalist at the television Prishtine, but
18 this was the first time that I was doing my job in combat
19 circumstances and settings. So I wanted to make sure that there
20 wouldn't be any omissions or with respect to informing the wider
21 public about the Kosovo Liberation Army, in order to portray the
22 Kosovo Liberation Army as a serious army for it to then obtain the
23 support of the -- the wider support of the public. But this was my
24 request, not Mr. Thaci's request.

25 As I have stated in my book and in my statement to you, I was an

Witness: Nuhi Bytyqi (Open Session)

Page 16698

Examination by Mr. Halling

1 independent journalist. I did not allow anyone to get involved in my
2 professional work. I took into consideration opinions, assessments,
3 but I never accepted other people to dictate what I would broadcast
4 or not. So I am fully responsible for everything I have produced.

5 Q. I follow you. Did the versions of the 17th and 18th July
6 documentaries, were they identical, the version Hashim Thaci saw, to
7 the one that was broadcast?

8 A. Yes, identical. No changes whatsoever. As prepared in
9 Prishtine, then sent to Tirana, and broadcasted without any changes
10 having been made.

11 Q. And you wrote in your book that Hashim Thaci was satisfied or
12 pleased, I think was the word in the book, with the documentaries;
13 correct?

14 A. This is what I wrote, and this is what I believe.

15 MR. HALLING: Your Honours, the 17 July documentary is already
16 in evidence at P01260. And as just indicated, the 18 July
17 documentary is admitted as P840. The only item in this line of
18 questions that is yet to be admitted is the raw footage of Sahit
19 Jashari played at the beginning, which would be 061427-29. We only
20 require the extract from 15:06 to 17:11 to be admitted.

21 PRESIDING JUDGE SMITH: Any objection to that tender?

22 MR. MISETIC: No objection.

23 MR. TULLY: No, Your Honour.

24 MS. ALAGENDRA: No, Your Honour.

25 PRESIDING JUDGE SMITH: 061427-29 is admitted.

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16699

1 Please give it a number.

2 THE COURT OFFICER: And, Your Honours, it is assigned
3 Exhibit P01282. If my understanding is correct, only for the excerpt
4 that was mentioned; right?

5 PRESIDING JUDGE SMITH: From 15:06 to 17:11.

6 THE COURT OFFICER: Thank you, Your Honours. And it's currently
7 classified in the Legal Workflow as confidential, yet my
8 understanding is that it should be public.

9 PRESIDING JUDGE SMITH: That's correct.

10 THE COURT OFFICER: Thank you, Your Honours.

11 MR. HALLING: Thank you.

12 Q. Now, Witness, I want to ask you now about something you write on
13 page 236 of your book, and maybe I can just read to you the relevant
14 part. You said:

15 "Meeting with My Journalist Colleagues and the
16 Commander 'Presheva', Presumed Killed at the Border

17 "In Likoc I met Tahir Desku, my colleague and Prishtina TV
18 reporter. It was the first time for me to see him in a KLA uniform.
19 Tahir was pleasant during our conversation. I met him later with a
20 Norwegian journalist who was wounded on the border, Paul Refsold ..."

21 And my first question is how did you learn the things that you
22 say here about the Norwegian journalist who -- our spelling is Paul
23 Refsdal. How did you learn that he was wounded on the border and
24 joined the KLA?

25 A. My colleague, Tahir Desku, informed me. This was a very brief

Witness: Nuhi Bytyqi (Open Session)

Page 16700

Examination by Mr. Halling

1 meeting. I do not know anymore about it. I learned after the war
2 that he had been wounded.

3 Q. Yes. And maybe just to complete my quotation because I cut it
4 off and didn't put it on the page. The full sentence in the book is:

5 "I met him later with a Norwegian journalist who was wounded on
6 the border, Paul Refsold, who had left behind his comfortable life in
7 Norway to join the KLA."

8 And, Witness, I understand that you're not aware that Paul
9 Refsdal wrote a book about his time in Kosovo; is that right?

10 A. Right, I'm not.

11 MR. HALLING: Could the Court Officer please pull up
12 SPOE00209434 to SPOE00209512. The original is in Norwegian, but the
13 Albanian translation can be on one side, and the English translation
14 can be on the other. The specific page I'm interested in to start is
15 page SPOE00209444.

16 Q. And, Witness, I want to read to you a passage of Paul Refsdal's
17 book and I wanted to ask you a question about it.

18 THE INTERPRETER: Interpreter's note: We kindly ask the
19 Prosecutor to indicate the exact paragraph he will be reading from.
20 Thank you.

21 MR. HALLING: Yes, I can. And as soon as the English page is on
22 the screen, I can orient accordingly. So, again, the specific page
23 is SPOE00209444. And it begins with: "'Refsdal residence ...'"
24 which is just indented just after the second full paragraph on the
25 page.

Witness: Nuhi Bytyqi (Open Session)

Page 16701

Examination by Mr. Halling

1 Q. Witness, this is what Paul Refsdal writes:

2 "'Refsdal residence, go ahead,' my mother answers.

3 "'Hello, it's me.'

4 "'Pal, where are you?' she asks without any worry in her voice.

5 She hasn't heard anything.

6 "'In Kosovo.'

7 "'How's it going?'

8 "'Not too well, I've been wounded,' I say but regret it
9 immediately. Quickly I add that I am out of danger, that they are
10 going to operate on me, perhaps as early as tomorrow, and that I will
11 not have any permanent injuries. The more I speak, the more short of
12 breath I become and have to draw a breath in the middle of sentences.
13 This is irritating, now that I am trying to reassure Mother.

14 "I am a cameraman without a camera and in Kosovo illegally."

15 Now, Witness, this matches what Tahir Desku said to you about
16 Paul Refsdal, doesn't it?

17 A. Tahir Desku only told me that he was a journalist from Norway,
18 nothing else. I learned about him more after the war. I cannot
19 comment his diary or his book and I cannot be held accountable for
20 it.

21 Q. We'll go to two more pages.

22 MR. HALLING: SPOE00209450, which is later in Refsdal's
23 convalescence.

24 Q. Witness, who was the KLA commander known as Luli during the war?

25 A. Yes, Commander Luli is Kadri Veseli.

Witness: Nuhi Bytyqi (Open Session)

Page 16702

Examination by Mr. Halling

1 Q. So here is what Refsdal writes, and it's on the very top of the
2 page:

3 "The man with the fine clothes sits down closer and carefully
4 clears his throat. In German he explains that he is from the KLA and
5 has come to investigate what happened in Pashtrik. I explain about
6 the ambush, about the hand grenade and the injuries inflicted on me.

7 "'My name is Luli,' he then says. 'Everyone knows who I am. In
8 a couple of days you will be driven to a better hospital.'"

9 MR. HALLING: And, lastly, I would like to take you to
10 SPOE00209471. And it's actually at the bottom of that page and going
11 into 209472.

12 And so he talks here that -- he's talking about the middle of
13 September in the last line of the page, and this is in 1998. And
14 then if you go to the next page.

15 Q. Refsdal writes as follows:

16 "I realise that the parlour in which I now sleep is the control
17 centre of what is left of the Kosovo Albanians' dream of
18 independence. All the major players in Drenica come here. Sultan,
19 the head of intelligence Djopa, the brigade commander Kapush, the
20 police chief and, of course, Gjarpri as well."

21 Now, Witness, the last point I want to show you in this is
22 SPOE00117408.

23 And as that is being pulled up, I take it from your previous
24 answers you're not familiar with what Mr. Refsdal is talking about
25 with this specific interaction with these people; correct?

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16703

1 A. I'm seeing this for the first time. And please don't overload
2 me with these things. There are also mistakes when it comes to
3 names, nicknames. A lot of mistakes.

4 Q. We will get back to your footage in a moment. But just one more
5 photograph, please.

6 Witness, the photograph I'm showing you you first saw during the
7 preparation session last week; correct?

8 A. Correct.

9 Q. Who is the gentleman in the front of the photo driving the
10 motorcycle?

11 A. Commander Sahit Jashari. And on -- behind him, fighter Muharrem
12 Xhemajli. At least this is how he looks to be.

13 Q. And from around where does this photo seem to have been taken,
14 to the extent you know?

15 A. Considering the background, it must be in Likoc in Drenica.

16 MR. HALLING: Your Honour, Paul Refsdal talks about seeing the
17 police chief in his book. This is a photograph taken by him that was
18 obtained by the Kosovo national archive and provided to the SPO.
19 Given the witness's identification of the people in the photograph,
20 we would tender it for admission.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. MISETIC: If we could just have a proffer on how we know it
23 was taken by him?

24 MR. HALLING: This is what our internal records say --

25 THE WITNESS: [Interpretation] This is not my photograph. This

Witness: Nuhi Bytyqi (Open Session)

Page 16704

Examination by Mr. Halling

1 photograph was not taken by me nor by my cameraman. Let's make this
2 clear for the audience. This photograph was not taken by either of
3 us. You know its provenance.

4 MR. HALLING: Thank you.

5 I understand that this information was provided to us by the
6 Kosovo national archive. They gave us the photo.

7 MR. MISETIC: I'll object as to the foundation. It was offered
8 as if this was taken by Paul Refsdal, and there must be some
9 authentication.

10 MR. EMMERSON: I object on the grounds of relevance.

11 MR. TULLY: And I join the objection on relevance, Your Honour.

12 It's --

13 PRESIDING JUDGE SMITH: What's the relevance --

14 MR. TULLY: -- quite tenuous.

15 PRESIDING JUDGE SMITH: -- of this?

16 MR. HALLING: We have tried to tender the chapter of
17 Mr. Refsdal's book through the bar table, and we have been told that
18 it hadn't been sufficiently contextualised in order to be admitted.

19 We are going to talk about this book today and again tomorrow to
20 show that there are parts of Mr. Refsdal's accounts that do align
21 with the totality of the evidence. And Mr. Bytyqi, despite saying,
22 and we have no reason to doubt him, that this is -- he is not aware
23 of this book or its contents, nevertheless provides evidence that can
24 serve as that contextualising person.

25 So we tender the photograph for this reason. We don't tender

Witness: Nuhi Bytyqi (Open Session)

Page 16705

Examination by Mr. Halling

1 the book at this time, but we are going to show another passage of
2 the book later and seek its admission.

3 MR. EMMERSON: With respect, this is a device to get around
4 them -- admittedly, a device to get around a lack of an ability to
5 prove proper standing for the document by adducing the photograph
6 that the Prosecution can't prove proper standing for either.

7 MR. MISETIC: And I would add, I don't see an explanation or an
8 answer to the Judge's question as to what's the relevance of the
9 photograph.

10 MR. HALLING: Mr. Refsdal talks about seeing the KLA police
11 chief in his book. He has taken a photograph that this witness has
12 just identified as Sahit Jashari, the police chief in the Drenica
13 zone.

14 MR. MISETIC: Well, if the relevance is that Paul Refsdal took
15 this photo, then there's been nothing submitted to substantiate that
16 claim, that Paul Refsdal took this photo.

17 MR. EMMERSON: And, also, the description in the book of the
18 police chief doesn't correspond with the description of the person in
19 the photograph.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 We'll mark this MFI.

22 THE COURT OFFICER: Thank you, Your Honours.

23 SPOE0017408-00117408 will be marked for identification as P01283.

24 Thank you, Your Honours. And currently classified as confidential.

25 PRESIDING JUDGE SMITH: Go ahead.

Witness: Nuhi Bytyqi (Open Session)
Examination by Mr. Halling

Page 16706

1 THE WITNESS: [Interpretation] Your Honour, with your permission,
2 I wish to clarify --

3 PRESIDING JUDGE SMITH: Stop it, please.

4 THE WITNESS: [Interpretation] -- because the Prosecutor tried to
5 blame me.

6 PRESIDING JUDGE SMITH: Stop, please.

7 THE WITNESS: [Interpretation] I took an oath --

8 PRESIDING JUDGE SMITH: I've turned your microphone off.

9 Please wait until you're authorised and allowed to speak, and
10 you are not --

11 THE WITNESS: Okay.

12 PRESIDING JUDGE SMITH: -- right now. We have just two minutes
13 left. The Prosecution may have some questions. We'll finish with
14 him.

15 MR. HALLING: And, thank you, Your Honour, yes, we have two more
16 short videos and then we can finish for the day.

17 And the first one --

18 JUDGE BARTHE: Mr. Prosecutor, excuse me for interrupting you,
19 but there's one point which needs clarification. Our transcript says
20 on page 138, in response to your question who was the commander known
21 as Commander Luli during the war:

22 "Yes, Commander Luli is Sali Veseli."

23 I'm not sure whether this is correct. Maybe you can clarify
24 this.

25 MR. HALLING: Thank you, Your Honour. And I heard a different

Witness: Nuhi Bytyqi (Open Session)

Page 16707

Examination by Mr. Halling

1 name as well.

2 Q. So, yes, Witness, we have on the record that Commander Luli is
3 Sali Veseli. Is that what you said?

4 A. Please. No, I did not say Sali Veseli. It's a mistake. I need
5 to confirm first that I have not read the book from my Norwegian
6 colleague. I've said this before. I took an oath to tell the truth,
7 and this is the truth --

8 Q. Witness, we understand.

9 A. -- I have not read his book.

10 There might have been within the Kosovo Liberation Army ranks
11 other people who went by the nickname Luli, just as I mentioned
12 before with respect to Daja or others. Therefore, I cannot
13 confirm -- I'm not in a position to confirm that we -- that it is
14 referred here precisely to Kadri Veseli and certainly to him. You
15 should probably ask for this my Norwegian colleague.

16 Q. Was Kadri Veseli known as Commander Luli?

17 A. Yes. But there might be other Lulis. I wouldn't know in which
18 context my Norwegian colleague wrote this or who was he referring to.

19 Q. I understand that there might be other Lulis. Do you know
20 another KLA commander with the same nickname?

21 A. I don't. I don't know.

22 Q. Thank you.

23 MR. HALLING: Could the Court Officer --

24 PRESIDING JUDGE SMITH: I think we're at the end of the day.

25 MR. HALLING: Yes. We can pick it up again tomorrow.

1 the longest period of time we have questions on, so I actually think
2 I can finish everything tomorrow. I asked for an update on how much
3 direct examination time I have left. It is going a little bit slower
4 than anticipated, but first session tomorrow we'll be done.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. HALLING: I mean, it -- I -- I'm waiting for the Registry to
7 provide me the time, but we're aiming to finish within the original
8 estimate. And if we need to go over, we'll seek Your Honours' leave.

9 PRESIDING JUDGE SMITH: Thank you.

10 And anything from anybody else? All right.

11 We're adjourned until 9.00 a.m. tomorrow.

12 --- Whereupon the hearing adjourned at 4.30 p.m.

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