

1 Tuesday, 5 September 2023

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: Madam Court Officer, you may call the
7 case.

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

11 PRESIDING JUDGE SMITH: I note that the accused are all present
12 in court today with the exception of Mr. Krasniqi, who is appearing
13 via videolink.

14 Before we continue hearing the evidence of Prosecution
15 Witness 4018, there is one point the Panel wishes to address.

16 Yesterday, the SPO filed F01759, which is a request for
17 video-conference testimony for W03827. It is the Panel's
18 understanding that the SPO intends to call 3827 next week. However,
19 the Panel wishes to clarify whether this is still the SPO's intention
20 in light of yesterday's filing.

21 MR. PACE: Yes, Your Honour. There are a couple of moving parts
22 to the situation, but last I checked, yesterday afternoon, this was
23 the situation. And we would notify the Panel if there's any changes
24 to that, including at the break I can double-check that for you.

25 PRESIDING JUDGE SMITH: Victims' Counsel, do you have any

1 comment on this request?

2 MR. LAWS: No, thank you, Your Honour.

3 PRESIDING JUDGE SMITH: Anything from the Thaci Defence?

4 MR. KEHOE: Your Honour, I, frankly, haven't taken a look at it
5 yet. If I can just take a look at it at the break.

6 PRESIDING JUDGE SMITH: Mr. Emmerson.

7 MR. EMMERSON: Nothing from the Veseli Defence.

8 MR. TULLY: We'll ask to take a look at the break, Your Honour.
9 Thank you.

10 PRESIDING JUDGE SMITH: Mr. Ellis.

11 MR. ELLIS: Your Honour, there's unlikely to be very much from
12 me, but we'll take a further look at the break as well.

13 PRESIDING JUDGE SMITH: Try to be prepared for your comments
14 after the next break.

15 So let's continue with the testimony of Witness 4018.

16 Madam Court Usher, please bring the witness in.

17 I remind everyone that there are no in-court protective
18 measures, and we will be in public session.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: Good morning, Witness. You can be
21 seated.

22 THE WITNESS: [Interpretation] Good morning to everyone.

23 PRESIDING JUDGE SMITH: Witness, today we're going to continue
24 with the direct examination by the SPO. I remind you to please try
25 to answer the questions clearly, with short sentences. If you don't

1 understand a question, feel free to ask counsel to repeat the
2 question, or tell them that you don't understand and they will try to
3 clarify the question.

4 Also, please remember to try to indicate the basis of your
5 knowledge of the facts and circumstances upon which you will testify.

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

8 Please also remember to speak into the microphone and to wait
9 five seconds before answering a question and to speak slowly to allow
10 the interpreters to catch up.

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

13 Finally, stop talking if I ask you to do so or also stop talking
14 if you see me raise my hand, because that means I want to give you a
15 further instruction.

16 Mr. Pace, you may continue.

17 MR. PACE: Thank you, Your Honour.

18 WITNESS: W04018 [Resumed]

19 [Witness answered through interpreter]

20 Examination by Mr. Pace: [Continued]

21 Q. Good morning, Witness.

22 A. Good morning.

23 Q. I'll just remind you that yesterday afternoon the Judges
24 admitted your prior testimony, and I read a summary of your prior
25 statements in open session. So today, my questions are going to be

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7174

1 very limited and focused. I will not be asking you about everything
2 you know about in 1998 and 1999.

3 MR. PACE: And, Court Officer, I'd like to start by pulling up a
4 document, and that is SPOE00093211 to 00093212. And if that could be
5 side by side with the English translation, which is the same ERN with
6 ET at the end. I'll read again: SPOE00093211 to 00093212-ET. And
7 the first page on both, please. Thank you.

8 Q. Witness, do you see two documents on the screen in front of you?

9 A. Yes.

10 Q. The document on the left is in Serbian, and the one on the right
11 is in English. Could you tell the Judges whether you're able to read
12 Serbian?

13 A. No, I can't read Serbian.

14 Q. Before I showed you these documents last week, had you ever seen
15 them before? Witness, before I showed you these documents to you
16 last week, had you seen these documents?

17 A. Yes. Yes, yes.

18 Q. And just to be clear, yes, you remember seeing them last week?

19 A. Yes, yes.

20 Q. But before that, you had not seen them; right?

21 A. No.

22 Q. Now, at the top of the documents we see that the document
23 purports to be by Serbian authorities, dated 29 December 1998, and
24 that it contains a list of persons who registered for local security
25 of Kacanik municipality. Now, Witness, do you know what local

1 security meant in this context?

2 A. I don't understand. The regional -- what does it mean?

3 Q. This document is titled "List of Persons Who Registered for
4 Local Security of Kacanik Municipality." Do you know what "local
5 security" refers to in this context? If you don't, you can say so.

6 A. I'm not really certain, but it looks like that. This is --
7 looks like local policemen. There are plenty of names here.

8 Q. In 1998 or 1999, did you hear reference to the term "local
9 security" or "local police" in Kosovo?

10 A. I never dealt with these matters. I was never involved, had --
11 never had any idea of this.

12 Q. Now, if we look at number 13 in the documents before you - like
13 I said, on the left it's in Serbian, on the right it's in English -
14 but you will see that number 13 refers to Idrizi as a surname, Agim
15 as a name, and Llanishte as "assigned to." You told us that you're
16 from Llanishte yesterday.

17 A. Yes.

18 Q. Do you see that, Witness?

19 A. Yes.

20 Q. Now, my question, Witness, is: Did you ever register for local
21 security of Kacanik municipality?

22 A. No, my name was never registered anywhere. We registered at the
23 municipality at the civil office like everybody else, but I never
24 registered for any work-related matters or anything. I was just
25 registered as a kid.

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7176

1 Q. Now, putting aside the idea of registration for a moment. Did
2 you in any way ever join a local security or a local police aligned
3 with the Serbian authorities in 1998 as this document purports to
4 assert?

5 A. No, never. My name is nowhere -- is never written anywhere.

6 Q. Now, Witness, if we look through the list of names, we'll see it
7 includes several other persons that, during your testimony in a
8 previous case, you said were detained with you. For example, if we
9 look at number 16, we have Rrahim Elezi; at number 20 we have Nezir
10 Topojani; and at number 25 we have Riza Kiki.

11 And my question for you, Witness, is if you have any idea why
12 the names of these people would be on a list of local police for the
13 Serbian authorities in 1998?

14 A. I was imprisoned. Now, where did they stay, what did they do,
15 were they policemen or not, I have no idea. I have nothing to do
16 with that. The only thing I know is I was detained in 1999.

17 MR. PACE: Now, Court Officer, if we could please turn to the
18 next page of both documents.

19 Q. And, Witness, do you see two different pages on your screen now?

20 A. Yes.

21 Q. Now, this is a continuation of the same document. We have the
22 last few names. And at the bottom, we can see that the document is
23 signed by Radoslav Ognjenovic, president of the municipal council.
24 Now, Witness, during your testimony in a previous case, you stated
25 that you knew a Rade Ognjenovic who was president of the municipal

1 council, and you also said he helped Albanians. You also mention him
2 in other parts of your testimony by title.

3 My question for you is whether you ever discussed with Rade or
4 Radoslav Ognjenovic anything to do with working for any Serbian
5 authority in 1998 or 1999?

6 A. All people from Kacanik talked to this man. He was not a bad
7 man. He was a good man to everybody. In particular, he would never
8 allow the police to bother me during Ramadan time. Now, with respect
9 to the conversation, I've never pointed at anyone. I've never
10 reported any person. I've never been involved in the detention of
11 any person. I've never done any harm to anyone.

12 Q. We'll deal with that in a moment, Witness. But for now, I'd
13 like you to focus on my question. And my question is specifically:
14 Did you ever speak to Rade or Radoslav Ognjenovic about you yourself
15 joining any form of Serbian authority like local police or local
16 security?

17 A. No, no. It would only be words, because I've never said
18 anything about any person. He's alive. He can testify to this. I
19 was never interested in getting involved in this, despite the fact
20 that I knew these things better than anyone else.

21 Q. So just to be clear, is it correct that you never, for example,
22 gave your consent to being listed or enlisted in any local security
23 or local police aligned with Serbian authorities in 1998 or 1999?

24 A. I said it earlier. I will always say this: If any person can
25 find my name as having worked as a policeman, as it seems to appear

1 in this document, because I didn't know this, the person who wrote
2 down my name here as a policemen, Agim Idrizi, is my worst enemy.
3 I'm adding that I was a forest ranger, you can ask people in Kacanik,
4 that this is completely untrue.

5 Q. You mentioned adding that you were a forest ranger and that this
6 is completely untrue. Could you clarify, were you ever a forest
7 ranger or not?

8 A. If I was a forest ranger, I give the word of the Albanian that
9 I'm ready to be hanged in front of the Court. But if I was not,
10 somebody needs to pay me. This was done to me by people during the
11 war. Now, everybody knows the truth. They could not have seen me --
12 these are all lies. They never saw me as a forest ranger or a
13 policeman. I know who put me in that list and the reasons why.

14 Q. Witness, could you explain to the Judges why being a forest
15 ranger, as you seem to be saying, would be problematic in 1998 or
16 1999 or would cause problems?

17 A. We know who were the forest rangers. I caused damage to the
18 forest. I did that for 30 years. This is quite interesting.

19 Q. And am I understanding correctly that you want to make it clear
20 you were not a forest ranger?

21 A. No, I give you my word that -- and to everybody who is listening
22 now, they can send messages here. I've never been a forest ranger.
23 This is not true. This was done to me by my foe, Enver Axhami.

24 Q. Now, Witness, if, like yourself, you were an Albanian living in
25 Kosovo in 1998 or 1999 and somebody said you were a forest ranger,

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7179

1 can you explain to the Judges why that would be a bad thing?

2 A. I never dealt with this, but they put my name in there, because
3 he worked with the Serbian police up to the day, Koka. They -- he
4 worked with the Serbian police until the day they kidnapped me, and
5 on that day he left. Everybody in Kacanik knows that I've never been
6 a policeman or a *sumar*. Even kids in Kacanik know that.

7 Q. No, Witness, focus on my question, please --

8 THE INTERPRETER: *Sumar* being a forest ranger.

9 MR. PACE.

10 Q. Witness, focus on my question. If you were Albanian in 1998 and
11 1999 in Kosovo, was being a forest ranger a good thing or a bad
12 thing?

13 A. I've never been a forest ranger. I don't know anything about
14 that. What did the forest ranger do?

15 Q. We'll move on.

16 MR. PACE: Court Officer, can you please take these documents
17 down and instead of them we're going to show the witness IT-05-87
18 6D00484-E side by side with IT-05-87 6D00484. And the first page of
19 each again. Thank you.

20 Q. Witness, do you see two different documents on the screen in
21 front of you now?

22 A. Yes.

23 Q. Do you remember me showing you these documents last week?

24 A. Yes, yes.

25 Q. And before I showed you the documents last week, had you ever

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7180

1 seen them?

2 A. No, I haven't. Now I'm happy you -- when you came here, you
3 read this to me. I was shocked to see that I was designated as
4 having been a forest ranger, a police officer. A certain Arkan is
5 mentioned there as well.

6 Q. Now, Witness, they're in Serbian and English, so I will tell you
7 what they say. At the top of the page, the document says that it
8 purports to be a document by Serbian authorities, dated 2 November
9 1998, and that it contains a list of persons who signed a contract
10 for local security of Kacanik municipality.

11 If we look through this document, through the names there on
12 this page, we see once again other persons who in a previous case you
13 testified were detained with you. For example, at number 11 on the
14 list we see Riza Faik Kiki.

15 Witness, do you have any idea why Riza Kiki would be listed on
16 this document?

17 A. I was detained with Riza Kiki and Faik Reci, Elezi, Topojani. I
18 asked them why were you detained by the KLA. Riza said that it was
19 because he had a handgun when he stood -- was a guard at the cement
20 factory in Kacanik. And a commander who had bought a cow from an
21 Albanian in -- to an Albanian, and he asked for a thousand euros to
22 pay back the commander, who gave him then a gun. This is all I know.
23 So he had two guns.

24 Q. What was the ethnicity of the commander you're referring to?

25 A. The commander was a Serbian, the Kacanik commander.

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7181

1 Q. Had this Serbian commander bought the cow from Riza Kiki or
2 someone else?

3 A. From someone else. But the money was asked from Riza.

4 Q. And who did the commander give a gun to?

5 A. He gave it to Riza.

6 Q. And do you know why this was a problem that Riza had a gun given
7 to him by a Serbian commander?

8 A. No, I don't know. I don't know. This is what he told me and
9 that's all I know.

10 MR. PACE: Court Officer, let's please turn to the last page of
11 both these documents.

12 Q. And, Witness, this is a different document.

13 MR. PACE: Thank you, Court Officer.

14 Q. Witness, do you see two different documents on your screen?

15 A. Yes.

16 Q. Now, at the top of this page we see it purports to be a document
17 by the Secretariat of the Interior in Urosevac, and that it contains
18 a list of persons who signed up for local security in Kacanik
19 municipality and do not have a weapon. At the bottom of the page, we
20 see that it's dated 26 January 1999.

21 Now, Witness, if you look at number 7 on this list, it refers to
22 Agim Idrizi and the village of Llanishte. And just as I asked you
23 for the other documents, do you have any idea or information why your
24 name would be included on this list?

25 A. I'll tell you now the reason why. We had a land dispute with

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7182

1 Enver Axhami, Axhami family. So they bought a Niva car, red one,
2 to -- because -- to Qasim. Kacanik knows all of this. Then I went
3 home to bring some wood with my horse to Koka. And then when I went
4 there, a person whose cow had been stolen was there. But I did not
5 report the Axhami family to the police. I called -- I got hold of
6 the meat and the Niva car, and I said I know the Axhami family was
7 here last night. And I -- I seized this at Koka.

8 Then they -- this Koka reported me to the Serbian police, and I
9 was sentenced to death by the Serbian police because of illegal
10 woodcutting. Now Koka gave my name to Enver Axhami, put my name on
11 the list, which list was taken by Axhami to the headquarters.

12 Now, the commander in Kacanik can deal with Nebih Koka and Enver
13 Axhami. Axhami said that I beat him with a policeman, together.
14 Nobody ever cursed me in Kacanik apart from Axhami family. I stayed
15 in Kacanik. I lived there. These two persons are the reason why I'm
16 here today.

17 I want everybody to know the truth, and I don't want people to
18 point fingers at me saying that I was a forest ranger or policeman or
19 anything like that. They destroyed my life. They took 37.000
20 Deutschmarks from me. They have to be held accountable for what they
21 said and find out who in reality worked as a policeman or as a forest
22 ranger.

23 I never worked for the government. I always worked -- did legal
24 work. He's a thug. Enver Axhami is a thug. You see what he's done
25 to me.

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7183

1 Q. Now, Witness --

2 PRESIDING JUDGE SMITH: Thank you, Witness.

3 MR. PACE:

4 Q. -- I'm going to stop you, and the Judge, in fact, is stopping
5 you because you are repeating yourself. And from what said, there
6 are certain things that I would like to clarify.

7 I will start with you mentioning that an Axhami said that you
8 beat him with a policeman. Now, was this allegation that you beat
9 Axhami made before or after you were detained in March 1999?

10 A. If the police beat him -- and I want all people from Kacanik to
11 know this. If Sami Axhami was beaten by the police and Agim Idrizi
12 was present there, I will be answerable to that. But if this didn't
13 happen, what will he do? I will see him.

14 Q. Witness, I'm going to stop you there, and I'm going to ask you
15 to listen to my question and answer my question. Okay? Do you
16 understand? So my question is --

17 A. That is not true.

18 Q. I understand what you're saying. Now, please listen to my
19 question. Answer the question. Sami Axhami saying that you beat him
20 with a policeman, is that something Sami Axhami said before you were
21 detained by the KLA in March 1999 or after? Please answer that
22 question.

23 A. Sami Axhami said this before my arrest in Dushkaj at the KLA
24 headquarters. This is the truth, no matter what other people say.

25 Q. Now, Witness, you mentioned a Koka. Could you please give the

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7184

1 Judges the first name of that person.

2 A. He's Hebib Koka, same age as me, and we -- for a long time we
3 were close friends.

4 Q. Witness, was Hebib Koka a KLA member in 1998 and 1999 or not?

5 A. Hebib Koka was a Serbian police officer until the time I was
6 kidnapped, and then he joined the KLA. After that, I don't know
7 about him.

8 Q. And, Witness, just one last question about the documents still
9 on your screens. The one I was referring to earlier. We see at the
10 bottom that it's signed on behalf of the Municipal Democratic
11 Initiative, Seljim Topojani, and it's signed by a Saip Zeka. Do you
12 know a Seljim Topojani or a Saip Zeka?

13 A. No, no.

14 Q. Thank you.

15 MR. PACE: Court Officer, the document can be taken down from
16 the screen.

17 Q. And, Witness, we mentioned Radoslav or Rade Ognjenovic,
18 president of the municipal council. Other than this person, before
19 you were arrested in March 1999, did you know any other Serbian
20 officials in Kacanik?

21 A. Albanians also worked there together with them in the
22 municipality.

23 Q. I understand. But I'd like you to listen to my question, which
24 is did you know any other Serbian officials in Kacanik before you
25 were arrested in March 1999?

1 A. Everybody knew them, not only me. Kacanik is a small place.

2 Q. In particular, did you know someone called Vojo in 1998, 1999?

3 A. Vojo was a young man from a good family. All the Albanians knew
4 him. I sold wood to him usually at a lower price. He would release
5 my trucks when they were seized by the police.

6 Q. Now, let's start with his ethnicity. Could you tell the Judges
7 what ethnicity Vojo was?

8 A. He was of Serbian ethnicity.

9 Q. And can you explain to the Judges why you sold him wood at a
10 lower price?

11 A. When they would seize my truck, he would go there and claim that
12 it was his goods. And it was for my own benefit. That's how life
13 used to be at the time.

14 Q. Please explain to the Judges why they would seize your trucks.

15 A. Of course they would because I had no papers, no sealed document
16 on me. Of course they would seize it.

17 Q. What was in those trucks?

18 A. Woods, firewood that I had cut in the mountains without permit.

19 Q. Other than Vojo helping you out with the seized truck situation,
20 did you ever ask him to help you or other persons out in any way?

21 A. No, there was no need to ask him for anything else. It was only
22 the truck. Because you could not get it back. You had to wait for
23 six months, to be taken to court as well. So that was it.

24 Q. In Kacanik in 1998 and 1999, was it easy for Albanians to obtain
25 a passport from Serbian authorities?

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7186

1 A. Whoever was not authorised could not get a passport. Even now
2 when it's our own state, you cannot get a passport if you're not
3 entitled to that. At the time, whoever could get and wanted to get a
4 passport did.

5 Q. Did you ever try to assist anyone, any Albanians, to obtain a
6 passport in 1998 or 1999?

7 A. I was aware of that. I got three passports in my life. Mother
8 of Jeton Qorri who went to a wedding in Macedonia, I helped her get a
9 passport. And a certain Elez from Bicec. I helped nobody else. I
10 knew that some people had problems and could not get passports. I
11 had my own business. I had enough money, so I didn't deal with these
12 things.

13 Q. Briefly, could you tell the Judges how you helped these people
14 obtain the passports.

15 A. For example, you know somebody there, ask them to help this
16 person get a passport, and they did. Everybody in Kacanik knows how
17 passports were obtained at the time. But I did not deal with these
18 things. As I said, I was involved in three passports, and I helped
19 people who did not do anything and were good people to get those
20 passports.

21 Q. Now, Witness, again, please focus on my question. Specifically,
22 how did you help these three people obtain passports? What did you
23 do or who did you speak to for this to happen?

24 A. This is a long time ago. You can go and ask them themselves.
25 They are still alive.

1 Q. Witness, did you speak to Vojo about getting passports for these
2 three people?

3 A. I've forgotten. This happened a long, long time ago, before the
4 war.

5 Q. Earlier you mentioned you never reported any persons and you
6 were never involved in the detention of any persons. To your
7 knowledge, Witness, did any of your actions before March 1999 cause
8 any Albanians to end up in jail?

9 A. Me? Help them to be arrested? Who said something like this?

10 Q. Witness, just answer the question. To your knowledge, did any
11 of your actions ever cause certain Albanians to end up in jail before
12 March 1999 when you were detained?

13 A. No. I give you my word. Just give me a name of a person whose
14 arrest I have caused and I will be held responsible. If I were to
15 put somebody in prison, I would put Enver Axhami. With everybody
16 else, I was in good relations.

17 Q. Witness, did you ever tell Serb police to burn houses belonging
18 to your neighbours?

19 A. No, I never was involved in such things. Never.

20 Q. Are you aware of anyone ever alleging that you did so? Anyone
21 saying Agim Idrizi told Serb police to burn houses of his neighbours?

22 A. No, these are all lies. I never did anything like that in my
23 life.

24 Q. Now, Witness, I understand you are saying they are lies.

25 Nonetheless, did anybody say these lies? Did anybody say: Agim

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7188

1 Idrizi told the Serb police to burn his neighbours' houses? Do you
2 know anything about that or not?

3 A. No, no, no. These things do not relate to me. And please don't
4 ask such questions of me. I was in bad relations only with this
5 family. With nobody else. I was only with the Axhami family and
6 with Hebib Koka. With all the rest, I was in good relations.

7 Q. Did members of the Axhami family ever say anything like this
8 about you? Did they ever say that you told Serb police to burn
9 houses belonging to your neighbours or that you caused certain
10 Albanians to end up in jail?

11 A. These things are not true. As I said, if I were to put somebody
12 in prison or do something bad to somebody, I would do that to Enver
13 Axhami, and all of Kacanik knows that. But I never did that. He was
14 never pursued by the police. The police never went to his house.
15 Nobody from his family was ever arrested for weapons or for anything.
16 All these are lies.

17 Q. Now, Witness, that is clear that you are saying they are lies.
18 I'll just ask you one more time, because it's not clear from what
19 you're telling to me. These, as you characterise them, lies, did
20 Enver Axhami or anybody else say them about you, even though you say
21 they are not true, before you were detained in March 1999?

22 A. I'm telling you that they put my name in that context, that I
23 was a forest ranger, that I was a police, and things like that. It
24 was not a matter of weapons or politics or KLA. We had this dispute
25 over a property, over a piece of land. He took the money to Qasim

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7189

1 Idrizi in the middle of the night, and everybody knows about the
2 money. I told him that people came to settle things between us, but
3 he left. He didn't want to reconcile.

4 Q. Now, Witness, they put your name in the context that I asked you
5 about before you were detained in March 1999 or after? Please answer
6 just that question.

7 A. It was in March 1999. Ten persons wearing masks, civilian
8 clothes, armed, came to my house --

9 Q. Witness, I'll stop you there because you're not answering the
10 question.

11 A. -- they broke the windows --

12 Q. You're not answering the question, Witness. Were these lies
13 told about you before you were detained in March 1999 or after?

14 A. Now I understood. Yes, it's true. Before my arrest, they put
15 all these words together against me to have Agim Idrizi liquidated.
16 The Axhami family and Hebib Koka did this, because Hebib Koka worked
17 with the Serbian police and knew the people.

18 MR. PACE: Court Officer, could we please pull up 114873 to
19 114873. And if we could please focus on the first photo, the one
20 that appears at the top of the page. Thank you. If we could
21 scroll -- perfect. Thank you.

22 Q. Witness, do you see a photograph appearing on your screen?

23 A. Yes.

24 Q. Do you recognise the location depicted in this photograph?

25 A. Yes, I remember it very well. This used to be the school where

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7190

1 I went to as a child.

2 Q. What village is it in?

3 A. It's in the village of Bob, somewhere up there. A location
4 called Stanit e Bobit.

5 Q. In your testimony, you mentioned being detained in Bob. Did you
6 see this location during your detention there?

7 A. Yes. And there is a hut a little bit below where Enver Axhami
8 with his men was waiting for me. It's just below this building.

9 Q. At the time of your detention in Bob, do you know what this
10 specific building in the photograph was used for?

11 A. The KLA soldiers used it. They stayed there and slept there.

12 Q. And one last question about this. At the time you were detained
13 in Bob, so in 1999, did the location -- did the property look like it
14 does in this photograph or did it look any different?

15 A. It was an old house.

16 Q. Did it look like this or was there anything particularly
17 different about it?

18 A. This was an old building. It was built a long, long time ago.
19 I remember it since I was in the 1st class of primary school.

20 MR. PACE: Your Honour, we seek admission of this document for
21 the photograph at the top. As explained in an e-mail *inter partes*
22 before this witness's testimony, although this item is technically
23 not in our exhibit list, all that it is is a copy of photographs
24 which are in our exhibit list, and the purpose of, let's say,
25 extracting them is because I did not want to show the witness the

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7191

1 caption which explains what the document is.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 Any objection?

4 MR. MISETIC: No objection.

5 MR. ELLIS: None.

6 PRESIDING JUDGE SMITH: All right. 114873 is admitted and will
7 be assigned a number.

8 THE COURT OFFICER: Your Honours, that will be Exhibit P374.

9 MR. PACE: Thank you.

10 Q. Witness, I only have a few minutes and a few questions left with
11 you. During your detention in March 1999, were you provided any
12 access to a lawyer?

13 A. No, there was no lawyer there.

14 Q. During your detention in March 1999, did any KLA member take you
15 to any kind of court or before any kind of judge?

16 A. No, I remember Shurdhani came to interrogate us. I was the last
17 one. He did not take me for interrogation. He did not --
18 interrogate me because he said, "If I do, I have to release you.

19 They found nothing in your house," only a pair of military pants from
20 Germany in the corridor of my house. He wanted to release me, but
21 Enver Axhami did not want me released because we had that dispute.

22 Q. Could you tell the Judges the first name of the Shurdhani person
23 you just referred to?

24 A. Jenuz Shurdhani. He used to work at the police in Yugoslavia
25 times, whereas Axhami, he's a thug. Fadil Caka as well.

Witness: W04018 (Resumed) (Open Session)
Examination by Mr. Pace (Continued)

Page 7192

1 THE INTERPRETER: And the third person whose name the
2 interpreter didn't get.

3 THE WITNESS: [Interpretation] Shurdhani was an educated person.
4 He interrogated five persons, and he did not interrogate me.

5 MR. PACE:

6 Q. Now, Witness, it's been almost 25 years since the events we're
7 discussing happened. Do you still suffer from any physical issues
8 today as a consequence of what happened to you in March 1999?

9 A. You can't imagine the consequences. I cannot sleep. They
10 maltreated me. And my body aches, is in a bad shape.

11 Q. Thank you, Witness.

12 MR. PACE: No further questions, Your Honour.

13 PRESIDING JUDGE SMITH: [Microphone not activated]

14 MR. LAWS: Our questions have been asked. Thank you,
15 Your Honour. We're going to ask none.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 Thaci Defence.

18 MR. MISETIC: Your Honour, I believe an e-mail was sent that the
19 Selimi Defence is going to start with this witness.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 MR. MISETIC: The Selimi Defence sent an e-mail to the Panel
22 that they would start first.

23 PRESIDING JUDGE SMITH: All right. As long as that's all right
24 with everyone.

25 Selimi Defence.

1 MR. YOUNG: Your Honour, I'm very grateful. Thank you for that.
2 And I'm grateful to my colleagues for allowing me to start out of
3 turn, as it were.

4 Cross-examination by Mr. Young:

5 Q. So good morning, Mr. Witness.

6 A. Good morning.

7 Q. Now, over the years, Mr. Witness, you have already been asked a
8 lot of questions by a lot of lawyers, so I will try to be short.

9 Okay?

10 It's difficult to recall events, especially when they're over
11 20 years ago, so I'll try and help you, if I may. And to assist you
12 and the learned Judges today, I'll try to focus on matters more to do
13 with the reasons you gave for the events themselves. All right?
14 I'll be focusing on the context and the background. All right? So I
15 will not be asking you about the assault or places that you were
16 taken. Do you understand?

17 A. Yes, yes.

18 Q. Thank you. So to assist you and the Judges by way of a brief
19 roadmap, there are three topics I'd like to ask you about, sir.
20 Firstly, I'm going to ask you about the land dispute between yourself
21 and Mr. Axhami. All right? Then I'm going to ask you, secondly,
22 about how that land problem affected you and others. And, finally,
23 Mr. Witness, I'm going to ask you about your statements that the KLA
24 itself did not know of Enver Axhami's intentions towards you. Do you
25 understand? Is that clear?

1 A. Go ahead.

2 Q. Thank you. And given what you just told the learned Judges, the
3 third and final point might be quite short.

4 As you've just explained in answer to, I think, a question about
5 why you were detained, this was not a matter of the KLA or politics
6 or weapons. And that's correct, isn't it?

7 A. They arrested me through Hebib Koka, who worked with the Serb
8 police, and the Axhami family arrested me. And ever since, I've been
9 destroyed. My life has been destroyed. He put my name on this list,
10 Hebib Koka and Enver Axhami, that is.

11 Q. Yes, thank you. So very much it was an issue you had with Enver
12 Axhami who, I think you rightly described, as your foe. Now, can you
13 tell the learned Judges what did you mean by "foe"? I presume you
14 mean enemy; is that right?

15 A. He is my biggest enemy in Kosovo. He went and said that Hebib
16 Koka saved his family, that seven cars had -- were to come and tie us
17 and drag us from Llanishte to Kacanik. You know that there was never
18 an Arkan in Kacanik, and you found that name on that list.

19 Q. So as far as you were concerned, he was spreading a lot of lies
20 and false information about you.

21 A. Everybody in Kacanik knows that. There is no need for me to lie
22 here. And everybody is following us today. And I've already told
23 them earlier in Kacanik, I told them that I will say publicly here
24 what happened so that everybody knows.

25 Q. Yes. Well, thank you, Mr. Witness. And, indeed, in various --

1 A. Thank you. Because this question is very clear.

2 Q. Mr. Witness, may I say in fairness to you, you've already
3 explained, have you not, that this was a private matter both to the
4 investigators and the police over many years, and you've given
5 evidence about it, haven't you? Is that right? Yes.

6 A. Yes. Can you give me permission to say just one word?

7 Q. If you forgive me, I'll just, if I may, ask the questions. And
8 if you'd like to say anything, I'm sure the learned Judge will allow
9 you to do so.

10 A. All right. Go on.

11 Q. All right. So I'll try and do it in this way. The reason that
12 you say you were arrested -- well, when the Prosecutor asked you if
13 you were ever told why you were kidnapped, is it right to say you
14 explained that: There was one family that kidnapped me and one
15 family gave the order for me to be kidnapped. And did you then go on
16 to indicate it was the family of Enver Axhami? Is that right, sir?

17 A. Yes, they were military police, the family of Enver Axhami, Sami
18 Axhami.

19 Q. Now, sir, because this is not a memory exercise, and it's a long
20 time ago, from time to time I might invite you to look at a document
21 on the screen as my learned friend has done, all right, to help you.
22 So I'm going to do that now, if I may.

23 MR. YOUNG: And we've been given, Your Honour, the exhibit
24 numbers this morning. If I may, can I call up in Albanian and
25 English the Exhibit P342-AT.1, and in the English I think it's A342.

1 Yeah, that's it. So if that can please go on the screen. And then
2 we can give the ERN number, if need be. I have that. It's ERN
3 SPOE00089723 to 00089766. And it's page, in the English,
4 SPOE00089728, and in the Albanian it's the page 6, which is SPOE, I
5 hope, 00089771.

6 Q. Sir, if you look at this with me and see if it helps you. It's
7 probably easier if you read the Albanian, I would imagine.

8 A. Yes.

9 Q. Yes. And if I can draw the Judges' attention to the part in
10 English which is below the bottom of the page -- just below halfway,
11 in English it reads:

12 "He beat me up" -- I'll read it, if I may.

13 And can you please look for the Albanian interpretation. All
14 right?

15 "He beat me up and he questioned me so there was no facility to
16 release me and they wanted to kill me. I had a problem with him
17 because of a plot of land. My cousin sold land to him and when he
18 sold it he transferred the documentation to the neighbour."

19 MR. YOUNG: So, Judge, that's what I would like to draw your
20 attention to.

21 Q. Do you see the Albanian translation of that? Do you see it in
22 front of you, sir? Yes? Is it correctly translated firstly?

23 A. Allow me to answer. Bajram Bruti bought the land. There were
24 three involved in the market. Nobody could buy it. Bajram Bruti
25 bought it, transferred it, and they went to get the money to Sami

1 Runjeva. Enver Axhami's brother, his daughter is married there.

2 Q. Can I ask you to pause, sorry, for one moment. I'm going to, in
3 due course, ask you to explain the dispute to the Judges in some
4 detail. At this stage, can I just ask you, sir, is it correctly
5 translated what I've just read out to you? That Enver Axhami beat
6 you up; is that correct?

7 A. Yes, yes.

8 Q. And in the Albanian, does it say that he beat you up "and he
9 questioned me," "they wanted to kill me," and does it go on to say:
10 My cousin sold him the land and when he sold it he transferred it to
11 a neighbour. Is that right? Is that correctly translated into
12 Albanian? Is that right?

13 A. Bajram Bruti bought the land out of his own will. Whereas he -
14 everybody in Kacanik knows that - in the middle of the night went to
15 his house, took the money, and went away.

16 Q. Sir, may I make myself clear. I'm going to ask you about the
17 dispute in some detail. All right? But at this stage, do you have
18 that in front of you, the account that you said you were beaten
19 because of the land; is that right?

20 A. Yes.

21 Q. Yes. Thank you. Now, if I may at this stage -- I'm not going
22 to ask you about the events that happened to you, and I don't want
23 you to relive the painful experience you had. But may I just ask you
24 one question about the night that you were taken in March 1999.

25 Is it right that you explained to the UNMIK personnel in 2001

Witness: W04018 (Resumed) (Open Session)

Page 7198

Cross-examination by Mr. Young

1 what had happened to you; is that correct?

2 A. At home, yes.

3 Q. Yes, thank you. And you were taken from your home and you
4 explained to UNMIK what happened to you; is that correct?

5 A. Correct.

6 Q. And I think it's right that you explained to UNMIK that you were
7 taken to a stone house in Bob in Kacanik area; is that correct?

8 A. Correct.

9 Q. And then is it right you also added that, to your surprise, you
10 there saw your enemy or your foe, your neighbour, Enver Axhami,
11 standing there to greet you?

12 A. Correct.

13 Q. And is it right that you also told UNMIK personnel on
14 1 September 2001 --

15 MR. YOUNG: And I'll give Your Honours a reference if need be.
16 I'm not going to the screen.

17 Q. -- that: Enver started asking me about this piece of land which
18 was supposed to have been sold to his brother but instead was sold to
19 somebody else; is that right?

20 A. The land was bought by Bajram Bruti on his own will. Everybody
21 in Kacanik knows this.

22 Q. But did you tell UNMIK, in fact, that Enver Axhami, the first
23 thing he asked you about was to start asking you about the piece of
24 land? That was the very first thing, wasn't it, when he greeted you,
25 you having been kidnapped?

1 A. That's right.

2 Q. Yes, thank you. And did he - did he, Enver Axhami - did he name
3 or name the person to you he thought ought to have bought the land
4 instead of Bajram Bruti? Did he say who he thought should have
5 bought the land, not Bajram Bruti but somebody else?

6 A. They didn't have the money to buy the land; meaning, the Axhami
7 family. Then they took money from Sami Runjeva who then instructed
8 them to go throw the money and go away. So, "You can just throw the
9 money like that and leave." So Enver was selling clothes and he had
10 a shop, Enver Axhami, in Kacanik.

11 Q. Thank you, sir. But did Enver --

12 A. Thank you.

13 Q. But did Enver Axhami explain to you, Mr. Witness, who he thought
14 ought to be the owner of the land? For example, was it his brother
15 he thought ought to have been the owner?

16 A. No, these are lies. Bajram Bruti bought it. For three years
17 the land was on sale. Nobody had the money to buy it. Bajram Bruti
18 bought it, paid the money, and transferred the documentation.
19 Whereas Enver went into his house with six people -- I think this is
20 written in some document. I don't know how to present this to you.
21 He left the money inside and left. This is what happened.

22 Q. Right.

23 A. No people, not even the worst kind, wouldn't do this, meaning
24 what Enver Axhami did.

25 Q. What did he do? Can you just spell it out, what he did in that

1 property dispute? What did he do?

2 A. I'm telling you, everybody in Kacanik knows this, and everybody
3 is listening to us. Sami Runjeva from Kacanik, he has a gas station
4 in Kacanik and he had that before and after the war. He gave the
5 money to him and told him, "Go throw the money inside his house and
6 just leave," which they did. And there are witnesses, Albanian
7 witnesses who came to reconcile us, and they were sent away by Enver.
8 He didn't want to take his money back. I'm not inventing this. I'm
9 not making this up.

10 Q. Now, what you are saying, as I understand it, is that Enver
11 Axhami himself did not have the money or that his family did not have
12 the money to buy the land; is that right?

13 A. No, they didn't have the money. Otherwise, they would have
14 bought it immediately. They wouldn't have waited that long. We know
15 this.

16 Q. So as far as you're concerned, Bajram Bruti actually became the
17 legal owner of the land; is that right?

18 A. That's right. He bought it.

19 Q. And did he buy it for 24.000 German Deutschmarks?

20 A. He bought it. Yes. 24.000 Deutschmarks, paid cash, and they
21 signed the documents.

22 Q. Thank you, sir. And can you help the Court, please, as to when
23 it was that Bajram Bruti bought the land for 24.000 Deutschmarks?

24 A. This was almost 30 years ago, if I'm not mistaken. It was a
25 long time ago.

1 Q. So you've explained that the land dispute, I will call it, or
2 land problem, one says you said it's caused trouble for you for two
3 years, another time I think you said 11 years. So it's been a
4 problem for many years. Can we agree on that?

5 A. Yes. Enver Axhami used the land to graze his cattle for two
6 years without having permission to do so.

7 Q. Let me focus now on the land deal itself, okay, the land
8 dispute. So topic number one, if I may. Whereabouts was the land?
9 Can we start with basics. Where was the land?

10 A. The land is in -- on the top of my village, Llanishte.

11 Q. Now, I may be completely wrong, but are there two Llanishtes?
12 There is Llanishte Kacanik and another Llanishte; is that right?

13 A. No. There is -- I've heard of a Llanishte in the area of Shtime
14 or somewhere, but we have nothing to do with that. We are far from
15 that area in Kacanik.

16 Q. Right. So the land was in Llanishte near Kacanik. Now, as I
17 understand it, it was about 7 acres of land --

18 A. Yes.

19 Q. 7, sorry, hectares of land; is that right?

20 A. I don't know if it's 7 or 17. I don't know. They worked --
21 used this land. And Abaz Bruti, they should know the surface.

22 Q. Are you aware of what the land was used for? Was it farming
23 land or residential land, for example?

24 A. That land was -- had never been cultivated. It was meadow a
25 little bit, but there were a lot of thorns and trees and stones and

1 not arable. Two years later, Abaz, the son of Bajram Bruti, started
2 cultivating it. Because we had discussions and negotiations to --
3 with the idea of returning the money to Enver Axhami, and we did this
4 through the structures of the LDK, but Enver Axhami wouldn't accept
5 this.

6 Q. Could you pause there, sir.

7 A. And then he violently used the land for his cattle.

8 Q. I see. So the money of 24.000 Deutschmarks, that money, where
9 did it come from? Whose money was it?

10 A. I told Bajram Bruti bought this land sold to him by Qasim
11 Idrizi. They signed a contract, so Bajram Bruti became the owner of
12 the land. But him, Axhami, took the money from Sami Runjeva, went in
13 the middle of the night to his house, to the seller's house, and
14 threw the money in. Then Qasim Idrizi didn't return the money to
15 Enver Axhami. We went to the LDK. We had a meeting at the retirees
16 coffee shop. And they almost fought there, people from Kacanik, from
17 the LDK.

18 Q. So the land was originally owned by somebody called, is this
19 right, Qasim Idrizi; is that right?

20 A. Yes, he was -- he's the seller of the land.

21 Q. And who is he, Qasim Idrizi, to you? Was he your cousin, either
22 blood cousin or another type of cousin?

23 A. Qasim Idrizi is a cousin. He's my neighbour. He also lives in
24 Prishtine, but he has a summer house in my -- in the village. His
25 maternal uncle has a house there. But Enver took both houses after

1 the war, violently. He did not file a complaint. He did not sue
2 Bajram Bruti. But he said, "Oh, I found Arkan's number on Agim," and
3 then took the land just as a retaliation measure.

4 Q. Thank you. A retaliation for, what, not being the legal owner?
5 Did you understand somebody became the legal owner, even in these
6 times, of that land?

7 A. Can you please ask the question again?

8 Q. Sorry, my fault. I think you have told us Bajram Bruti became
9 the owner of the land; is that right?

10 A. That's right.

11 Q. How did that happen? Did it happen in your area or did it
12 happen in Belgrade through lawyers? Or maybe you don't know?

13 A. The papers were prepared and done in -- at the municipality
14 offices. Municipal office. Bajram Bruti then took the documents to
15 Belgrade to complete them. I don't know. They know.

16 Q. All right. So the land was registered to Bajram Bruti locally.
17 Was that in the municipality of Kacanik?

18 A. That's right.

19 Q. Thank you. So what was Enver Axhami's reaction to the fact that
20 Bajram Bruti, in fact, was buying and bought the land?

21 A. Now I'll explain. We had a meeting with Fadil Bajnica and
22 another person in Kacanik who were from the LDK. We had this meeting
23 at the retirees coffee shop in Kacanik. Enver Axhami had the meeting
24 with Fadil Bajnica and us. They never came to an agreement, they
25 never found an agreement about the land, and they almost fought. And

1 they threatened us. Enver said, "We have the police today present.
2 You just go and report this to the police." So he took the money,
3 Enver Axhami took the money after Fadil Bajnica and Fadil Shehu
4 [phoen] spoke in Serbian.

5 Q. You say Enver Axhami took the money. Which money are you
6 referring to, sir?

7 A. His own money that he threw to Qasim Idrizi's house together
8 with six of his cousins when he went into his house.

9 Q. So are you saying, in fact, that Enver Axhami actually tried to,
10 as it were, change the course of the sale of the land? Did he try to
11 buy it for himself after it had been sold?

12 A. Yes, because Abaz Bruti, the son of Bajram Bruti, and Qasim
13 Idrizi went to a judge --

14 Q. Right.

15 A. -- and discussed this matter. And he -- Abaz Bruti had bought a
16 house in Kacanik. So he explained the whole story to the judge, who
17 solved the problem. He said the person who is the legitimate buyer
18 of the land will enjoy rights over it.

19 Q. I see. Now, was that land valuable to farmers or people in the
20 area? If so, why?

21 A. That land was abandoned, hadn't been arable for years and years.
22 He was just arable. He then -- Bajram Bruti took care of it and
23 made -- transformed it in a meadow.

24 Q. Thank you. Now, sir, you're a man, if I may say, of the land,
25 being a woodcutter and supplier of wood. So you understand very well

1 the importance of land to people. The importance of that land was
2 known very well in the area, was it not? It was known to the people.

3 A. Yes.

4 Q. Right. Now, just to introduce some of the personalities that
5 we're discussing here. You've told us that Qasim, if my
6 pronunciation is correct, Idrizi was your neighbour. Was that in
7 Llanishte --

8 A. Yes, that's right.

9 Q. In Llanishte? Yes?

10 A. Yes.

11 Q. How long had you known Qasim Idrizi for?

12 A. I've known Qasim Idrizi as a kid. I mean, he's my neighbour.
13 He's very -- he lives next to my house.

14 Q. And so you share -- obviously share the same surname. Are you
15 blood relatives or not?

16 A. Yes, yes. Same family name and same bloodline. He has only one
17 brother, one son, three daughters, so the Axhami family pressured
18 him. He had lost his brothers earlier. He only has two sisters.
19 Meaning, Qasim Idrizi.

20 Q. Now, sir, may I ask you this: As far as Enver Axhami is
21 concerned, how long have you known him as a person in the area? How
22 long have you known Enver Axhami and his family, approximately?

23 A. Enver Axhami is a neighbour. I grew up with him. We were
24 schooled together. We went to school together. But he's always been
25 a troublemaker.

1 Q. Now, is it fair to say -- and please correct me if I'm wrong.
2 Is it fair to say that you -- you've explained how he, Enver Axhami,
3 had you kidnapped, assaulted, and detained; is that correct?

4 A. Correct.

5 Q. And is it fair to say you've had a number of -- not just the
6 land deal, which was the main problem, but you've had a number of
7 personal or private issues with the Axhami family?

8 A. This is a very good question, because people in Kacanik need to
9 know this. Enver Axhami says that I was a spy for Sali Bruti. I've
10 never spoken to Sali Bruti. He was a commander in Kacanik. I was in
11 the forest. A handsaw was destroyed. I got injured. There were
12 some wood cut there. I thought it belonged to the government, so I
13 loaded them in my truck. The next day he came to my house. He said,
14 "Why did you steal my wood?" I said, "I didn't know it was yours,
15 but I'll pay for it," and we agreed on that.

16 When I went to my fields later with my --

17 Q. Can I ask you to pause. Sorry. Sorry, if you wouldn't mind,
18 can I ask you, sir, please, if you wouldn't mind, just for the sake
19 of the transcribers, to slow down a bit. All right?

20 So is it right -- just to summarise some of the personal,
21 private problems you had with the Axhamis. He's accused you of,
22 what, stealing his wood; is that right?

23 A. Right.

24 Q. Is it also right that you've accused him of stealing your cow?

25 A. Yes. Everybody in Kacanik knows this. Syle Axhami and Hysen

1 Axhami stole my cow and my veal. The youngest one, Hazbi, the
2 brother of Syle, younger one, is a police officer in Prishtine. Cows
3 would disappear without leaving any traces, and they stole my cow and
4 my veal. I never reported this to the police.

5 Q. I'm sorry to hear that, sir. But is it fair to say also, for
6 example, that your -- Enver Axhami's cousins have been assaulting one
7 of your brothers for a long time, for years; is that right?

8 A. Yes, yes.

9 Q. And, indeed, is it right to say that before the war, even before
10 the war started, they, the Axhamis, wanted to abduct you, and you've
11 said that to the investigators; correct?

12 A. That's correct. This is how it was. When they beat my brother,
13 they took their sons into Macedonia and found them -- and sheltered
14 them there. They didn't imprison them. This is how it happened.

15 Q. Was that to avoid arrest from the police?

16 A. Yes. When they beat my brother, they were -- they did this
17 secretly, quickly, and then they were taken to Macedonia to avoid
18 being arrested.

19 Q. May I ask you, what's the name of your brother that was beaten
20 by the Axhami family? What's the name of your brother? Was it Adil?

21 A. Adil.

22 Q. And is he a younger or older brother, sir?

23 A. Younger.

24 Q. Thank you. And did they also -- did Enver Axhami also want to
25 kidnap your younger brother Adil; is that correct?

Witness: W04018 (Resumed) (Open Session)

Page 7208

Cross-examination by Mr. Young

1 A. Yes. If he had been in the house, his intention was to kidnap
2 him as well.

3 Q. Thank you, sir.

4 MR. YOUNG: Could I have on the screen, please, something --
5 another document that I hope might help you. Can we have, please,
6 Court Officer, Exhibit P346 on the screen, for your assistance, sir.
7 It's exhibit number reference in English SPOE00091113 to 00091130 at
8 page SPOE00091124 in the transcript. And so we're dealing with the
9 transcript of 2 November 2004.

10 Q. You might remember you gave evidence back then didn't you, sir?
11 In 2004 you gave evidence as a witness. Yes?

12 A. Yes.

13 Q. Thank you.

14 MR. YOUNG: If we can have it on the screen. And the Albanian
15 reference is SPOE00091131 to 00091148 at page 12, which is
16 SPOE00091142.

17 Q. And do you have that in front of you, side by side, I hope, if
18 it's possible to do that, in the Albanian, so you can read it? Do
19 you have that, sir? I'm going to read, if I may, not the Albanian,
20 but I'll read the English. All right? But if you could, please,
21 look at the screen and see whether the following is written there.
22 And it's evidence you've given. So did you testify that Kadri Idrizi
23 kept the money -- looking -- yes.

24 MR. YOUNG: Yes. Your Honours, I think it's about six lines
25 down from the top, page 3, on the right. Thank you.

1 Q. Did you testify that:

2 "Qasim Idrizi kept the money in his pocket for two years. The
3 money was Enver Axhami's and Bajram Pruthi's money. I don't [know]
4 the reason why he kept it."

5 Is that something that you testified about?

6 A. You mentioned Kadri Idrizi's -- something related to Kadri
7 Idrizi?

8 Q. I'll repeat it for you, sir. Did you testify that:

9 "Qasim Idrizi kept the money in his pocket for two years. The
10 money was Enver Axhami's" --

11 A. I see.

12 Q. -- "and Bajram Pruthi's money. I don't [know] the reason why he
13 kept it."

14 Is that what you said?

15 A. I told you, and I'm telling again, the money was given to him,
16 violent, against his will. Enver Axhami with his six cousins. Then
17 three people from Prishtine came and reconciled them. When they went
18 to Macedonia, the Albanians had burned a person there. That's
19 brutal, they were. They said, "You need to reconcile. You can't
20 have a war going on between you and Enver." Enver Axhami insulted at
21 Muhamet Pirraku there. He promised that, "I will -- he will know me,
22 my name, when the war is over." He meant Enver Axhami.

23 Qasim Idrizi has only one brother, whereas the others have six
24 or seven brothers. So large families. So Qasim Idrizi couldn't do
25 anything about it, and this is why he was left with the money in his

1 pocket.

2 Q. I see. So was this an attempt, in your view, for Enver Axhami
3 to actually try and force the sale back to him or his brother; is
4 that right?

5 A. No. Once the land, the car, the house are sold, everybody knows
6 this. When you draft a contract, sign it, give the money away, it's
7 done. It becomes yours.

8 Q. Yes. I appreciate most people know that. But did Enver Axhami
9 accept that the sale had happened?

10 A. No. Enver Axhami became important there, and then he said,
11 "Things will be done as I say." Why doesn't the KLA condemn him?

12 Q. So are you saying that, to summarise, by one way or another, he
13 was going to get that land at some stage in the future; is that
14 right?

15 A. Yes. And now they took it, beating our sons. They beat my
16 uncle, paternal uncle's son, broke his arm. They beat my brother's
17 son. He was covered in blood. They hid the police documents. Do
18 you want to see the photographs?

19 Q. Thank you, sir. I'm fine as it is. But if the Judges want to
20 see photos, then, of course, that can be done. Thank you.

21 A. If you want to see the photographs, what they did to a young
22 man, how they damaged him, and the police did nothing.

23 Q. Well, briefly, then, how badly damaged was he?

24 A. After the war, they beat him. There were six people with wooden
25 sticks and hit him very badly. And he was barely saved, covered in

1 blood, skull fractures and everything.

2 Q. Now, sir, I'm going to move on now. Thank you for telling us
3 that. I said that I had three topics. I think we've dealt with
4 topic three already, so I'm going to move on to topic two, which is
5 how, sir, this land dispute affected you personally. All right?

6 So is it fair to say that during the trial in 2003 and 2004,
7 that you said to the court, I think it was a district court in
8 Prishtine, that you were in trouble because of the land; is that
9 right? You told the court that?

10 A. Yes, that's right.

11 MR. YOUNG: And can we please have it on the screen so that it
12 helps you and maybe helps the Judges. Can we have Exhibit 342,
13 please, Court Officer, on the screen. That's Exhibit 342, P342. The
14 English reference is -- forgive me. I have the -- the English
15 reference is SPOE00089723 to 00089766 at page SPOE00089757 in the
16 English. And in Albanian, the reference is SPOE00089767 to 00089814
17 at page 38, which is, in the Albanian, SPOE00089804.

18 Q. And do you have that, sir? Let's see if we have got it in front
19 of us. Do you have the Albanian on the left? Do you see that? And
20 hopefully on the right we can see the English.

21 May I ask you, do you read English or not?

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

23 Q. Well, I'll confess, I don't read Albanian, so we're equal there.
24 We're looking at the screen. Do you see a passage - in English, I
25 think it's about four lines down from the top of the page on the

1 right hand of the screen, Your Honours - where it says, did you say
2 this to the court: We were in -- I did not -- sorry. No, I'll start
3 actually, if I may, in the passage before that and then come back.

4 In the middle of the page, did you say: We were -- it's in the
5 middle of the page, so it may be around the middle in Albanian:

6 "We were in trouble for two years because of the land. I am
7 telling the story how it was and we were in trouble for two years."

8 Does it say that in Albanian? Yes? Now, may I ask you --

9 A. It's clear.

10 Q. -- what did you mean, sir, when you said you were in trouble?
11 How did you mean by that -- or what did you mean?

12 A. We had problems. As I said, they were a big family, whereas
13 Qasim Idrizi only had a son and three daughters. He could not take
14 the money back to Enver. He did but Enver refused to take the money
15 back.

16 Q. Right. I see. And how -- we've heard about the problem with,
17 obviously, Qasim Idrizi, your neighbour, and your cousin, maybe, but
18 how did it affect you yourself personally?

19 A. He is messing me up with Arkan, that we will take the seven
20 cars, drag them from Llanishte to Kacanik. Hebib Koka invented, made
21 up all these things, and everything originated from his deeds. He
22 worked with the Serbian police and put my name there. They say that
23 everybody is cursing, but not everybody is cursing. Only half of the
24 people are cursing.

25 Q. So is it fair to say that the problem that you had with Enver

1 Axhami particularly was about the lies that he was telling against
2 you; is that right?

3 A. Can't you see? He's accusing me of this land. He never removed
4 Arkan from his mouth. And everybody knows that there was no Arkan in
5 Kacanik. That he said that Agim worked as a policeman, as a forest
6 ranger, and this is not true. My name is never -- was never
7 registered there. He made things up. And everybody in Kacanik knows
8 this. And nobody speaks to him anymore, my friends told me this,
9 because he caused damage to many people. He caused damage to the
10 KLA. He's a bad man.

11 They should have killed me before the war and not meddle the
12 army -- put the name of the army in the middle of this.

13 Q. Just briefly -- just to pause there, sorry. In terms of the
14 KLA, is it right to say, after the war, you explained that the KLA
15 themselves, as an institution, they discharged Enver Axhami from the
16 KLA; is that right? He was booted out?

17 A. Yes, I heard it from friends. Nobody speaks to him anymore. He
18 caused a lot of damage. Can't you see that?

19 Q. Now, sir, can I take you to another passage, please, on the same
20 page. So if you would kindly look at the screen in the Albanian. I
21 would invite the Judges' attention to further up, I think five --
22 four lines from the top of the page on the right-hand side. In the
23 English it reads, I'll read it out: "I did not" --

24 This is you saying this:

25 "I did not have anything against the KLA or the other Albanians.

Witness: W04018 (Resumed) (Open Session)

Page 7214

Cross-examination by Mr. Young

1 I only had problems with these people and then it was a private issue
2 and not an issue of state."

3 Now, does it say that --

4 A. That's correct.

5 Q. Did you say that?

6 A. That's correct.

7 Q. And is it true?

8 A. It is true.

9 Q. And what did you mean by that, "it was a private issue and not
10 an issue of state"? Sorry, it may be obvious, but I have to ask the
11 questions.

12 A. I will make it clear to you.

13 Q. Thank you, sir.

14 A. They should have come out and kill them on their personal
15 behalf, not on the behalf of the KLA. Because when he arrested me,
16 he said, "Now, you have to deal with the KLA." I didn't get that.

17 Q. Sir, it's the third topic. I'll deal with it now, though,
18 straightaway. It's right to say you made it clear this was not a KLA
19 matter. You told the Prosecution that, didn't you?

20 A. No, it wasn't.

21 Q. Thank you. So I think you're agreeing with me it was not a KLA
22 matter.

23 MR. PACE: Objection, Your Honour. Asked and answered multiple
24 times.

25 PRESIDING JUDGE SMITH: Let's move on. That's been answered.

1 MR. YOUNG: Yes, thank you. I think it's clear.

2 Q. So it's right to say --

3 A. Thank you. Thank you. You asked a proper question.

4 Q. You're too kind. Now, is it right to say that even in 2020,
5 Witness, when you were asked questions by the Prosecution, is it
6 correct that you were asked about, effectively, the same matters, and
7 you gave essentially the same account to the Prosecution about the
8 land dispute when you came to The Hague? You told them that?

9 A. Yes, this is clear. And that's why I'm here. This is the
10 reason I'm here.

11 Q. And just to help remind you of what you said there, can we go to
12 your SPO interview.

13 MR. YOUNG: It's exhibit number, in the English, P370.2, and in
14 the Albanian -- sorry, 370.2. In the Albanian, P370.2. And for the
15 English reference number of the page, it's page 9 of the interview.
16 That's ERN 071922-TR-ET Part 2 in English. Albanian reference is for
17 page 10, 071922-TR-AT Part 2 Revised RED, page 10.

18 Q. So let's see if we have that now in front of you, sir. Right.
19 Thank you very much, Court Officer. So do you have the Albanian on
20 the left of your screen; correct?

21 A. [No interpretation].

22 Q. And we're looking at the English on the right. And did you --

23 MR. YOUNG: Perhaps we can scroll down a bit, please, on the
24 right on the English. Thank you. Thank you.

25 Q. And I'm looking at, in the English, just for the Judges'

1 assistance, is it right to say, you said to the Prosecution:

2 "... and everybody knew that it was the issue of the land that
3 was the issue involving me, and nothing else."

4 Now, did you say that in Albanian as well? Or did you say that?

5 A. Yes.

6 Q. And although it may be very obvious --

7 A. The land was the reason.

8 Q. Thank you. And so although it may be obvious, when you said,
9 "and nothing else," "everybody knew that it was the issue of the land
10 that was the issue involving me, and nothing else," what did you
11 mean, sir, by the words "and nothing else"?

12 A. I was in Kacanik after the war. I don't remember the dates. I
13 forget dates. I stayed locked in my house for three years. Nobody
14 knew that I was there. Only some family and relatives knew, my
15 sister and my brother. I was isolated because of him, because he was
16 saying that the KLA was looking for Agim Idrizi. He caused me a
17 great damage. He destroyed my life. He destroyed my family.

18 Q. Now, sir, in terms of the trouble this caused, I think you've
19 told us that there were attempts to resolve the problem; is that
20 right? So let me move on --

21 A. I told you two Albanians from Kacanik came. We had a meeting.
22 They could not give the money back to Enver Axhami. Those from
23 Prishtine, too, said we should not kill each other. They had put a
24 3-year-old child on fire with petrol, and they used those people. As
25 I said, they went to Qasim Idrizi's house, just threw the money

1 there, and went away. These are terrible things.

2 Q. Sir, I think you mentioned -- was there one particular person
3 who tried to resolve matters, albeit he failed, and he was a
4 respected doctor called Muhamet Pirraku; is that right? Did he try
5 and help?

6 A. He came with two Albanians. I don't know their names, but they
7 were of high position. He introduced himself. He said, "I am
8 Dr. Muhamet Pirraku. Once Kosovo wins, they will know who Enver
9 Axhami is." I could not go to Kacanik to police to report against
10 Albanians.

11 Q. Yes. And you've also mentioned the name of an individual called
12 Hebib Koka. Was he acting as some kind of intermediary in this land
13 problem between the different parties? What's your take on that?

14 A. No. He ate up a freezer filled with meat. They bought him a
15 red Niva, and he spoke with the Axhami family up until 4.00 in the
16 morning. I uncovered all this, and that's why I'm here. You know
17 what they could have done to Bajram Bruti, Hebib Koka? I know all
18 these things. That's why I'm here.

19 Bajram Bruti was reported that he was carrying weapons with a
20 brother, and that was done by Hebib Koka.

21 Q. Was that a false allegation as far as you're concerned?

22 A. Yes, it was false allegation, because Bajram Bruti comes from a
23 family well known in Kacanik, a family that did nothing bad to
24 anybody. They're working people.

25 Q. Turning to you yourself, if I may, sir, did you yourself,

1 indeed, try to resolve this matter by speaking to a judge about the
2 land dispute? Did you try and speak to a judge?

3 A. I was once in Ferizaj. I went by accident with an Albanian who
4 is deceased now. And I just told them -- told him that we had a
5 dispute, just as things were, and he said let's -- the person who
6 sold and the buyer of the land come here to Prishtine. I told them,
7 "They went to Prishtine. They finished what they had to be done."
8 And then that's when Enver Axhami withdrew from the land. But then
9 he put me in a very bad league with Arkan. He never ceases to talk
10 about Arkan.

11 Q. Just focusing on the judge for a moment, if I may. Did that
12 particular person advise you or others about actually returning the
13 money for the sale to the Axhamis?

14 A. No. He just said, "Let Qasim Idrizi and Abaz Bruti come to
15 Prishtine. I will talk to them, discuss how the land was sold, how
16 it was bought." And they recounted this themselves. I wasn't there.
17 He rang Hebib Koka. He spent the night before with the Axhami. And
18 then when Enver the next day saw the money in his own house, he lost
19 his mind. He didn't want to take the money back.

20 Hebib, together with Enver, should be put in prison because they
21 messed all these things up. There was no need for me to come here,
22 to have to deal with courts when I myself did not sell anything.

23 Q. Is it right to say you explained the matter to the judge, and
24 did you tell the judge it might become a police matter, this land
25 dispute? Did you mention it could become a police matter or did the

1 judge say that?

2 A. We didn't report them to the police because we knew that the
3 consequences would be bad. We referred them to Hebib Koka. We
4 thought that would be better, but he did not resolve the problem, and
5 that's why they had to go to court. Qasim Idrizi resolved this
6 problem, not me. But they put me on this list because they didn't
7 like me.

8 Q. As far as you're concerned, whatever the views of the Serbian
9 commander may have been, did you think that the Axhamis may face
10 going to jail because of this?

11 A. Whoever worked as a policeman, judge, here or there, would say
12 that these things should be brought to court. These people were not
13 arrested. He did in the end take the money. If he refused to, he
14 would have gone to court.

15 Q. How much money did he take, and who are you referring to,
16 please?

17 A. 24.000 Deutschmarks. Qasim Idrizi sold his land to Bajram
18 Bruti. Whereas Enver is a person who threatens continuously Qasim
19 Idrizi. The one who threw the money in his house in the middle of
20 the night and ran away. And that's why I'm here speaking publicly,
21 because I want to tell this story so that everybody knows it.

22 Q. If the police had become involved, that would have escalated the
23 whole matter to a different level, would it not?

24 A. At the time, the police we had, everybody knows, would beat them
25 up: Why did you go to this person's house in the middle of the

1 night? Why did you throw the money? So at that time, the police
2 would beat them up. You buy a land out of your own will. You cannot
3 just go to somebody who doesn't have any support, who just has a son
4 and three daughters.

5 Now, they have destroyed his house -- the roof of the house.
6 Why were Bajram Bruti and Agim Idrizi not taken to court? He didn't
7 dare to go to court because he knew that he would be imprisoned
8 immediately. And that's why I'm here. I waited for him to take me
9 to court, but he didn't.

10 Q. If I may say to you, I'm nearly finished, Mr. Witness, and
11 hopefully slightly within time. Now --

12 A. Go ahead, because you made some really good questions.

13 Q. Thank you. Nevertheless, I'll finish, if I may, very shortly,
14 by asking you this: Is it right to say that obviously the
15 relationship between your family and the Enver Axhami family
16 deteriorated primarily because of this land? It's obvious, isn't it?

17 A. Yes, deteriorated. And they only did bad things. I have four
18 reports with the Serbian police. I was once hanging and there was
19 this Albanian who came and saved me. This is what happened.

20 Q. Is it fair to say the incident didn't just affect you
21 personally, but the whole village was angry at one another because of
22 the land problem; is that right? Yes. Is that correct?

23 A. As I said, after the war, he broke the arm of one of my cousins.
24 He took away two houses, lands. And he told the police in Kacanik,
25 "Don't come to get me, because I am the one who liberated the police

1 station in Kacanik." And the police could not do anything. They
2 just laughed, and the victim just left him with everything, with the
3 land, with the house, and moved away.

4 PRESIDING JUDGE SMITH: Mr. Young, he's gone over these
5 materials at least three or four times.

6 MR. YOUNG: Your Honour, point's taken. I agree. And if I may,
7 I'm about to finish, hopefully, within my allotted time. Just two
8 minutes and then I think -- I see the clock.

9 PRESIDING JUDGE SMITH: But let's get to some new information
10 rather than the same information over again.

11 MR. YOUNG: Yes. Yes. Thank you, Your Honour.

12 Q. So just to finish. I told you I had three topics. I think
13 we've dealt with the third one. Yes, I'd like to -- forgive me.

14 [Specialist Counsel confer]

15 MR. YOUNG: Just to make something very clear, if I may, please,
16 in relation to topic three. Yes. Can we have on the screen,
17 please -- yes, I don't think we have an exhibit number, Your Honour,
18 so I'll give the ERN, if I may.

19 Q. The ERN in the English is in relation to the fact that you've
20 told the Prosecution the KLA were not involved.

21 MR. YOUNG: So can we go to exhibit number ERN SITF00429466.
22 The Albanian reference I have is SITF00429464 to SITF00429493 at page
23 SITF004294616 or page 3. I hope that's the right citation. And I've
24 got the full ERN for the English one, thank you. It's ERN
25 SITF00429430 to page 00429493 at page SITF00429430. And it's

1 multi-language, I think. Thank you. I see we have that on the
2 screen.

3 Q. I'm now asking you about various statements you gave or notes
4 you gave to the UNMIK personnel, Mr. Witness. All right? That's the
5 front page.

6 MR. YOUNG: And then can we go into the document itself to the
7 page in question, which is the one ending 466 in the English, and
8 ending 464 in the Albanian, I believe -- or 616, rather.

9 Yes. So we have the right page in the English. And can we
10 scroll down a bit, please.

11 Q. Do you see you mention six -- yes, I understand it's the same
12 reference in Albanian as well. Thank you.

13 And do you see there, sir, in the Albanian, in fact, that you
14 mentioned there were 16 issues or 16 questions that were relevant.
15 And just after that, did you then make it clear, and did you say to
16 the UNMIK:

17 "The KLA didn't know that Enver arrested me in middle of the
18 night to interrogate me."

19 Did you say that to them?

20 A. Yes.

21 Q. And that's true, isn't it? The KLA did not know?

22 A. That's true, because he had escaped from the KLA and come down
23 there. They had no -- they were not aware what was going on. He
24 came to me because he wanted to liquidate me and lose all traces of
25 me.

1 Q. Yes. Thank you, Mr. Witness. Very helpful. I have no other
2 questions. Thank you.

3 A. Thank you.

4 MR. YOUNG: Thank you.

5 PRESIDING JUDGE SMITH: Thank you, Mr. Young. We will take the
6 morning break now. We will be back at 11.30.

7 Witness, we will take a break for a half-hour, and then you will
8 come back to the courtroom for more testimony.

9 Madam Usher, you may escort the witness out.

10 THE WITNESS: [Interpretation] Thank you. No problem. Whenever
11 you want, you can call me. I'm ready.

12 [The witness stands down]

13 PRESIDING JUDGE SMITH: We're adjourned until 11.30.

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

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

16 PRESIDING JUDGE SMITH: If we could hear your submissions on the
17 videolink.

18 MR. KEHOE: Yes, Your Honour. Mr. Misetic has been dealing with
19 this, so if I can --

20 PRESIDING JUDGE SMITH: Okay.

21 MR. KEHOE: -- give the floor to him.

22 MR. MISETIC: Yes, Mr. President, we do intend to object. I
23 don't know if you want to hear argument now or written submissions.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 If we're going to make written submissions, they probably should

1 be filed by Thursday.

2 MR. MISETIC: That's fine. We can do that.

3 PRESIDING JUDGE SMITH: Is that -- does that suit everybody's
4 timetable?

5 MR. EMMERSON: Yes. We will have no submission to make on this
6 one way or the other.

7 PRESIDING JUDGE SMITH: Okay.

8 MR. TULLY: We will be opposing and we will write a joint
9 submission. Thank you, Your Honour.

10 PRESIDING JUDGE SMITH: All right.

11 MR. PACE: Your Honour, I just --

12 PRESIDING JUDGE SMITH: Mr. Ellis, can you comply on Thursday as
13 well?

14 MR. ELLIS: We can, Your Honour, if [Overlapping speakers] ...

15 PRESIDING JUDGE SMITH: I mean, if you intend to resist.

16 MR. PACE: And just to confirm that that is a worthwhile
17 exercise, I confirm that we do still intend to --

18 PRESIDING JUDGE SMITH: Yes, we'll have that on Thursday. We'll
19 make a ruling before Monday. So thank you very much.

20 Madam Usher, you can bring the witness back in.

21 I've been reminded to remind you all Thursday we only have two
22 sessions, the first two sessions. Off on the third session.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right. Witness, you may be seated.

25 THE WITNESS: [Interpretation] Thank you.

1 PRESIDING JUDGE SMITH: We are ready to proceed.

2 Mr. Misetic from the Thaci Defence will be asking you questions
3 first.

4 THE WITNESS: [Interpretation] I'm listening.

5 Cross-examination by Mr. Misetic:

6 Q. Good morning, Witness. As the President said --

7 A. Good morning.

8 Q. -- my name is Luka Misetic. I am counsel for Mr. Thaci, and I
9 just have a few questions for you this morning.

10 So before we get to the substance --

11 A. Thank you.

12 Q. Before we get to the substance of your testimony, I did want to
13 clarify a background issue with you.

14 MR. MISETIC: And if we could please put on the screen
15 Exhibit P368 at page SPOE00091734. And the Albanian version is
16 P368-AT1 at SPOE00091761 to 62.

17 Q. And, Witness, this is a transcript of your testimony before the
18 district court in 2004. And I just wanted to clarify something with
19 you.

20 A. I'm listening.

21 Q. Yes, I hope that's on the screen in Albanian. At the bottom, I
22 believe. Yes.

23 So you were asked some questions by the presiding judge there,
24 and I just want to read them out and ask if it's still correct. The
25 presiding judge asked you:

Witness: W04018 (Resumed) (Open Session)

Page 7226

Cross-examination by Mr. Misetic

1 "When you studied in schools in Kosovo, did you learn Serbian?

2 Your answer was:

3 "Yes."

4 The presiding judge asked you:

5 "Do you know how to read and write in Serbian?"

6 Your answer was:

7 "Yes."

8 The presiding judge asked you:

9 "Did you learn how to read and write in Albanian?"

10 Your answer was:

11 "Yes, we did learn how to read and write in Albanian."

12 The presiding judge asked you:

13 "You can read and write in both Albanian and Serbian; is that
14 correct?"

15 Your answer was:

16 "I can read and I know the letters so it is easy for me to speak
17 and read but it is harder to write."

18 The presiding judge asked you:

19 "You can speak and read both languages?"

20 You again said:

21 "Yes."

22 Do you recall giving that evidence to the district court?

23 A. Look, when we learned Serbian, I remember teacher would come not
24 that frequently, stayed not for a long time, because of the
25 situation, as it deteriorated. So we stopped learning Serbian and we

1 started learning English.

2 Q. I'm just asking you did you say that in response to questions
3 from the presiding judge in the case in 2004?

4 A. Yes, but we did not learn a lot Serbian.

5 Q. Well, you were asked this morning by the Prosecutor whether you
6 can read Serbian. Your answer was no. And I'm wondering if you can
7 reconcile your -- let me finish.

8 A. I don't really know the letters.

9 Q. I was wondering if you can reconcile your answers in the
10 district court that you can read and write in both Albanian and
11 Serbian. You said it multiple times. And this morning you said you
12 can't read Serbian. How are we to understand your testimony?

13 A. No, I don't know Serbian well. I can't write it well. I don't
14 understand all the letters.

15 Q. Your testimony is that after your release you spent some time in
16 the house of Boban Krstic; is that correct?

17 A. That's right.

18 Q. What language does this Boban Krstic speak?

19 A. He speaks good Albanian.

20 Q. Does he speak Serbian as well?

21 A. No, he speaks only Albanian.

22 Q. Okay. So Boban Krstic is what ethnicity?

23 A. He's Serb but he spent a lot of time with Albanians. He spent
24 time -- worked with Albanian police officers and learned the
25 language. They spent time together.

1 Q. But you said he only speaks Albanian. He's a Serb that doesn't
2 speak Serbian?

3 A. He does. He speaks Albanian more with Albanians, because he
4 doesn't speak Albanian with the Serbs.

5 Q. Let me show you the documents you were shown this morning by the
6 Prosecutor.

7 MR. MISETIC: And this is Exhibit SPOE00093211 to 00093212.

8 Q. Now, you told the Prosecutor that the first time you ever saw
9 this document was last week when you met with the Prosecution;
10 correct?

11 A. Correct.

12 Q. And it's fair to say that no one mentioned this particular list
13 to you while you were detained in Bob and the subsequent villages;
14 correct?

15 A. The list of the detainees; right?

16 Q. That's on your screen, yes. No one mentioned that list to you.

17 A. This list was read by Enver Axhami. He read some Albanian names
18 on the list. That's where I heard about it. I never heard it
19 before. He read those names.

20 Q. Well, we'll get to the names and whether the names you say were
21 read out are the same names as the names on the list. But no one
22 told you, for example -- let me change the question. No one accused
23 you at the time of working for local security; correct?

24 A. Correct. My name is was not mentioned.

25 Q. And let me show you another document you were shown by the

1 Prosecution.

2 MR. MISETIC: This is IT-05-87 6D00484-E, and the same in the
3 Serbian without the E. If we could turn the page in the Serbian
4 version just so it has Latin script for the witness. Yes.

5 Q. So, Witness, you were asked some questions about this document
6 as well. And this is another document that you saw for the first
7 time last week when it was shown to you by the Prosecution; is that
8 correct?

9 A. Correct.

10 Q. And no one mentioned such a document to you when you were
11 detained in 1999; correct?

12 A. Correct.

13 Q. You know who Jenuz Shurdhani is. You discuss him in your
14 statement; correct?

15 A. Jenuz Shurdhani, I know him very well, as I know myself, because
16 I grew up there. He was a young man.

17 Q. Yes. Are you aware that Jenuz Shurdhani has said that these
18 lists were not discovered by the KLA until after NATO entered Kosovo?

19 MR. PACE: Your Honour, perhaps counsel could provide me with a
20 reference where that witness says that. Thank you.

21 MR. MISETIC: Sure. I can put it on the screen, in private
22 session if necessary. This is at 074301-TR-ET Part 10, redacted,
23 page 11, lines 21, to page 12, line 5.

24 "A. After the war, I found this list at the archive of the
25 police station in Kacanik.

1 "Q. Do you recall whether any such documents or any such
2 information about Albanians working with the Serbs were ever
3 unearthed or discovered during the war?

4 "A. No."

5 MR. PACE: And, Your Honour, just a matter of precision, if it
6 could be clarified to the witness, this is not information provided
7 by Jenuz Shurdhani. It's provided by somebody else. Perhaps counsel
8 has a confusion of codes there. Just noticing that, Your Honour.

9 MR. MISETIC: Just one second, please.

10 Q. While we look for that, let me take you to the district court's
11 conclusion about these lists.

12 MR. MISETIC: And this is 032228 to 032286 at 032278.

13 Q. Have you read the judgment of the court in the case you
14 testified in in 2003 and 2004?

15 A. I have.

16 Q. You have read it. Okay. Then if we could read the relevant
17 portion. Towards the bottom of the page, the paragraph that begins:

18 "The defense has submitted two lists, purporting to identify
19 members of the Local Police. One is an alleged payroll record and
20 the other purports to be a list of members of the Local Police.

21 "As argued by the Prosecutor, if the KLA had information or was
22 in possession of lists ..."

23 MR. PACE: Yes, Your Honour, I do understand that counsel is in
24 the middle of asking a question, but we object to this information
25 being put to the witness. I can make further submissions in the

1 witness's absence, but I don't see the value or relevance of putting
2 conclusions from one court about certain documents which this Court
3 is going to have to make conclusions of its own about.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

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

6 PRESIDING JUDGE SMITH: I'm sorry. I wasn't on mic. The
7 objection is overruled.

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

9 Q. Let me continue, Witness, what the court ruled about these
10 lists:

11 "As argued by the Prosecutor, if the KLA had information or was
12 in possession of lists at that time and used them as the basis to
13 suspect that the detainees were Local Police, or were engaged in
14 activities hostile to the KLA, they would surely have confronted the
15 detainees with these allegations. Again as argued by the Prosecutor,
16 Jenuz Shurdhani who conducted interviews with the detainees while
17 they were in Ivaje, testified that he had no information as to why
18 the detainees were kept there. In any event no claim was made that
19 these lists were used by the KLA as a basis for the detentions."

20 And then the court concludes:

21 "Thus even if these lists are accurate and reliable they fail to
22 establish that they formed the basis upon which the detainees were
23 arrested and held in captivity."

24 Now, Witness, you said you read the judgment. Did you read that
25 portion? Do you recall reading that portion?

1 A. I did, but with respect to Jenuz Shurdhani, he interrogated
2 detainees in the prison where I was kept, and he released some of
3 those individuals. He released ten of them. I don't know where he
4 took them. Five were kept detained.

5 Q. But do you disagree with anything that the court concluded there
6 as I read it to you?

7 MR. PACE: Your Honour, I object again on a different matter,
8 but whether the witness disagrees or not with what a court concluded
9 is not relevant.

10 PRESIDING JUDGE SMITH: Sustained.

11 MR. MISETIC:

12 Q. Well, let me ask you specifically. It says:

13 "... no claim was made that these lists were used by the KLA as
14 a basis for the detentions."

15 The two lists that you were shown by the Prosecution, you have
16 no reason to believe that those lists were used during your
17 detention; correct?

18 A. I don't know anything about these lists or who drafted them, was
19 it the KLA or somebody else. What I know, I can speak for myself, I
20 was not on those lists.

21 Q. Okay.

22 MR. MISETIC: Mr. President, I don't believe this portion of the
23 judgment is in evidence, and I would tender this portion of the
24 judgment into evidence.

25 MR. PACE: We object on the basis of relevance, Your Honour.

1 Your Honours have already ruled about the utility, or lack thereof,
2 of admitting portions of judgments into evidence. Should the Defence
3 counsel want to submit, for example, adjudicated facts, this is
4 obviously something that is open to them.

5 The portion counsel put to the witness on the record is captured
6 in our record.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 Mark it for identification and I'll rule on it later.

9 MR. MISETIC: Okay.

10 PRESIDING JUDGE SMITH: Go ahead.

11 THE COURT OFFICER: Your Honours, that will be assigned 1D46,
12 marked for identification.

13 MR. MISETIC:

14 Q. Now, you've already answered my question about whether the
15 people that detained you accused you of working for local security.
16 They also never accused you of being a friend of Serbian security
17 forces; correct?

18 A. I told you they accused me that I was a policeman, that I was a
19 forest ranger, but these are all lies. Everybody in Kacanik knows
20 that I was neither a policeman or a forest ranger. It's out of
21 question. It's not -- it doesn't suffice for people to just say
22 things. They need to back it up with arguments, with proof.

23 Q. Well, no one's accused you of being a friend of the Serb army;
24 correct?

25 A. Correct.

1 Q. And no one accused you of being a collaborator or traitor;
2 correct?

3 A. This is the reason I am here for, in relation to these
4 collaborator matters and stuff. I can't stand this. Whoever has
5 information, let them bring them up. Where was I a policeman? Who
6 did I put in prison? People should not do these kind of things. I
7 heard these rumours, and this is the reason why I'm here.

8 Q. Well, let me -- I'm talking about the period of time when you
9 were in detention.

10 MR. MISETIĆ: And let me show you Exhibit P370.4 both in the
11 English and the Albanian. And this is at page 6, lines 8 to 13 in
12 the English, page -- sorry, it's Part 4, page 6, lines 8 to 13 in the
13 English; and Part 4, page 7, line 24, to page 8, line 12 in the
14 Albanian.

15 Q. So you're asked the question by the Prosecution:

16 "And to your knowledge, has anyone ever told you or accused you
17 of being a collaborator or a traitor using those words or words
18 similar to them?"

19 Your answer is:

20 "No. No, but the Axhami family has -- is linked with Nabib
21 Koka... Hebib Koka, and all -- they've all stitched up this story
22 together."

23 Do you recall giving that answer to the Prosecution?

24 A. This is true and this is how I stated it. This information came
25 out of Hebib Koka and the family of Enver Axhami.

1 Q. I've understood.

2 A. I know this very well. I know how my name came up or ended up
3 on that list.

4 Q. I understand. And do you recall telling the Prosecution that
5 Jenuz Shurdhani never referred to any list?

6 A. Jenuz Shurdhani interrogated the detainees in Ivaje. He knows
7 very well who they were and he knows who brought the list to him.

8 Q. Well, let me just show you what you said in Exhibit P370.3, Part
9 3, page 7, lines 15 to 21 in English, and Part 3, page 8, lines 4 to
10 16 in the Albanian. And there the question is:

11 "So you were -- yes, okay. So I want to get back to the list.
12 Did you see the list at Jonuz or you only saw the list at Enver?"

13 "A. So it was Enver who read the names on the list. He would
14 mention the seven, number seven, the prison seven, but not Jonuz. I
15 haven't seen the list on Jonuz.

16 "Q. But did Jonuz refer at any time to a list?"

17 Your answer was:

18 "No, I just asked Jonuz if you could release Bashkim Loki
19 because he -- he was working with me in the supply of wood."

20 Do you recall giving that answer to the Prosecution?

21 A. Yes, I do. I gave this statement. And I had him released, and
22 he's alive today.

23 Q. Okay. Let's discuss the list some more. You've testified that
24 Enver Axhami read out a list to you of names during his questioning;
25 correct?

Witness: W04018 (Resumed) (Open Session)

Page 7236

Cross-examination by Mr. Misetic

1 A. That's correct.

2 Q. And do you know where the list came from?

3 A. From Hebib Koka.

4 Q. Hebib Koka?

5 A. Hebib Koka.

6 Q. Do you remember if Enver Axhami read your name from that list?

7 A. Yes, he had included my name in there.

8 Q. You remember other names from that list; correct?

9 A. Those who were detained, yes. The others, I think there were
10 another three, I can't remember, in Ivaje.

11 Q. Three. Can you recall the names now?

12 A. There was a man by the name of Rexh, I don't know his family
13 name. Rexh. Another guy, Sef, old dude. And another one whose name
14 I don't recall. But I can tell you the names of those who were
15 detained with me because we spent time together.

16 Q. Well, let me show you what you said -- the names you provided in
17 the district court.

18 MR. MISETIC: And this is Exhibit P367 at page SPOE00091676 in
19 the English, and SPOE00091699 in the Albanian.

20 Q. If you look in the Albanian, sir, in the middle of the page,
21 where it says:

22 "Agim Idrizi: When Mr. Enver Axhami questioned me ..."

23 Do you see that?

24 A. Yes, and that's correct, that Enver Axhami questioned me.

25 Q. If you continue to read the paragraph, there are a series of

1 names you provided the court as having been on the list. And I'll
2 read it to you. It says:

3 "When Mr. Enver Axhami questioned me they read out the list
4 containing the names of those Albanians they intended to abduct and I
5 shall provide the Court with the names. Islam Dranogllava, Ismail
6 Lela" --

7 A. Yes.

8 Q. -- "about him they were telling 'he used to socialise with Arkan
9 we had better abduct him.'"

10 A. Yes, that's correct. This is what Enver Axhami said.

11 Q. "In addition, they stated about him that 20 years ago he was
12 socialising with Arkan while in Belgium. Halit Loki, Ismet Stagova.
13 A shoemaker from Stagova named Heset, Afet Rexhallari, Mahmut
14 Darishti" --

15 A. Afet.

16 Q. Afet, okay.

17 "... Qamil Dardhishta, Osman Kuka, Hazir Jaha" --

18 A. Yes, yes.

19 Q. -- "the son of the latter Iliaz Jaha. Myrtezan Tusha. Those
20 people who abducted us shot at the car while at Kulla e Keshmes, but
21 he managed to leave. That person is alive at present."

22 A. Yes.

23 Q. "Jeton Qorri, Bashkim Qallaki. Lal Qallaki, Bashkim Qallaki's
24 brother. Qamush was a forest guard from Elizhan. There was a guy, a
25 veterinarian for the cows, his name was Hisen. There were another

1 four person in Llanishte" --

2 A. Qamush, the forest guard.

3 Q. Okay.

4 "They put Emin Axhami on the list because they wanted to abduct
5 him as well. He was a postman at the school. They wanted to abduct
6 him because was the only one who did not leave his post."

7 A. Emin Axhami worked at the high school.

8 Q. Okay.

9 "They also put Bekim Matluma on the list. Bekir Shurdhani.
10 Regarding this person they were saying that he used to carry wood on
11 the trucks with Serbian soldiers in. In Gjurgjevdell they also
12 mention the name of Hise."

13 A. This is what Enver Axhami claimed.

14 Q. Okay.

15 "As for Bob, Fehme Zeneli, these are the ones [I] remember, as
16 for others I don't know."

17 Does that refresh your recollection of the names you said?

18 A. Yes. He had these names on the list. I don't know the reason
19 why he put these names on the list. He can explain. I did not put
20 them on the list. I did not. I don't have any contacts with them,
21 so I have nothing to do with that. If he knows what they did, how
22 they did it, he is welcome to tell and explain. He can make it
23 public. Enver Axhami, being.

24 Q. Now, did you memorise these names as they were being read out?

25 I mean, it's a long list of names and you seem to have remembered a

1 lot of them.

2 A. Allow me to ask a question in turn. He included my brother on
3 the list even, Idriz, who hadn't been in Kosovo for 40 years. He --
4 Bajram Tusha had been a friend of his as kids in Kacanik and -- so he
5 came from Belgium to Macedonia and then illegally crossed into
6 Kosovo. Enver Axhami pretends that Agim Idrizi and Kadri Idrizi
7 slept for seven days in Grand Hotel in Prishtine with Arkan.

8 Q. Witness, my question was: How is it that you remembered all
9 these names? Were you trying to memorise the names as they were
10 being read out or ...?

11 A. I don't have to mention these names. They are not important to
12 me. I only saw him reading these names. He had them in a book. My
13 name was included in that list. So let him answer your question.
14 Because the time has come, everybody to come out and say publicly
15 what happened. There's nothing to hide. My brother had not been in
16 Kosovo for 40 years and then they labelled him.

17 Q. Well, Witness, let me go to the next question then. The names
18 that you recalled for the court are not the same names that are on
19 those security lists that were shown to you by the Prosecution and
20 that I showed you; is that correct?

21 A. No, that's not correct.

22 Q. Okay. Let's take a look at the lists.

23 MR. MISETIC: If we could have SPOE00093211 back on the screen,
24 please.

25 Q. Which are the names that are the same as the ones you told the

1 court about?

2 A. The names of those who were detained with me, I can tell you
3 those names. For the rest, they're of no interest to me. He can
4 tell you those names, and he can get into dispute with these people,
5 because he was the one who provided these names.

6 Q. Witness, we can go back and compare the names later. Let me
7 turn to a different topic. This is your testimony about a newspaper
8 article that was published after your release. Do you recall
9 testifying that there was a newspaper article saying that the KLA was
10 looking for you?

11 A. Enver Axhami wrote through Esat Raka's son, let him know in
12 Kacanik because he's following these proceedings. He put my name so
13 that whoever saw my name could kill me. And he wrote about my wife
14 that she was Arkan's daughter. People should punish him. I don't
15 know how they could let him do this. What kind of soldier was he?
16 My wife is Albanian.

17 Q. I think we're talking about the same article. Do you recall
18 when such an article was published in the newspaper?

19 A. The police took those newspapers back then in Kosovo, did not
20 let me keep them. If you write something, you should write it
21 accurately. Not just like that. Okay, let's just put Agim Idrizi on
22 the list and kill him. How can you say about my wife that she is
23 Arkan's daughter?

24 Q. Witness, I was just asking you if you recalled the date or a
25 year or a month of when such a newspaper article was published.

1 A. Baton was in Kosovo on a programme. I'm not lying to you. The
2 police took the newspaper. This newspaper article put my entire
3 family in stress. People started thinking that I did something I
4 didn't. Can you imagine? Agim's wife there appeared as Arkan's
5 daughter. That's how it was written. Turks did not do such things.
6 No nation in the world did such things.

7 Q. Witness, let me ask you a third time, and let me rephrase the
8 question. This newspaper article was published after you left
9 Kosovo; is that correct?

10 A. I was in Kosovo at the time. I was not abroad.

11 Q. Let me show you Exhibit P367 at page SPOE00091682 and in
12 Albanian, SPOE00091705.

13 A. Now I remembered about this article, when it was written. May
14 I? May I tell you?

15 Q. Sure.

16 A. This article was written when I escaped from these soldiers. He
17 dispersed this article. Some from my family read it in Macedonia and
18 informed me about it. This is accurate. They wrote another article,
19 but at that time I was in Prishtine, saying that my wife was Arkan's
20 daughter.

21 Q. Well, I'm looking at your testimony in the district court, and
22 your testimony was:

23 "When I went to see my family; when I left Kosovo when the war
24 had finished they told me that it was announced in the papers the KLA
25 was looking for me and when I went to look for shelter no one would

1 shelter me. It was true. It was announced in the media, that any
2 KLA soldier was looking for me."

3 Do you recall giving that evidence?

4 A. Yes, that's how it was.

5 Q. So the publication of the paper was when you had left Kosovo and
6 the war was over; correct?

7 A. Yes. Do you believe me, when I was in prison for a falsified
8 passport, somebody sent the word: If you want to arrest Agim Idrizi,
9 he will be released from prison tomorrow at this and that time, and
10 you can come and arrest him in Macedonia. But they didn't come to
11 arrest me in Macedonia. Do you know about this?

12 Q. Witness, I just want to get some basic facts just about this
13 newspaper article. That's all I want to do. If you continue in the
14 transcript that's on the screen, you're asked by the prosecutor:

15 "You mentioned in the newspapers. Did you yourself see it in
16 the newspaper at that time?"

17 Your answer was:

18 "A close relative from my family had cut it and told me. I was
19 not interested which newspaper had written it and was not interested
20 in taking the name. But will find it if I have to."

21 Do you recall giving that evidence?

22 A. He didn't give me. Maybe he was afraid. Because I wanted to
23 have it.

24 Q. Okay.

25 A. And this, what they wrote, is not okay. You see how many rifts

Witness: W04018 (Resumed) (Open Session)

Page 7243

Cross-examination by Mr. Misetic

1 it caused?

2 Q. Well, let's see if we're talking about the same article.

3 MR. MISETIC: So if we could please put on the screen

4 SPOE00093174 to 00093175, please.

5 Q. Is this the article that you're referring to?

6 A. They didn't like it.

7 Q. I'm not sure what --

8 A. My family didn't like it when they saw this article.

9 Q. Okay. But is this the article you're talking about that your
10 family saw and then told you about?

11 A. Yes. They told me that they had published this in the newspaper
12 that the KLA was looking for me. I don't know why the KLA was
13 looking for me. They have to tell me. But Enver Axhami should be
14 punished about this because he brought about all these troubles.

15 Q. Well, does the article actually mention the KLA?

16 A. This is what he told me. He didn't give it to me for me to read
17 it. Had he given me the article, I would have had it here in my
18 pocket today.

19 Q. And the article here doesn't mention your wife, does it, or
20 Arkan?

21 A. No, that's another one. The police in Prishtine has that one.
22 It's playing with open cards, as we say it back home. This is what
23 the article said, that my wife was Arkan's daughter.

24 Q. Let me shift to a different topic. You don't know what role
25 your cousin had within the LDK; correct? Your cousin Hisen Idrizi.

1 A. I knew because he told me that they were looking into these
2 matters, that when the time comes --

3 Q. I think you misunderstood my question. I'm going to ask you
4 just some questions about the LDK now. Not about what happened to
5 you. So have a cousin --

6 A. All right.

7 Q. -- named Hisen Idrizi who was in the LDK; is that correct?

8 A. Yes.

9 Q. And you don't know what role your cousin had within the LDK;
10 correct?

11 A. He attended meetings there with the LDK.

12 Q. But you don't know what function he exercised in the LDK;
13 correct?

14 A. That was of no interest to me. I was only interested in the
15 forest. I did not want to get involved into anything. I just wanted
16 peace, but they didn't want me to have that peace.

17 Q. And you yourself were never interested in politics; correct?

18 A. Never. Not during the Yugoslav regime, not even now. I
19 actually avoided the military service in the Yugoslav Army. I
20 made -- caused big problems so that I could go home. 30 people from
21 Kacanik went to do the military service; I didn't.

22 Q. And while you were being detained, no one accused you of being a
23 member of the LDK; correct?

24 A. They didn't. They just mentioned Arkan, the dispute, Agim beat
25 somebody with the police. These sorts of things were said. This is

Witness: W04018 (Resumed) (Open Session)

Page 7245

Cross-examination by Mr. Misetic

1 what he said, and he should be held responsible for that. Let
2 anybody who wants deal with him.

3 Q. And you're not aware of your cousin Hisen Idrizi ever
4 experiencing problems with the KLA in 1998 or 1999; correct?

5 A. We kept guard at night during the war. They didn't give us
6 weapons, and then I just left it off, got prepared to go to
7 Macedonia. But then Axhami came with his soldiers and took me.

8 Q. I think there was a miscommunication, Witness. I just asked
9 whether you were aware if your cousin, Hisen Idrizi, ever had a
10 problem with the KLA.

11 A. No, I don't know anything about that.

12 Q. Witness, thank you very much for your time and for answering my
13 questions.

14 MR. MISETIC: Mr. President --

15 THE WITNESS: [Interpretation] Thank you.

16 MR. MISETIC: -- that concludes my cross-examination.

17 PRESIDING JUDGE SMITH: Thank you, Mr. Misetic.

18 Veseli Defence?

19 MS. O'REILLY: We have no questions, Your Honour.

20 PRESIDING JUDGE SMITH: All right.

21 Mr. Ellis, anything?

22 MR. ELLIS: Nothing further, Your Honour.

23 PRESIDING JUDGE SMITH: All right.

24 Redirect?

25 MR. PACE: Yes. Hopefully under five minutes, Your Honour.

1 Re-examination by Mr. Pace:

2 Q. Witness, earlier today, I'm referring to page 35 of the realtime
3 transcript, you said:

4 "Enver Axhami says that I was a spy for Sali Bruti. I've never
5 spoken to Sali Bruti. He was a commander in Kacanik."

6 Witness, my question is as follows: When did Enver Axhami say
7 that you were a spy for Sali Bruti? Was that before or after your
8 detention in March 1999?

9 A. Thank you for your question. It's a proper question. And
10 everybody in Kacanik will hear me, and I want to speak. Allow me to
11 speak. This was when I was arrested by Enver's soldiers, his
12 comrades in arms. They took me to Ivaje, to prison, Enver Axhami
13 that is, to that old house that we saw there. Axhami interrogated me
14 and said that Agim Idrizi was this person's spy.

15 I wasn't a spy. As I said, I had that incident with a saw. I
16 prepared that wood which I thought belonged to the state and took it
17 with me. And he then came to the house, said, "You stole my wood."
18 And I said, "Okay, I'll pay it to you." Then he came to the field
19 where I was and beat me up with a piece of wood. I was stronger than
20 him and beat him back. He could not move for three months.

21 Sali Bruti is listening, maybe, and he -- if he thinks that I
22 was a spy, he can speak up. These are all lies. He was saying that
23 I wanted to put him in prison. Sali Bruti is alive and you can ask
24 him. If he says that I was a spy, he can say that publicly.

25 Q. Okay, Witness. You've answered the question. Again from

1 earlier this morning - page 24 of the transcript for Defence counsel
2 and the Court - you were asked in relation to Enver Axhami and his
3 family:

4 "Q. So as far as you were concerned, he was spreading a lot of
5 lies and false information about you?

6 "A. Everybody in Kacanik knows that."

7 Now, Witness, my question is the following: While you were
8 detained in March 1999, did any KLA member involved in your detention
9 try to verify if what you call Axhami's lies were true?

10 A. Can you please repeat your question?

11 Q. Certainly. You testified today that Enver Axhami spread certain
12 lies about you. While you were in KLA detention in March 1999, did
13 any of the KLA members there try to figure out if what Axhami said
14 about you was true or not?

15 A. Enver Axhami read out the list. My name was on that list. And
16 Enver Axhami was the main person who refused to release me. Jenuz
17 Shurdhani did not interrogate me. Had he interrogated me, I would
18 have been released. He is the reason why I'm here, together with
19 Koka. He's the one who made these allegations that I was a police,
20 that I was a forest ranger. He messed everything up and measures
21 should be taken against him.

22 Q. Witness, please listen carefully. I'm going to ask a slightly
23 different question based on what you just said. You talked about
24 allegations you were a police and a forest ranger. While you were in
25 KLA detention in Bob via Bicec, Varosh, did any of the KLA members

Witness: W04018 (Resumed) (Open Session)

Page 7248

Re-examination by Mr. Pace

1 there show you any evidence that this was true or ask you if it was
2 true or not, for example?

3 A. I will tell you clearly because the public opinion should know
4 about this and all you here. I remember they came after the war to
5 my house --

6 Q. No, Witness, I will stop you there.

7 A. -- an Italian policeman with an interpreter --

8 Q. Please answer -- please answer the question, which is, I'll
9 repeat it one more time: While you were in KLA detention, did any of
10 the KLA members there show you any evidence that the allegations
11 Enver Axhami made about you were true or not?

12 A. Jenuz Shurdhani wanted to interrogate it but he could not
13 because of Enver Axhami. This is true. Shurdhani told me, "If I
14 interrogate you, I should release you." They had found an equipment
15 behind the door. That was all. And he said, "If I interrogate you,
16 I have to release you because they found nothing in your house."
17 This is clear.

18 Q. Thank you, Witness.

19 MR. PACE: No further questions, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

21 [Microphone not activated].

22 JUDGE BARTHE: Thank you, Judge Smith.

23 Questioned by the Trial Panel:

24 JUDGE BARTHE: Good afternoon, Witness. I have also only a few
25 more questions for you.

Witness: W04018 (Resumed) (Open Session)
Questioned by the Trial Panel

Page 7249

1 A. Go ahead. You're welcome.

2 JUDGE BARTHE: Thank you. My first question is the following.
3 After what we have heard from you this morning, am I correct that the
4 main if not the only reason for your arrest, your detention, and your
5 mistreatment was the land dispute you and your family had with Enver
6 Axhami and his family; is that correct?

7 A. Yes, that's correct. Everybody in Kacanik knows that. There is
8 no reason for me to lie here. Everybody knows. Little children know
9 about this. We had this big dispute.

10 JUDGE BARTHE: Thank you. I understand. And just to be clear
11 on another point, was Enver Axhami a member of the KLA in March 1999?

12 A. Yes, of course he was a member of the KLA.

13 JUDGE BARTHE: Was he wearing a uniform when he mistreated you?

14 A. Yes, he later put on a uniform. Whereas those soldiers that he
15 had brought to my house, they were in civilian clothes. He himself
16 did not come to take me, because he couldn't do that. My family knew
17 him. He was waiting in a hut. Whereas these soldiers who came, he
18 sent them. And luckily I am alive and I can speak about this now,
19 because nobody would have known that Enver Axhami was involved in
20 this.

21 These were members of one family, and they all became military
22 policemen. They -- he, when I was a child, kicked me because a girl
23 from his family was teasing me. I wasn't teasing her. We didn't
24 speak for 20 years. And he was telling me, "We didn't speak for
25 20 years. Now why are you here?" he asked me. "Are you going to

Questioned by the Trial Panel

1 revenge that now on behalf of the KLA?" These were terrible things.

2 JUDGE BARTHE: Thank you, Witness. I think I understood what
3 you said. Was Mr. Enver Axhami a member of the KLA military police?
4 Is that what you were just saying?

5 A. Yes, they were together.

6 JUDGE BARTHE: And his uncle Sami Axhami, was he also a member
7 of the KLA in March 1999 as far as you know?

8 A. His uncle worked with the Serbs. Everybody knows that he worked
9 at this petrol station during Tito's time, during Milosevic's time,
10 during KLA's time. He was dismissed from his job, and he was then
11 returned by the Serbs to that position as well. And he had weapons
12 with the Serbs' authority in his possession, and everybody in Kacanik
13 knew this.

14 JUDGE BARTHE: So, in other words, Sami Axhami was not with the
15 KLA? Is that what you're saying? Sami Axhami.

16 A. I heard from the people that he worked on his field during the
17 war and that a son of his sister was killed by the Serbs. He said
18 that Agim Idrizi asked me to provide him with an automatic rifle,
19 which was not true. These were lies. They didn't like me, and they
20 wanted to do anything to destroy me.

21 He resembles a shepherd. If you look at him, the way he looks,
22 you will see that he is just a simple peasant. But he has so much
23 racism in his heart. He doesn't like anybody. He was claiming that
24 he will drive away the entire Idrizi family. He didn't have any
25 arguments. I have this photograph here with me. See what he did to

Witness: W04018 (Resumed) (Open Session)
Questioned by the Trial Panel

Page 7251

1 my brother's son, to my first cousin, and to me. Do you want me to
2 show you the photograph?

3 How can the state allow him, how can the authorities allow him
4 to do these things?

5 JUDGE BARTHE: Witness, I would like to continue my questioning.
6 Will you please listen to me and to my questions. I think you
7 already answered my question. Thank you.

8 My next questions relate to the SPO Preparation Note 2. This is
9 paragraph 18 - and please listen carefully to what I read to you now
10 - according to which you said the following:

11 "Witness W04018," this is you, "confirmed his prior assertion
12 ... that before W04018 was detained, Enver Axhami's uncle, Sami
13 Axhami, had said he was beaten in a Serbian police station by W04018
14 and others, and that Sami Axhami later admitted to," you, "to W04018
15 "that he knew this was not true."

16 My question, Witness, is when did Sami Axhami admit that his
17 allegations against you were not true? Was that during or after the
18 war?

19 A. When I was at home isolated for three years after the war, he
20 was carrying some hay with a tractor. I asked him, "Are you coming
21 to my place or shall I come to your place?" He said to me "Lal," he
22 calls me Lal. We were neighbours. There is nothing between us, so
23 we were in good relation. And I said to him, "You see, you told the
24 KLA staff that Agim Idrizi had asked for an automatic rifle, that he
25 took part in beating people with a police." Go and ask him today.

Witness: W04018 (Resumed) (Open Session)

Page 7252

Questioned by the Trial Panel

1 If he says that, "Agim beat me with a police," we will ask him which
2 one beat you. You cannot just burden and label people.

3 He has no face now to go out in public because everybody will
4 spit on him.

5 JUDGE BARTHE: Thank you. Witness, thank you. Thank you,
6 Witness.

7 A. This is the truth.

8 JUDGE BARTHE: And this leads me to my next question. Do you
9 know when the beatings in the Serbian police station, according to
10 Sami Axhami, should have occurred? So what did Mr. Axhami, Sami
11 Axhami, claim when the beatings should have occurred?

12 A. He claimed this during the war just before I was taken away.
13 And a soldier told me, "It's good that you came and said this." And
14 he asked me, "Is it true that you beat up Sami Axhami and asked him
15 for his weapons with a policeman? Because this is what I heard from
16 other people."

17 This is not okay. If you want to say something to somebody, you
18 should say that into their face. He should also be held responsible
19 there in Kacanik. You cannot just say things like that. It's
20 wartime and let's take him, because they thought that they would
21 liquidate me. It's time of war. You should take up a weapon and
22 fight. But I was tricked into that. They took me away. They tied
23 me.

24 Ismet Kuka, Axhami's friend, he stopped my van in front of the
25 police, thinking that I was scared of the police, but I wasn't

1 scared. And I said, "If you want, you can get into this same car,"
2 but he escaped.

3 JUDGE BARTHE: Thank you, Witness. And, finally, are you aware
4 of any investigations or proceedings conducted by the KLA against
5 Enver Axhami or other people involved in your arrest, detention, and
6 maltreatment for purely personal or private reasons as I understood
7 it? Are you aware of any proceedings, investigations by the KLA?

8 A. I don't know about any trial, but I know because I frequently
9 talk to my friends and tell about this, and they spread these words.
10 So, basically, people know about the involvement of Enver Axhami and
11 the events he was involved in.

12 So I've heard that they've talked to a person whose name I will
13 not mention, and they -- they just took this person and -- in
14 relation to my event. So how -- they confronted him because they --
15 for the -- for the false allegations about his beating and the land
16 and houses that were taken away from us. I will not forgive this to
17 him. And this is his story.

18 I will pursue this as -- with any possible means at my disposal,
19 including police and courts, until he's in prison for life. He
20 ruined my life and my family.

21 JUDGE BARTHE: Witness, I think you said earlier this morning
22 during your cross-examination by the Selimi Defence that Enver Axhami
23 was discharged from the KLA or that he was booted out. Do you know
24 more about this?

25 A. He even took a apartment from a Serb in Kacanik, and the

1 Albanians themselves expelled him from there, threw his stuff out of
2 the window and sent it back to the village. He's still causing
3 trouble there after the war.

4 He beat my brother's son severely. It was very bad. You could
5 not even wash him, all covered in blood. And the police then just
6 deleted the file and didn't -- why don't they arrest him? Actually,
7 we should sue the police. You would be shocked to see the
8 photograph. Expelling us violently, asking us to leave the country
9 and go to Serbia. Who has given him the authority to do that? Why
10 would he do that?

11 JUDGE BARTHE: Maybe I have to be more precise here. My
12 question is: Was Enver Axhami discharged from the KLA, from what you
13 have heard, because he detained and maltreated you or was that for
14 other reasons?

15 A. He was discharged and people had words with him, they asked
16 questions, but he has no answers because he's committed serious
17 crimes. But they didn't know that beforehand. Now when I tell these
18 things, I make it public. Everybody has come to know it. So he has
19 no place to stay anywhere.

20 JUDGE BARTHE: Do you have any information why he was discharged
21 from the KLA, Enver Axhami?

22 A. He was discharged because he used the KLA. You see what he did.
23 He used the KLA to take our land from us, claiming that we were
24 involved to Arkan and this and that. So there's just totally
25 ungrounded and false accusations and allegations. You need to

Questioned by the Trial Panel

1 have -- you need to have proof, to back it up with proof: Where did
2 you work? Where were you employed? Is there any record of that?
3 You have to tell it. You can't keep it secret.

4 If I put Enver Axhami in prison, he just needs to tell about it.
5 He committed a crime with his family members who were military
6 police, and claiming that he was keeping an accurate record. He even
7 wrote a newspaper article saying Agim Idrizi had a 600 euro salary
8 working for the Serbs and pretending that he obtained this copy
9 through intelligence services. What sort of intelligence services?
10 That was -- the intelligence source was Enver Axhami. You're talking
11 about intelligence. The intelligence was what Enver Axhami decided
12 to say on my account. That's it.

13 And now I've spent my years escaping and fleeing and protecting
14 myself. Enver Axhami needs to be held responsible -- to hold
15 responsible about this. Do you know what Zekir Axhami has said? Do
16 you want me to say this? Because it's a very sad and tragic thing.

17 PRESIDING JUDGE SMITH: Witness, Witness, you've gone beyond the
18 question that was asked of you.

19 JUDGE BARTHE: Thank you. I have one final question for you,
20 Witness. Do you know or do you have any information when Mr. Enver
21 Axhami was discharged from the KLA? Was that during or after the
22 war?

23 A. After I left the country. I don't recall when. But I heard
24 from people, friends, people who hesitate to speak, they said that
25 he's left -- he's alone now, nobody socialises with him, and that

Questioned by the Trial Panel

1 he's been discharged, expelled. It's not like they thought he was
2 before, like, a good soldier and a good man, but they still didn't
3 know what crime he committed and why he took me in.

4 This is the reason why I came out public to say this, to tell my
5 story publicly, because I do not want people to point fingers at me,
6 because they had written this article that I was a traitor to the
7 nation. What traitor am I? Just based on the claim that I
8 imprisoned him? The US will -- the United States will imprison their
9 own soldiers if they do wrong-doings --

10 JUDGE BARTHE: Witness --

11 A. -- and this person is still not in prison.

12 JUDGE BARTHE: Witness, you've answered all my questions, and I
13 have nothing further for you. Thank you.

14 PRESIDING JUDGE SMITH: Judge Mettraux.

15 A. You didn't let me space to tell the story about Zekir Axhami.
16 It's very important for the people to know.

17 PRESIDING JUDGE SMITH: Witness, Witness, you are here to answer
18 questions. So listen to the questions that are asked and answer
19 them.

20 JUDGE METTRAUX: Thank you, Judge Smith.

21 And good afternoon, Witness. I have two small areas of your
22 evidence that I want to ask about, and I would like you, if you can,
23 to give me short answers. Do you understand?

24 A. Yes.

25 JUDGE METTRAUX: If you can answer with a "yes" or "no," that

1 would be perfect. And if I have a follow-up question, I will ask it
2 of you. Do you understand?

3 A. I'm listening. I'm listening.

4 JUDGE METTRAUX: I'm grateful. The first area that I want to
5 ask you about are the questions that Mr. Misetic asked you about a
6 list you were shown by Enver Axhami following your arrest by the KLA.
7 Do you understand? I want to ask you about that list.

8 A. Yes.

9 JUDGE METTRAUX: Now, do I understand it correctly that, to your
10 understanding, this list contained the names of people whom the KLA
11 wanted to arrest or I think you use in one of your statements the
12 expression "abduct"? Is that a correct understanding of what you
13 understood that list to be?

14 A. Correct.

15 JUDGE METTRAUX: And if I understand your evidence, this list
16 was given to Mr. Axhami by Hebib Koka; is that correct?

17 A. Correct. That's correct.

18 JUDGE METTRAUX: And who was Hebib Koka at the time? Was he a
19 member of the KLA?

20 A. Hebib Koka worked with the Serbian police since the times of
21 Tito, if I recall well. And he continued during the Milosevic time,
22 and he worked as a policeman until the day of my abduction. And he
23 had authority that -- claiming that he had records and gave them to
24 Enver. So these two need to clarify what was this list about,
25 because they claimed to know these people well.

1 JUDGE METTRAUX: Thank you.

2 A. Now, they are -- they should answer for this. And I thank you
3 for this question.

4 JUDGE METTRAUX: Thank you. What I'm trying to figure out is,
5 in your understanding -- and if you don't know, please say so. But
6 in your understanding, at the time when you were being interviewed
7 and detained, was Hebib Koka a member of the KLA or was he still, to
8 your mind, an official of the Serbian police?

9 A. I heard from people that Hebib Koka, that on the day he was
10 thinking to leave the country he wanted to cause a huge damage to us
11 and to the Bruti family. And I need people to know this. What they
12 did to us wasn't -- even Milosevic didn't do it to us.

13 JUDGE METTRAUX: Witness, my question is quite simple. To your
14 understanding, was Mr. Koka a member of the KLA at the time? Yes,
15 no, or you don't know?

16 A. Mr. Koka took the phone of the Serbian police and joined the
17 KLA.

18 JUDGE METTRAUX: Now, the document that you said you saw with a
19 number of names, did you see any signature on it? Did you see any
20 stamp or insignia, or was it just listing the names that you
21 mentioned?

22 A. He had a notebook and he read out from that, and he was showing
23 off when he did that, because he became an important person within
24 the KLA, claiming to have accurate information sharing that. What
25 now they -- he needs to clarify what sort of information he had,

1 where did he -- where did he take it from, Hebib Koka. So it's
2 because you brought up this information, false information and caused
3 so much trouble to people.

4 JUDGE METTRAUX: Well, we'll come to that --

5 A. Hebib Koka, who worked as a policeman --

6 JUDGE METTRAUX: Witness, I'll -- we'll take it one step at a
7 time, if you allow.

8 When you saw this logbook or this document that he was using,
9 did you see any stamp or insignia on it? If the answer is no, it's
10 no. Did you see any insignia, signature?

11 A. No, I didn't see nothing. I just saw the notebook containing a
12 lot of names. He read them out to try and tell us that, "You see?
13 I've spotted the spies." This was the idea or the message he wanted
14 to convey to us.

15 JUDGE METTRAUX: And you told us that, according to that
16 individual, your name was on that list; correct?

17 A. Yes, he had included my name in there.

18 JUDGE METTRAUX: And was the name of Shabi Idrizi also on that
19 list?

20 A. Shaban Idrizi?

21 JUDGE METTRAUX: Shabi.

22 A. Yes, he was in the list too.

23 JUDGE METTRAUX: And to your knowledge, did Shabi Idrizi have
24 any contact with the Serb authorities? And I mean either before or
25 during the war.

Questioned by the Trial Panel

1 A. To be honest, the Serbian police beat his brother once, I
2 recall. Shaban. He's the eldest. They beat him because of some
3 problems related to Shabi's wife. That's all I know.

4 JUDGE METTRAUX: Maybe then I'll show you briefly a document
5 that you were shown by both the Prosecution and the Defence. And
6 it's IT-05-87 6D00484.

7 Now, you were shown that list before, sir. And I'd be grateful
8 to the Registry to scroll down a little bit. Thank you.

9 And you were already shown that list. And I want to ask you
10 about the name under 28 here. It's Sabi Miljaim Idrizi. Is that the
11 person you've mentioned? Is that the same person to your knowledge?

12 A. Yes, yes. The same.

13 JUDGE METTRAUX: And were you aware that he was believed to have
14 signed a contract with the Serbian authority, with the local security
15 authorities? Were you aware of that? Or at least that this was
16 claimed?

17 A. I don't know about this, but I'm telling you that we were a
18 little bit distant with his family. We were not -- we were not in a
19 really good terms with them.

20 JUDGE METTRAUX: So do I take it from your answer you are not
21 aware of his having had connections with the Serbian security
22 apparatus?

23 A. With respect to this, you can ask the persons who held meetings
24 and were with them, cooperated. You can find them on the list and
25 ask questions to them. They will tell about one another. I've never

Questioned by the Trial Panel

1 been involved and never participated or attended these things. I
2 don't know them. I don't know what they did.

3 JUDGE METTRAUX: So I'll repeat my question, and, again, you can
4 say whether you know, whether you don't know. Do you know whether he
5 had any connections with the Serbian security, this person, Shabi
6 Idrizi? If you don't know, you don't know.

7 A. No, I don't know. I don't know. Because he's not my brother or
8 any family. We are very distant.

9 JUDGE METTRAUX: And do you remember if the name of Halit Loki
10 is also a name that appeared on that list you saw? Do you remember
11 Mr. Misetic showing you the list and one of the names was that of
12 Halit Loki? Do you recall?

13 A. I knew Halit Loki. I know he worked with the security and then
14 he retired. And I don't know anything further.

15 JUDGE METTRAUX: Do you know if he was arrested during the
16 conflict?

17 A. Now I recall. An old man came to see me and said that he was
18 taken from Macedonia and brought to some place in Kacanik. However,
19 there happened to be an Albanian who knew him and released him.
20 There were no consequences.

21 JUDGE METTRAUX: What about Bashkim Loki? Was he on that same
22 list?

23 A. Bashkim Loki was a poor man. They asked for a gun from him. He
24 drove my truck with wood, firewood. I paid him 10 euros a day. I
25 know he -- this. And it was thanks to me that he's still alive

1 today, because I spoke good about him and he got released. He didn't
2 do anything wrong. He is now working with his children and living in
3 his house.

4 JUDGE METTRAUX: What I'm asking is whether you recall Bashkim
5 Loki being one of the names that was on the list that Enver Axhami
6 was using when he was interviewing you? Was Bashkim on it too?

7 A. Yes, I saw the list written. But I had him released from
8 prison, and he knows that. And I was happy that he was released.
9 Because I wanted to send 37.000 Deutschmarks. I had some money
10 somewhere, so I didn't -- couldn't tell him go and take the money for
11 me. So they took all my money.

12 JUDGE METTRAUX: Can you look at the document that is in front
13 of you still on the screen under number 25. Is that the same
14 individual, Baskim Suljemani Ljoki? Is that the one we are talking
15 about?

16 A. Is his family name Sylejmani or Baba Sylejmani [phoen]?

17 JUDGE METTRAUX: It's written Baskim Suljemani --

18 A. Yes, Bashkim Loki. But is Sylejman his father? Because I don't
19 know his father's name.

20 JUDGE METTRAUX: Neither do I, sir. But do you know of any
21 connection --

22 A. This must be the person we are talking about. Bashkim Loki.

23 JUDGE METTRAUX: And assuming it is the person, do you know of
24 any connection between Mr. Bashkim Loki and the state security
25 apparatus of Serbia? Do you know of any such connection?

Witness: W04018 (Resumed) (Open Session)
Questioned by the Trial Panel

Page 7263

1 A. No, I can guarantee he's never done any harm to anyone.
2 Otherwise, he wouldn't be in Kosovo. From the day of his release,
3 nobody ever asked him again: Where were you? What did you do? And
4 he's grateful he was released, because an innocent man cannot be kept
5 in custody, in captivity.

6 JUDGE METTRAUX: I'm not asking you whether he did any harm to
7 anyone. What I'm asking you - and, again, if you don't know, you can
8 say so - I'm simply asking whether you are aware whether Bashkim Loki
9 had any connection with the Serbian security.

10 A. No, no, I never heard. I know the Serbian police asked from him
11 a handgun, and his cousins know about this.

12 JUDGE METTRAUX: Now, I want to --

13 A. He didn't have one to hand over. He didn't have a handgun or
14 anything else.

15 JUDGE METTRAUX: Now, I want to ask you about something else,
16 and I ask you -- you've been a very good witness answering the
17 question briefly. I want to ask you about another area of the
18 account that you gave to various authorities, and I will ask you a
19 few questions about that.

20 It has to do with your movements while you were in the custody
21 and under the control of the KLA. And I will first give you a brief
22 summary of what I understand to be your movements, and then I will
23 ask you a few questions.

24 Now, to my account, you were taken to six different places over
25 the course of your detention. From your home to Llanishte in early

Questioned by the Trial Panel

1 March 1999. From Llanishte to Bob. From Bob to Kukaj. From there
2 to Bicevac --

3 A. Yes. And Ivaje.

4 JUDGE METTRAUX: And Ivaje. From there to Bicevac and Kacanik.

5 A. Ivaje, and then from Ivaje to Kukaj, Bicec, Varosh.

6 JUDGE METTRAUX: And from there to Varosh. And then from Varosh
7 to a destination where you eventually escaped because the car went
8 off the road; correct?

9 A. Correct.

10 JUDGE METTRAUX: And that -- these movements would have lasted,
11 if I understand your evidence correctly, about a week. The overall
12 trip, if I may call it that, would have taken about a week or so.
13 Would that be correct?

14 A. The detention, the walk, the beating, the maltreatment, the
15 whole thing lasted ten days and nights. They kept us shortly in
16 Kukaj and then they took us somewhere else.

17 JUDGE METTRAUX: The first thing I want to ask you here is, as
18 far as you recall, approximately how many KLA members came to your
19 home the day when they took you away? Can you recall?

20 A. Of course. Eight soldiers came into the house. Two were
21 guarding outside the door of the house with their commander. They
22 broke the doors, windows. Searched the house, didn't find anything.
23 They found a fork inside. They said, "Why did you take a fork inside
24 the house?" I didn't have any weapon. They didn't find anything.

25 JUDGE METTRAUX: Eight on that occasion. Eight on that

Questioned by the Trial Panel

1 occasion. What about the other occasions when you were escorted to
2 the various places we've gone through? How many KLA members would
3 typically escort you? One? Two? Three? More?

4 A. From Ivaje there were three people escorting us. One of them
5 was a very good friend of mine. I knew him very well. But he
6 betrayed me. He betrayed me in war. He stood guard with two of his
7 friends until we reached Varosh. Then to Bicec. We were guarded by
8 Xhabir Elezi [phoen]. They prepared the place. The cars came, took
9 us, drove to Varosh where they beat us very badly. They massacred
10 us. My lips were cut by Commander Era. I never mentioned his name
11 before, but I knew he was from Kacanik. They called him Era. Era.

12 JUDGE METTRAUX: Just focus on the questions. I'll follow up.
13 Now, were the KLA members who escorted you, were they armed at the
14 time, at all times when they were escorting you; yes or no?

15 A. Yes, they were armed.

16 JUDGE METTRAUX: As far as you could tell, did they have any
17 means of communication? Radio, telephones, any other means of
18 communication with them?

19 A. They had phones, guns, grenades, automatic weapons. They came
20 to my house masked.

21 JUDGE METTRAUX: And communications, did you see any radio
22 device, any telephone that they were using during these occasions?

23 A. No. They locked us up in Bicec. This Xhabir guarded us. He
24 wasn't from my village. And long before he had been a policeman,
25 until the policemen left their jobs. Now I don't know if he was a

Questioned by the Trial Panel

1 policeman there or not, but he guarded us, stood by the door. For
2 three days and three nights he didn't give us water or bread or
3 anything. I asked him for some milk and then he did give us some
4 milk and some warm bread.

5 JUDGE METTRAUX: I'll repeat the question a last time, but did
6 you see any means of communication - telephones or radio - that they
7 were carrying?

8 A. No, they didn't use phones where we were.

9 JUDGE METTRAUX: And my last question is, to the extent you
10 know, do you know who it was who decided to move you around from one
11 place to the other? Did you become aware of who it was that was
12 deciding on your movements during that period?

13 A. A very good question, and I'll give you a good answer. My
14 execution, if we can call it, it was done by Enver Axhami, Commander
15 Era, Fadil -- so these are the -- those who caused my situation of
16 what happened to me. They wanted to -- to take me to somewhere and
17 to execute me.

18 JUDGE METTRAUX: And just to be clear, you understand that these
19 men were the ones who decided to have you move around? That's your
20 understanding; right?

21 A. Right. Yes. These are the persons.

22 JUDGE METTRAUX: I'm grateful. Thank you, Witness.

23 PRESIDING JUDGE SMITH: Any follow-up questions to the Judges'
24 questions? SPO?

25 Mr. Laws?

Witness: W04018 (Resumed) (Open Session)
Further Cross-examination by Mr. Misetic

Page 7267

1 Defence for Thaci?

2 MR. MISETIC: Just one brief question, Mr. President.

3 PRESIDING JUDGE SMITH: Go ahead.

4 Further Cross-examination by Mr. Misetic:

5 Q. Witness, I just want to clarify, are Bashkim Loki and Halit Loki
6 two different people?

7 A. Yes, they are from the same village, I think. However -- but
8 Halit moved to Kacanik a long time before. I think he worked with
9 the police or in the security services in Ferizaj before. I'm not
10 sure if he grew up in Kotle in the village or in Kacanik. But I
11 know Bashkim Loki. I wouldn't know if they know each other because I
12 never dealt with them. I wasn't involved with them. Bashkim Loki
13 lived in the village before. Now he doesn't live there anymore.

14 Q. Thank you, Witness.

15 MR. MISETIC: Nothing further.

16 PRESIDING JUDGE SMITH: Thank you.

17 Veseli, nothing? All right.

18 Anything from the Selimi Defence?

19 MR. ELLIS: No, thank you, Your Honour.

20 PRESIDING JUDGE SMITH: Anything from -- all right. Thank you.

21 Witness, your testimony is completed today. You will be
22 escorted from the courtroom. We thank you for being with us and for
23 providing us your information. We wish you well.

24 THE WITNESS: [Interpretation] Thank you. Thank you. And I
25 would appeal to everybody in Kacanik: If there's anyone having any

Witness: W04018 (Resumed) (Open Session)
Procedural Matters

Page 7268

1 information about Agim Idrizi having jailed Albanians, please come
2 forward and bring that information. Make it clear. Make it clear if
3 I was a policeman or if I was a forest ranger.

4 PRESIDING JUDGE SMITH: Thank you, Witness.

5 THE WITNESS: [Interpretation] This needs to be made public in
6 Kacanik.

7 PRESIDING JUDGE SMITH: Thank you, Witness.

8 THE WITNESS: [Interpretation] Those who have such information,
9 please come forward. Thank you. Because they had always labelled me
10 as a traitor to the nation.

11 You know who is a traitor to the nation. This is what made me
12 come here. Somebody needs to pay for my life having been ruined and
13 destroyed. I've worked --

14 PRESIDING JUDGE SMITH: Witness --

15 THE WITNESS: [Interpretation] -- 40 years and they took all my
16 money away. And then I'm told to keep silent and not say things.

17 Have a good day. Thank you very much. I'm very happy for what
18 you've done and the fact that you brought me here and allowed me to
19 testify in public. I asked to be here. I personally asked to be
20 here and testify. Let them know this.

21 [The witness withdrew]

22 PRESIDING JUDGE SMITH: All right.

23 MR. EMMERSON: Just before Your Honours rise, there is an issue
24 concerning the testimony of the next witness which will require a
25 short ruling. And I would like to make oral submissions in relation

1 to it before the witness is called.

2 I would have thought they'd take about 10 minutes or 15 in
3 total.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. EMMERSON: Exactly.

6 PRESIDING JUDGE SMITH: When we come back after lunch --

7 MR. EMMERSON: Yes.

8 PRESIDING JUDGE SMITH: -- we'll take care of that. Thank you.

9 Now, I will also make a ruling on 1D46 MFI.

10 The SPO's objection to the admission is sustained. This
11 Tribunal's findings are not [Microphone not activated] and as such it
12 is not relevant or probative to our fact-finding in this case. We
13 cannot be asked to accept another tribunal's judgment and we will
14 not.

15 We are adjourned until 2.30.

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

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

18 PRESIDING JUDGE SMITH: Mr. Emmerson, we understand your
19 request. We will grant your request for an oral submission. We'd
20 like it to be in five minutes, though, because we have quite a bit of
21 a -- a long 16-hour witness coming up.

22 MR. EMMERSON: We do. And --

23 PRESIDING JUDGE SMITH: But we are aware of your motion by the
24 e-mail. And as you know, I ruled on something similar in July. So
25 there are no surprises here.

1 MR. EMMERSON: Thank you very much.

2 PRESIDING JUDGE SMITH: Go ahead.

3 MR. EMMERSON: And it's from that July ruling, 18 July oral
4 ruling in relation to 02153's evidence that we take as our starting
5 point, which is -- as I -- if I can just distill the ruling into two
6 propositions. There is no absolute rule against opinion evidence
7 being adduced from witnesses of fact. However, certainly there
8 should be no opinion evidence going to issues -- ultimate issues that
9 have to be decided by the Trial Panel. And insofar as opinion
10 evidence is to be admissible, the proper foundation evidentially of
11 the witness's source of knowledge needs to be laid.

12 Now, I want to just, if I may, seek some clarification in
13 relation to the upcoming witness of how that affects testimony which
14 with -- if I can put it this way, is almost all unsourced opinion
15 evidence.

16 So there is evidence and there is one report based on personal
17 testimony about meetings with people or, indeed, in one instance
18 about witnessing the aftermath of an attack and conducting lengthy
19 interviews. This was in relation to Serbian atrocities in the
20 Drenica region, and it's published in the report A Week of Terror in
21 Drenica.

22 But the vast majority of everything else in his reports is
23 opinion without sourcing. And it's important, this, because it's
24 been, as you know, considered by other trial chambers in relation
25 specifically to this witness and the reports that he tenders,

1 including some of the reports that are being tendered here, using
2 essentially the same principles as the Panel adopted in its July
3 ruling.

4 Can I just summarise the factual examples. Putting it very
5 shortly, the witness gives extensive evidence about his opinion of
6 the KLA's command structure, about his opinion of categories that
7 could be considered as collaborators at various different points in
8 time. He gives evidence of an alleged number or alleged pattern of
9 crimes as evidence to support an opinion that particular events are a
10 policy or are part of KLA strategy. All of his evidence is about
11 saying, "Well, this could be isolated, but because of that, maybe we
12 think it's not so isolated."

13 And, indeed, in one instance in relation to the post-June 1999
14 violence, the report itself says: We are totally unable to tell
15 whether this was KLA policy or sporadic groups of KLA in particular
16 areas acting without authority and its rogue agents.

17 But his evidence -- so that's the report. Commenting on that
18 report, which he, himself, edited, he has now put in his witness
19 statement the conclusion that he's changed his opinion having read
20 the Dick Marty report, which, again, doesn't have witnesses who can
21 be sourced and examined and are certainly not being called in these
22 proceedings.

23 So we have a multiple series of difficulties with this witness
24 which haven't been addressed by the Prosecution either in the manner
25 of tendering or in response to the submissions that we've made in

1 advance.

2 The Trial Panel has, if you like, stored the problem back, by
3 saying this is not a witness being tendered under Rule 154, the
4 reports are not going in automatically, and, therefore, foundation
5 must be laid for any line of questioning. And I revert to the
6 position I made in relation to the July ruling which is absolutely
7 fine if the foundation is laid, but we already know he doesn't have a
8 foundation for most of what he says because he tells us in the
9 various proofing notes and in the statement: I don't know who said
10 this. We, Human Rights Watch, didn't investigate crimes allegedly
11 committed by the KLA at all. And he himself had virtually no
12 involvement in that connection.

13 What he can say is that in the period prior to June 1999, their
14 focus was very substantially on Serbian crimes and hardly at all on
15 any allegations against Kosovo Liberation Army units. And after June
16 1999, they were similarly focused on the protection of minorities
17 generally. But in that period right up until then, they relied on
18 the research of another organisation, the Humanitarian Law Centre,
19 and incorporated their opinions into their own report.

20 So it's a much more complicated problem as it presents than it
21 was in relation to the July witness.

22 Can I use the last of my five minutes by just reading to you the
23 way in which the matter was dealt with by the trial chamber in
24 Milutinovic and others, which is IT-05-87-T, dated 1 September 2006.
25 This is the judgment at paragraphs 22 through to 24, and they were

1 looking at two -- or a series of reports. They were looking at one
2 by the OSCE, which is entitled "As Seen, As Told," and a number of
3 reports from Human Rights Watch and the testimony of this witness.
4 They looked at "Under Orders," "A Week of Terror in Drenica," and so
5 forth, and they explained the approach that they took, which is
6 substantially the application of the principles that the Panel have
7 already laid down.

8 I'm sorry, I don't have copies, but may I simply read these
9 three paragraphs into the record. Paragraph 22:

10 "The introduction to the section of *As Seen, As Told* containing
11 the bulk of the tendered excerpts itself concedes that certain
12 allegations 'are based on the statement of one person only', that
13 other information provided by interviewees was 'hearsay, rather than
14 the statement of a direct victim or witness', and that there are
15 certain 'inconsistencies in the details given by different
16 interviewees about particular incidents.' These are the kinds of
17 issues that go directly to the reliability of the assertions which
18 these excerpts present, and which are best tested through the
19 in-court examination of the declarants [themselves] by the parties
20 and the Chamber. In these circumstances, neither the report's
21 acknowledgement of these problems, nor the opportunity to
22 cross-examine one of the authors and editors of the report," such as
23 Mr. -- well, either Mr. Abrahams or Mr. Bouckaert who was involved in
24 that instance, "can adequate" -- sorry, let me read that sentence
25 again:

1 "In these circumstances, neither the report's acknowledgement of
2 these problems, nor the opportunity to cross-examine one of the
3 authors and editors of the report, can adequately replace the
4 opportunity to test the reliability of any of the persons making the
5 statements. The Trial Chamber does not have before it sufficient
6 material to satisfy it of the general reliability of the information
7 on which this report is based."

8 We would say that is self-evidently the case in the reports that
9 are being put here with one exception.

10 Paragraph 23:

11 "These conclusions apply equally to *Under Orders*."

12 That is the Human Rights Watch report that is part of the
13 evidence to be put in before the Trial Chamber this afternoon.

14 "Despite the apparently greater scepticism brought to HRW's
15 investigations and methodology, the conditions under which its staff
16 gathered the information contained in the sections summarising
17 allegations of crimes between March and June 1999 are sufficiently
18 similar to those surrounding *As Seen, As Told*, and sufficiently
19 different from those surrounding two other HRW reports that have been
20 tendered, that the relevant excerpts of this report prompt the same
21 concerns in the Chamber. These other reports are specifically
22 discussed in paragraph 32. For example, the bulk of one of [the
23 reports], exhibit P441," in that case, "the February 1999 report
24 entitled *A Week of Terror in Drenica: Humanitarian Law Violations in*
25 *Kosovo*, is the result of both personal observation," by the witness

1 who can do the same here, "and intensive interviews with over two
2 dozen people with regard to a single incident ..."

3 It's the massacre of a family of Albanians by Serbs, where he
4 came across the scene and conducted a real investigation himself.

5 "... the alleged murders of many members of the Delija family in
6 the village of Gornje Obrinje in Drenica - where Mr. Abrahams and his
7 colleague were on the scene the day after the incident. The total
8 length of the investigation into this single incident was described
9 as 'a matter of weeks'; with regard to *Under Orders*, on the other
10 hand, Mr. Abrahams conceded that 'these interviews in a few cases
11 were quick because somebody was literally coming across the border in
12 their tractor ...'"

13 And you've heard that much of the accounts that were received
14 were from -- you've seen in his statements were from Albanian
15 refugees crossing the border, so he acknowledged that the interviews
16 were quick because -- sorry:

17 "... 'these interviews in a few cases were quick because
18 somebody was literally coming across the border in their tractor and
19 we only had time to ask: Where are you from and why are you
20 leaving?'"

21 So the Trial Chamber, therefore, concludes:

22 "Exhibit P441," that's *A Week of Terror in Drenica*, "has
23 sufficient indicia of reliability to be admitted by the Chamber, but
24 absent testimony from some of the persons who gave interviews to HRW
25 staff in Albania or Macedonia, the Chamber determines that *Under*

1 *Orders* should also be denied admission."

2 24:

3 "The Prosecution proposes three ways in which the material in
4 the challenged reports might be used in the Chamber's deliberation,"
5 i.e., relevance.

6 "(1) 'the reports prove,'" says the Prosecution, "'the
7 widespread and systematic nature of the crimes because they provide
8 evidence on activity that occurred around the charged sites, as well
9 as the crime sites themselves'; (2) 'the reports are admissible,'"
10 says the Prosecution, "'to corroborate the accounts of the direct
11 witnesses on the crimes charged in the Indictment'; and (3) 'the
12 reports provide evidence that the Accused were on notice of the
13 crimes committed during the Indictment period.' In order for the
14 reports to be useful in the first two ways," i.e., as proof of the
15 truth of their contents, "however, the Chamber would have to accept
16 that the excerpts based on the witness statements bore sufficient
17 indicia of reliability to be admissible, either as evidence of
18 underlying offences, or as evidence of the legal elements of one
19 category of the crimes with which the Accused are charged, and it is
20 not so satisfied," for the reasons that have been explained.

21 With regard to the third argument, that the challenged reports
22 provide indirect evidence of notice, the Prosecution's case is set
23 out and the Trial Chamber essentially concludes:

24 "Instead of relying on any indirect mention or discussion of the
25 OSCE-KVM reports in *As Seen, As Told*, the Chamber considers that it

1 is preferable for the Prosecution to tender the original documents
2 themselves."

3 And, again, you will have seen that the witness talks about
4 different category. I am putting that on the record now because we
5 are going to say and urge upon you that that is the appropriate
6 approach.

7 In other words, it's not in this instance a question of saying:
8 No opinion, all opinion. We're going to have to look in great detail
9 at which reports can be cited from and which can't. And rather than
10 have me -- because it looks to me as though -- if any -- if the
11 Prosecution intend to elicit anything beyond the things that the
12 witness saw and heard or accounts that were given to him directly
13 from people whose credibility can be evaluated, anything beyond that
14 we will object to. And if that's the case, I don't want to be
15 bobbing up and down. It seemed to me right that we set out our stall
16 at the outset. The basic framework of the decision that Your
17 Honours' have reached guides it, but it is going to mean there is
18 very little beyond experiential facts that we will not object to on
19 this principle. But, obviously, we will concede, as was found in
20 Milutinovic, that "A Week of Terror in Drenica" satisfies the indicia
21 of reliability test.

22 PRESIDING JUDGE SMITH: Thank you very much.

23 Mr. Tieger.

24 MR. KEHOE: Can I just [Overlapping speakers] ... my response to
25 -- addition and join in this, Your Honour.

1 PRESIDING JUDGE SMITH: You can join, yes.

2 MR. KEHOE: Yes, join just on -- obviously, with regard to my
3 client, these make sweeping opinions throughout the reports and
4 witness interviews that I have that are completely objectionable. So
5 we would join in what was just advanced by my colleague and bring
6 forth exactly our objection to the sweeping opinions that he has
7 where he says "it's my opinion," and now -- it is my opinion then and
8 my opinion now, such as he says in paragraph 95.

9 PRESIDING JUDGE SMITH: Okay. We're now -- we're way over the
10 time I already allotted.

11 Anything from you, Mr. Roberts?

12 MR. ROBERTS: I fully support, but nothing to add, Your Honour.

13 PRESIDING JUDGE SMITH: Mr. Ellis, anything other than support?

14 MR. ELLIS: Yes, the same. We join, Your Honour.

15 PRESIDING JUDGE SMITH: Okay. All right.

16 Mr. Tieger?

17 MR. TIEGER: Thank you.

18 It clearly doesn't assist the Prosecution in any manner to
19 advance a baseless opinion or to invite a witness to usurp the
20 Court's prerogative. So in that sense I was actually grateful for
21 the earlier e-mail and was mindful of that as the direct examination,
22 the relatively brief direct examination, was being drafted.

23 As the Court made clear in the ruling that was the subject of
24 the e-mail, given the nature of the frequent fact/opinion issues that
25 arise particularly in international courts, it's not a zero-sum issue

1 but a spectrum that depends on the nature of the witness, the nature
2 of the issue, and the questions. And I have endeavoured to stay well
3 within the permissible range of that spectrum.

4 As mentioned, international courts have rejected any bright line
5 test, welcomed, in fact, mixed fact/opinion evidence when it
6 helpfully illuminates issues, and have often found it to do so. And
7 I would say that when it doesn't, professional judges are fully
8 capable of identifying that and dealing with it accordingly.

9 I would only add to this, Your Honour, that there was a
10 suggestion that the Prosecution failed over the interim period to
11 respond to the submissions made. I re-read those -- the e-mail over
12 the break. It seemed to me to be suggesting that the guidance of the
13 Court's July 17th or 18th ruling should be adhered to and nothing
14 more, but today we've heard a great deal of emphasis on matters not
15 raised by the e-mail. I would suggest to some extent those are straw
16 issues, and the Prosecution does not intend to elicit a good deal of
17 the presumed impugned testimony.

18 I won't speak to the rulings on previous submissions of excerpts
19 or whole reports. Those were different cases. I didn't have a
20 chance to look at those in context. They were just raised today.
21 But as I say, it seems to me that this is a matter best dealt with as
22 we go forward with the emphasis on the fact that courts have found
23 over and over again that, in circumstances like this, some measure of
24 fact/opinion evidence is illuminating rather than muddying the issues
25 involved.

1 PRESIDING JUDGE SMITH: Thank you, Mr. Tieger.

2 Mr. Laws, anything you want to add?

3 MR. LAWS: No, thank you, Your Honour.

4 PRESIDING JUDGE SMITH: It's important to note that the court
5 cited -- that Mr. Emmerson cited certainly did not prohibit any type
6 of testimony. In fact, they did what a court panel should do, and
7 that is take in all of the information, weighed it at the end, and
8 incorporated what they thought was worthy in their judgment. And
9 that's what we will endeavour to do, and I hope you trust that we
10 will.

11 At the outset, the Panel notes that the opinion evidence has
12 already been elicited repeatedly by every party in this manner,
13 including the Defence. In this regard, the Panel reiterates that
14 opinion evidence should not be led from fact witnesses unless
15 adequate foundations may be established for such an opinion.

16 And, of course, that's your burden, Mr. Tieger, which I know you
17 recognise.

18 The Panel also recalls that opinions of a witness should not go
19 to any ultimate issues. Somebody used the word "at the heart of the
20 matter." That's not the appropriate language. It's the ultimate
21 issues that cannot be delved into by opinion evidence. That function
22 falls within the scope of responsibility of the Panel.

23 Finally, the Panel notes that opinion evidence is unlikely to
24 carry much weight unless it is corroborated by evidence of greater
25 probative value.

1 Madam Usher, you can bring the witness in.

2 These things are unfolding, you know, minute by minute.

3 MR. EMMERSON: Your Honour, I'm so sorry. Whilst the witness is
4 being brought in, may I just, through the Bench, seek confirmation
5 that the establishment of the basis on which it is said that a
6 particular statement is admissible should precede the eliciting of
7 the statement? In other words, the basis should be laid first in
8 chief before the statement is --

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 MR. EMMERSON: Yes, yes, but sometimes it happens that
11 Prosecution counsel asks for the proposition and then the foundation.
12 And because there is no striking from the record --

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 In my sheltered little world, the foundation comes first and
15 then the opinion.

16 MR. TIEGER: I'll endeavour to follow that, Your Honour. Only
17 to say that sometimes I will attempt to elicit further information
18 about the basis for something that is admissible without that further
19 elucidation simply to bolster --

20 PRESIDING JUDGE SMITH: Yes.

21 MR. TIEGER: -- and clarify.

22 PRESIDING JUDGE SMITH: Fair enough.

23 MR. TIEGER: So it may be the case that it will be led sometimes
24 in that manner.

25 PRESIDING JUDGE SMITH: All right. But let's try to apply the

1 principle I just stated and try to go through foundation and then
2 opinion, if that's the way it's going to be.

3 [The witness entered court]

4 PRESIDING JUDGE SMITH: Good afternoon, Witness. Can you hear
5 me all right?

6 THE WITNESS: Yes. Good afternoon, Your Honour.

7 PRESIDING JUDGE SMITH: Good. Before we start your testimony,
8 you will need to recite our solemn declaration, which you are asked
9 to take pursuant to our Rules 141(2). So you can read it aloud,
10 please.

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

15 WITNESS: W04408

16 PRESIDING JUDGE SMITH: And do you fully understand that
17 obligation?

18 THE WITNESS: Yes, I do, Your Honour.

19 PRESIDING JUDGE SMITH: And do you consent to it?

20 THE WITNESS: Yes, I do.

21 PRESIDING JUDGE SMITH: You may hand that back to the usher and
22 take your seat.

23 Witness, today we will start your testimony, which is expected
24 to last approximately four days. As you may know, the Prosecution
25 will ask you questions first, and then counsel for victims. Once

1 they are done, the Defence has the right to ask questions of you, and
2 members of the Panel might also ask questions of you.

3 The Prosecution estimate for your examination is two hours. The
4 Defence estimates that it will need 16 hours. As regards to each
5 estimate, we hope that counsel will be judicious in the use of their
6 time. The Panel may allow redirect examination if conditions for it
7 are met.

8 Witness, please try to answer the questions clearly, with short
9 sentences. If you don't understand a question, feel free to ask
10 counsel to repeat the question, or tell them that you don't
11 understand and they will clarify.

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

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

18 Please also speak into the microphone and wait five seconds
19 before answering a question as there is translation going on and it
20 will allow them to catch up.

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

25 The Panel understands that you brought a hard copy of the -- or,

Witness: W04408 (Open Session)

Page 7285

Examination by Mr. Tieger

1 I'm sorry. You've withdrawn that request.

2 One other thing, please stop talking if I ask you to do so or if
3 I raise my hand up because that means I need to give you further
4 instruction. Understood?

5 THE WITNESS: Yes, sir.

6 PRESIDING JUDGE SMITH: If you feel the need to take a break at
7 any time, please let us know and we will try to accommodate you.

8 We begin with the Prosecution's direct examination. Mr. Tieger,
9 seated to your left, will be doing that.

10 Go ahead, Mr. Tieger.

11 MR. TIEGER: Thank you, Your Honour.

12 Examination by Mr. Tieger:

13 Q. Good afternoon, Witness.

14 A. Good afternoon.

15 Q. Can we begin by asking you to state your full name, please.

16 A. Frederick C. Abrahams.

17 Q. And your date of birth?

18 A. November 2, 1967.

19 Q. And nationality?

20 A. United States of America, US, American.

21 Q. Sir, what is your occupation?

22 A. I am currently associate programme director at Human Rights
23 Watch.

24 Q. And in that capacity, what, briefly, are your general functions?

25 A. I am now supervising a number of teams in the organisation.

1 Those would be our crisis and conflict division, which used to be our
2 emergencies division. At the time of the conflict, it was called
3 emergencies division. Technology and human rights division, our arms
4 division, and our digital investigations lab, which uses digital
5 techniques to conduct human rights investigations.

6 I also am responsible for supervising our training of research
7 staff, onboarding new staff and teaching them our methodology.

8 Q. How long have you been associated with Human Rights Watch?

9 A. Since 1993.

10 Q. And perhaps you can give the Court an indication of what Human
11 Rights Watch does, what its mission is, and where it functions.

12 A. Of course. Well, our mandate is to monitor, document, expose
13 and publicise human rights violations around the world without regard
14 for politics or religion, ethnic composition. We work in dozens and
15 dozens of countries around the world with an effort to promote
16 policies that minimise human rights abuses and promote accountability
17 for human rights abuses.

18 And that includes working in areas of armed conflict. In those
19 cases, the applicable law is international humanitarian law. That
20 has been my primary area of focus. And we work in conflicts around
21 the world on every continent with -- in order to hold the parties to
22 the conflict accountable and promote lawful conduct.

23 So we do that typically by holding all sides, all sides, all
24 parties to a conflict to account.

25 Q. You mentioned 1993. During the 1990s, from 1993 onwards till

1 approximately 2001, did you have a particular geographical or
2 regional focus in your work?

3 A. My focus has shifted over time. I began by working, well,
4 mostly on eastern Europe in the beginning, and I quickly became
5 involved in the Balkans. I worked in Albania in 1993 and began my
6 human rights work at that time, and I'm still involved in work
7 covering and working on Albania. And that led me to human rights
8 reporting in Kosovo and in Macedonia as well as in Serbia.

9 So the crux of my work from 1995 -- and, actually, 1993, from
10 1993 until 2000 was on the southern Balkans.

11 Q. And during that period of time, were you involved in the
12 production and publication of reports addressing alleged human rights
13 violations, either as author or co-author, editor, researcher, and/or
14 coordinator?

15 A. Yes, I was involved in numerous reports during that time looking
16 at various aspects and situations. Of course, I worked on Albania
17 and issued reports critical of the human rights record of various
18 Albanian governments. I reported on abuses in Macedonia before and
19 during the short-lived conflict in that country. And I did
20 considerable work in Kosovo and reported -- produced, either directly
21 investigated and reported and published -- or the organisation
22 published, but was the main contributor to numerous reports,
23 especially on violations by Serbian and Yugoslav government forces.

24 Q. And just to assist the Court with a little more specificity on a
25 number -- I'm not sure that it will be that significant. But would

Witness: W04408 (Open Session)

Page 7288

Examination by Mr. Tieger

1 it be fair to say that there were approximately eight dealing with
2 Kosovo during that time, beginning with "Persecution Persists, Human
3 Rights Violations in Kosovo" in 1996, and concluding with "Under
4 Orders" in 2001, and then approximately six in between 1998 and 1999?

5 A. Yes. I would have to check the exact numbers, but that is --
6 that is an approximation for sure. The first report was 1996 from an
7 investigation trip, a research trip I conducted in Kosovo in 1996.
8 And 2001 was the culmination of my work, the large omnibus report
9 called "Under Orders," which I was requesting -- which was a subject
10 of bringing into the courtroom today.

11 Q. And did you also testify at the ICTY in a number of cases - the
12 Milosevic case, the Milutinovic, and Djordjevic - concerning war
13 crimes in Kosovo?

14 A. Yes, that's correct. I was a witness for the prosecution in the
15 cases of Milosevic, Milutinovic *et al*, I believe, was the trial, and
16 Djordjevic, Vlastimir Djordjevic. I also testified in one domestic
17 war crimes case in Sweden, which was a member of the Serbian special
18 forces, or I forget which unit precisely, who was accused of
19 atrocities in and around the village of Cuska in May 1999.

20 Q. Did you serve briefly in two different periods for the Office of
21 the Prosecutor at the ICTY as a research analyst?

22 A. Yes, I did. I -- yes.

23 Q. And just to round it off, among other things, have you written
24 articles and editorials and testified before the United States
25 Congress about the southern Balkans generally and Kosovo in

1 particular?

2 A. Yes, I have. As part of my job responsibilities at Human Rights
3 Watch, we typically and frequently publish opinion pieces, speak with
4 the media, testify before different bodies such as US Congress.

5 Q. Now, did the work of Human Rights Watch and your work in
6 particular in connection with Kosovo intensify in 1998?

7 A. Yes, it definitely did because in February, late February and
8 early March 1999, there were significant incidents with notable and
9 serious violations of the laws of war in the Drenica region.
10 Specifically, three villages. And from that point, it was our
11 determination, organisational determination, together with our
12 lawyers, our in-house lawyers, that from that point was the start of
13 an internal armed conflict under international law. And we then
14 ramped up our coverage to be able to document violations at that
15 time.

16 Q. [Microphone not activated]

17 A. Your microphone -- or I'm having --

18 Q. Sorry, thank you. Did Human Rights Watch maintain a relatively
19 steady presence in Kosovo thereafter?

20 A. We did. It was not permanent. I conducted numerous trips
21 during that time from -- just after. I think I -- my first trip
22 would be around May, June 1999, if I'm not mistaken. And I probably
23 conducted four or five other trips in that period up to the NATO
24 bombing in March 1999 -- in 1998, excuse me, leading up to 1999. But
25 I wasn't there permanently. So typically I would go for three --

1 two, three weeks, maybe a little more, return at that time to
2 New York, and then go back again.

3 Q. And just to ensure that the record is clear, although I know you
4 attempted to clarify that. When you said: "My first trip would be
5 around May, June 1999," that would be 1998; is that right?

6 A. Yes, that's correct, 1998.

7 Q. Now, during those visits, among other things, did you meet with
8 and interview victims or witnesses of alleged violations?

9 A. Extensively. I think the core methodology of Human Rights
10 Watch's work is to get as close as possible to the facts on the
11 ground, and that meant speaking, when we can, to those with
12 first-hand knowledge. So that would be the witnesses of violations,
13 the witnesses of violations, and those connected to the situation -
14 if it's family members, colleagues, employers, lawyers, doctors. And
15 I would include also, when possible - when possible - the alleged
16 perpetrator, trying to get the other side, which I can talk about
17 more if it's of interest.

18 And these interviews are the core pillar of our work, but we
19 would -- don't take one interview as a reliable source. We always
20 strive to get multiple interviews to verify this information,
21 corroborate, triangulate, and do so also with supporting material.
22 If it's court records, autopsy reports, legal documents, and other
23 material that we verify which can help us to build a case of a strong
24 human rights documentation.

25 Q. You mentioned earlier in describing the mandate of Human Rights

1 Watch that it involved efforts to identify, expose, document and
2 publicise violations. Was that part of the process of fulfilling
3 that aspect of the mandate?

4 A. Yes, it was. Our public reporting and advocacy is the thrust of
5 our work with a goal to mitigate abuses and protect civilians, I
6 would say, is the primary objective of our work, is to protect
7 civilians from the tragedies of war and of violations of the laws of
8 war, in particular, by encouraging and pressing parties to respect
9 those obligations before the law.

10 Q. Once reports were produced, what was done with them after that?
11 How did the post-production aspect of the reports fit in to
12 fulfilling those aspects of the mandate you mentioned?

13 A. So there were various phases post production, to use your term.
14 One was a publication. So we would disseminate the work as widely as
15 possible. Post it on our web site, distribute it to media, send it
16 to relevant officials in governments or international organisations,
17 and help to inform as widely as possible.

18 In addition, we would do media outreach. So myself or
19 colleagues would speak with the media when we felt this was helpful
20 to inform the public and policymakers. And, lastly, we would, when
21 possible, send our reports directly to the targets of our
22 investigation, if you will, or the alleged perpetrators, those who we
23 considered were responsible for these violations, either had
24 committed them or had an obligation to investigate them.

25 And we did this on numerous occasions on the Serbian and

1 Yugoslav side. In fact, it was the subject -- one of the subjects of
2 my testimony in the Milosevic case and the Milutinovic *et al* case
3 about submitting our reports to them, sending our reports to the
4 Serbian and Yugoslav authorities and informing them of our findings.

5 Q. In that respect, sending findings directly to government
6 officials, may I ask you generally was it the practice with respect
7 to an armed group in a conflict that may not have a formal government
8 structure akin to an existing state to still try to get the
9 information, the reports to that body, to that group?

10 A. Yes. To the best of our abilities, we tried to inform the
11 parties to the conflict of our findings. And in the case of Kosovo,
12 if I may anticipate, or understanding the context, it wasn't always
13 easy with the Kosovo Liberation Army because they didn't always have
14 a public presence until later in the conflict. And even then, it was
15 -- sometimes we didn't have the relations that we could always inform
16 them in that way directly until later, with some exceptions.

17 But I do believe, you know, our reporting was covered in the
18 media, it was covered in the Albanian-language media, and our
19 findings were well publicised in the Kosovo context.

20 Q. A couple questions about that. First of all, you indicated that
21 you considered that the reporting was covered in the
22 Albanian-language media. Did Human Rights Watch specifically send
23 reports to Albanian media sources?

24 A. Definitely we did. We had a large Albanian-language media
25 distribution list.

Witness: W04408 (Open Session)

Page 7293

Examination by Mr. Tieger

1 Q. Now, in the early months and spring of 1998, and I think you've
2 alluded to this already, but did the KLA have a known representative
3 office to which such reports could have been sent or delivered?

4 A. In the early days of 1998, no. There was an office that opened
5 later in 1998. I don't recall the exact month. But by September
6 when I was in Kosovo, it was definitely in operation.

7 Q. Where was that office?

8 A. In Prishtine, but I don't recall the address or the
9 neighbourhood.

10 Q. And was someone in charge of that office?

11 A. Yes. The representative was Adem Demaci, a known human rights
12 activist who I had known for many years, and he was the political
13 representative in Prishtine at that time of the KLA.

14 Q. And did you deliver copies of the human rights material to
15 Mr. Demaci's office?

16 A. To the best of my recollection, we did. Yes.

17 Q. Now let me turn to the types of information that you used for
18 your reports. I think you explained in some detail the effort to
19 obtain primary source material, that is, interviews, through your
20 fieldwork; is that correct?

21 A. Yes, that is correct.

22 Q. And you also alluded to other steps that were taken in
23 conjunction with that. And if you could just reiterate those
24 quickly.

25 A. Are you referencing -- you're asking about the corroborating

1 material that we would --

2 Q. Right.

3 A. -- typically gather. Yes. So it's very context specific. But
4 typically, we would look for any documents that would help us
5 understand the situation at hand. You know, those might be court
6 records, they might be medical reports, doctors' reports. They might
7 be autopsy reports if a person had died. And that information is
8 valuable in all of our work as part of the investigations process.

9 Q. Now, with respect to that effort to obtain primary source
10 material, were you able to do so in Kosovo in respect of alleged
11 violations by all sides?

12 A. It was mixed. It was mixed. There were times when we could
13 obtain, for example, court records or court documents in relation to
14 ethnic Albanians who had been arbitrarily detained and very
15 frequently abused in detention and charged with, you know,
16 politically motivated crimes, of which there were many. So sometimes
17 court records could be obtained. On occasion, autopsy reports, but
18 less frequently. And we had a -- significant challenges getting any
19 official information from Serbian and Yugoslav official sources.
20 They were high on rhetoric and low on evidence.

21 And, you know, otherwise -- yes, I would have to think more if
22 you're looking for examples.

23 Q. Well, let me ask you specifically: What about interviews with
24 people who -- with sources or people who might have information about
25 alleged violations by, in this instance, the KLA?

1 A. I would say that interviews were our most important source. As
2 with all of our investigations, we want to hear from people directly,
3 and to conduct lengthy interviews, and with respect and care, you
4 know, interrogate the facts, even with one individual.

5 So in this case, interviews were an essential source. I will
6 say, sorry to -- if I'm pre-empting you. I will say that in this
7 case, I mean, investigating KLA violations, interviews were at times
8 challenging because there was a general reluctance, and I would say
9 also a fear, to speak openly about that issue.

10 Q. Did you yourself, during the course of your work, encounter
11 people who expressed fear about speaking to you about alleged KLA
12 violations?

13 MR. EMMERSON: I'm sorry to interrupt, but it would be very
14 helpful, I'm sure for all of us, if we could first establish whether
15 the witness did, in fact, conduct any investigations in relation to
16 crimes allegedly committed by the Kosovo Liberation Army? Whether he
17 did, in fact, do so, or Human Rights Watch --

18 MR. TIEGER: I'm happy -- I thought that was a natural follow
19 up --

20 MR. EMMERSON: Well, it's not been asked or answered.

21 PRESIDING JUDGE SMITH: Sustained. He used the term "we." I
22 think it should be personalised to him if he's going to testify about
23 it.

24 MR. TIEGER:

25 Q. As the Presiding Judge just indicated, I heard the term "we" and

1 asked you a question about you individually. So did you yourself
2 make efforts to obtain primary source material from individuals about
3 alleged KLA violations?

4 A. Yes, I did. Although, I will say some of the reports on that
5 subject were primarily authored by colleagues, and in those cases, I
6 was familiar with their methodology and in consultation with them as
7 they conducted this work. But, yes, there were cases where I also
8 conducted interviews on this topic with victims or witnesses.

9 Q. And my next question, therefore, would be did you yourself
10 encounter people who expressed fear about responding to inquiries
11 concerning alleged KLA violations?

12 A. Yes, I did.

13 Q. And you alluded to colleagues who were engaged in the same work.
14 Did any of your colleagues communicate to you, in the course of your
15 joint efforts, that they encountered people who expressed fear when
16 they tried to inquire about alleged KLA violations?

17 A. Yes, they did. And I would say this topic was frequently
18 discussed because we, from a methodological point of view,
19 deliberated how best to gather accurate information when there was a
20 general climate of fear and also an unwillingness for political
21 reasons for people who didn't want to speak badly about,
22 quote/unquote, their side. Then how do you tackle that as an
23 investigator?

24 And it is not unique to Kosovo. I mean, this is a challenge in
25 armed conflicts around the world.

1 Q. Apart from the information that you received both from your own
2 experiences and from the experiences of your colleagues about people
3 expressing fear to discuss alleged KLA violations, did you also --
4 let me step back. I want to lay the foundation for this in a correct
5 manner.

6 First of all, let me step back and ask you this. The fear that
7 people expressed, that was a fear about what? What were they afraid
8 would happen or what did they express they were afraid would happen
9 if they spoke about -- spoke to you or other internationals about
10 alleged KLA violations?

11 A. I believed and understood the fear to mean that people believed
12 they could suffer repercussions.

13 MR. KEHOE: I object, Judge. That's a conclusion on his part.
14 If they're saying that, that's something else, but I object to him
15 extrapolating that out.

16 PRESIDING JUDGE SMITH: Overruled.

17 You may continue your answer.

18 MR. TIEGER: Your Honour, excuse me a second. There's a monitor
19 off switch that is a little too brief. Thank you, Your Honour.

20 Q. And, Witness, you said you believed and understood the fear to
21 mean that people believed they could suffer repercussions. How did
22 you come to that understanding? Was that through your conversations
23 with the individuals? Through your conversations with your
24 colleagues? Other sources? Please tell us.

25 A. So this is my view, you know, based on having conducted hundreds

1 of interviews not just on this topic but across Kosovo, also speaking
2 the language, the Albanian language, to a degree, not fluently, but
3 having worked there for a while. There is no question in my mind
4 that there was a general concern -- or a reluctance, first of all,
5 and in some cases a fear to talk about KLA crimes. And people were
6 worried about the repercussions of doing so.

7 You know, I will say -- I mean, this is a -- it's a complicated
8 topic, and no -- you cannot generalise across all people. You know,
9 there are lots of people who just felt like they will not talk about
10 that because it wasn't for the cause, you know? The Albanians have a
11 nice word, the *ceshtje* in Albanian, the movement or the cause, the
12 cause. And so some people felt, well, we'll talk about Serbian and
13 Yugoslav crimes but not about the other side.

14 And we saw that frequently when looking at Serbian and Yugoslav
15 violations, documenting Serbian and Yugoslav violations, where some
16 witnesses would say: There was no KLA presence in the area at the
17 time. KLA was nowhere. Serbian and Yugoslav forces came in and
18 committed these atrocities. And sometimes we knew that not to be
19 true. We had information that the KLA was in the area at the time.

20 That does not in any way justify the violations of the Serbian
21 and Yugoslav forces. I'm not suggesting that for one moment, but it
22 is a part of the reality. You can interrupt me if --

23 Q. And I don't think anyone understood you as impliedly offering
24 justification in any manner.

25 A. Yes.

1 Q. And I want to thank you for the clarification about --

2 A. Yes.

3 Q. -- some people who spoke out of nationalist loyalty, but I want
4 to focus now on people who were afraid --

5 A. Yes.

6 Q. -- and indicated that. And they were afraid of repercussions or
7 reprisal from who or what?

8 A. I believe they worried and feared that they would suffer
9 repercussions from KLA members for speaking about their misconduct or
10 what they perceived as their misconduct.

11 Q. Apart from the information you received in the manner you
12 described concerning the risk felt by people of being targeted for
13 providing information about KLA violations, did you learn about other
14 forms of activity or positions that could give rise to the same
15 concern or risk?

16 A. I'm very sorry. I didn't understand the question.

17 Q. Yes, you just talked to us about one -- about people being, as I
18 understood it, afraid to talk about alleged KLA violations for fear
19 of reprisal. Were there other things that gave rise to the same fear
20 and the same risk?

21 MR. EMMERSON: Objection. It calls for opinion, speculation,
22 and, frankly, I would imagine it's an extremely difficult question
23 for the witness to answer accurately.

24 PRESIDING JUDGE SMITH: Well, first of all, let's find out just
25 if he can answer the simple question: Were there other issues that

1 you know of?

2 THE WITNESS: Yes, Your Honour. I mean, there were also, you
3 know, many violations at that time documented and reported on by a
4 variety of sources.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 THE WITNESS: Oh, I'm sorry, your microphone. I cannot hear.

7 PRESIDING JUDGE SMITH: I just was asking were there other
8 instances.

9 THE WITNESS: Yes, Your Honour. There was. Yes.

10 PRESIDING JUDGE SMITH: Okay. And now Mr. Tieger will continue
11 with his questions.

12 MR. EMMERSON: I'm sorry. I apologise, but I did rather
13 foreshadow this before the witness was called. If we're going to
14 hear about that, the foundation for -- we just heard the witness
15 begin to talk about things that he'd read or seen. The foundation
16 needs to be properly laid before Mr. Tieger can elicit what the
17 witness thinks was happening.

18 PRESIDING JUDGE SMITH: And that's why I stopped the witness. I
19 want Mr. Tieger to do exactly that.

20 MR. EMMERSON: Exactly. Thank you.

21 MR. TIEGER:

22 Q. Okay. First question. With respect, you -- and I may work
23 backwards, and I'll try to lay the foundation as been requested.

24 You referred to violations at the time that you came to learn
25 about. I'm going to ask you about that in a minute. And do those

Witness: W04408 (Open Session)

Page 7301

Examination by Mr. Tieger

1 include -- and those include -- well, you've just spoken about the
2 KLA targeting people for providing information about alleged KLA
3 violations.

4 MR. EMMERSON: Again, I'm sorry, but this does need -- this is
5 my concern, that not enough thought had gone into how to examine this
6 witness.

7 The position is the witness has said he has formed the
8 impression that some of the people he was talking to were reluctant
9 to cooperate either out of loyalty or out of fear. All right?
10 That's as far as we've got.

11 Now, we have a question being put to the witness saying: So
12 you've told us that people are not giving -- are fearing reprisals,
13 but there is no foundation been laid for any of the questions that
14 are being asked. We need to hear what it is the witness has read or
15 seen or who he's spoken to so that it can be evaluated.

16 PRESIDING JUDGE SMITH: He's already testified that he
17 interviewed over a hundred, or hundreds, in his view, of people on
18 which he can rely those interviews.

19 MR. EMMERSON: Not in relation to KLA crimes he hasn't
20 testified. He said hundreds of witnesses primarily focusing on
21 crimes by the Serbian authorities.

22 PRESIDING JUDGE SMITH: All right. The objection is overruled
23 at this time. Go ahead with your questioning. But please try to be
24 as specific as possible.

25 MR. TIEGER: I will, Your Honour. And perhaps this got more

1 confusing than necessary out of a clumsy effort to abide by the
2 guidance. So let me try it this way, and I'll work backwards and get
3 the foundation after this first question.

4 Q. Did you become familiar with the term "collaborators"? Just yes
5 or no.

6 A. Yes.

7 Q. How did you become familiar with that? Through what sources?

8 A. From my first visit to Kosovo in 1996 -- or, no, my first
9 research. I might have -- the first Human Rights Watch
10 investigation. From that time, there was already a notion of what
11 Albanians called loyal and disloyal Albanians.

12 So, for example, Kosovo Albanians who worked in the -- for the
13 state were frequently called, to me, by the interlocutors I had at
14 that time, formal interviews but also the communications I had
15 informally during that time, those people were considered more, you
16 know, disloyal.

17 Clearly, on the top rung are those who worked for the security
18 services, police, ethnic Albanians who worked for the police, of
19 which there were, but also working for the authorities, even the
20 university, which, of course, was a state-dominated university where
21 Albanian language was forbidden, and the Albanians had courageously
22 created a parallel education system. But those who -- ethnic
23 Albanians who didn't participate in that were deemed disloyal and
24 placed under a cloud of suspicion at that time.

25 And this became more intense as the armed conflict intensified.

1 And I think the term "collaborator" was then used to challenge or to
2 label people. You know, by 1998 it was more frequently heard.
3 People who were challenging the armed insurgency or questioning, even
4 questioning it.

5 Q. Again, to be perfect -- give us as much information as you can
6 about how you came to this understanding about people being deemed
7 collaborators for the actions or status you've described.

8 MR. EMMERSON: I'm sorry. Again, this is degenerating into
9 meaninglessness. Deemed by whom for what purpose? If the witness is
10 seeking to attribute to some element of the Kosovo Liberation Army a
11 definition that it was using when applying its own principles of
12 detention, then he needs to explain how on earth he's in a position
13 to say that.

14 If it's deemed because there is some general ether going on,
15 it's of absolute no probative value and it's a complete waste of the
16 Court's time.

17 MR. TIEGER: Your Honour, that would bring me to asking the
18 question the way I would have chosen to do so in the first place, if
19 I may.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 MR. TIEGER: Okay.

22 PRESIDING JUDGE SMITH: The objection is overruled on the mic
23 now.

24 MR. TIEGER:

25 Q. Witness, did you receive information during that period of time

1 about the KLA labelling or targeting people as collaborators for this
2 activity or status?

3 A. Yes, I did.

4 Q. And from what sources did you receive that information?

5 A. Well, one source is -- that I do know would be internationals
6 who were working in Kosovo. And this would have -- well, let me just
7 clarify. Which time period are you asking about?

8 Q. I'm focusing on the time period from 1998. 1998, 1999 time
9 period.

10 A. Okay. If we're speaking about 1999 -- post-June or pre-June?
11 Because there is a difference.

12 Q. Then it's probably useful if you mark that distinction for us
13 and explain the difference.

14 A. Okay. Because -- maybe I'll work backwards. If we're
15 discussing post-June 1999, one of the sources of this information
16 were internationals working for the United Nations or also KFOR, the
17 NATO forces, or the OSCE, all three of which had significant and
18 large presence and operations in Kosovo at the time. And we were in
19 touch with individuals who were monitoring the human rights
20 situation. And they did share information with us, and their
21 concerns and their reporting on those who had been targeted for their
22 alleged collaboration. And some of that was reported, you know,
23 publicly as well.

24 Working backwards, pre-June, then also some internationals. But
25 there were also conversations I had with other human rights

1 organisations who were tracking this work. I mentioned in particular
2 the Humanitarian Law Centre, which was a Belgrade-based organisation,
3 which I respected very highly for their methodology. And they were
4 documenting these cases by interviewing individuals. And we also, as
5 an organisation, conducted interviews of family members who had had a
6 relative who they alleged had been abducted and targeted because of
7 perceived or alleged collaboration.

8 MR. EMMERSON: Again, I'm very sorry to keep rising to my feet,
9 but what the witness has just described, with the exception of the
10 last sentence, is an echo chamber of internationals describing their
11 views without any opportunity -- this is exactly what all of the
12 trial chambers have regarded as completely unacceptable, without any
13 opportunity to go to the source of the information that the witness
14 has had and say: Why do you say that? How do you know about that?

15 You cannot possibly investigate the person making the statement
16 without knowing who they are and being given some proper information.
17 With all due respect -- I'm sorry this is annoying, because I keep
18 popping up. But it's become perfectly clear in the way that
19 Mr. Tieger prepared the witness and in the way that he's seeking to
20 examine him, that he is doing -- and he's doing it right now, and the
21 witness is also doing it right now, that they are violating the very
22 principles that are set down in all of the authorities and including
23 in relation to this witness himself when he testified in Milutinovic.

24 I mean, it becomes a situation where we've had all of that
25 evidence of which one fraction, namely, we interviewed some family

1 members, and we should now be going on to who they were and what they
2 said, not some general impression. This is not evidence at all, and
3 it should be inadmissible.

4 And, to be frank, I know that Your Honour was of the view that
5 the Milutinovic ruling --

6 PRESIDING JUDGE SMITH: Mr. Emmerson, all of the -- everything
7 that you've said, all of the people you quoted did not try to stop
8 people from testifying.

9 MR. EMMERSON: They denied the admission of the evidence.

10 PRESIDING JUDGE SMITH: Did not try to stop people from
11 testifying. They elucidated what they were going to do at the
12 summation to try to make a decent judgment and to weigh the evidence.
13 This gentleman is here to testify, he's going to testify, and you
14 can't stop him from saying what he wants to say.

15 MR. EMMERSON: No --

16 PRESIDING JUDGE SMITH: You can certainly cross-examine him and
17 you can certainly expect us to weigh his evidence very carefully,
18 which we will.

19 MR. EMMERSON: Yes. I'm sorry to press the matter, but
20 Your Honours' ruling earlier on made the same point. This can all
21 come out at the end of the process. But, in fact, what the trial
22 chamber did with this witness's evidence in Milutinovic was to refuse
23 to admit it.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. EMMERSON: No, but the -- I appreciate you haven't done that

Witness: W04408 (Open Session)

Page 7307

Examination by Mr. Tieger

1 yet, but at the -- we are hearing questions that are designed to
2 elicit inadmissible evidence.

3 PRESIDING JUDGE SMITH: We are hearing foundation being laid in
4 any way they can, and then we'll decide what else to hear.

5 MR. EMMERSON: But, again, the foundation is an echo chamber
6 from other internationals.

7 PRESIDING JUDGE SMITH: It may be.
8 Go ahead, Mr. Tieger.

9 MR. TIEGER: [Overlapping speakers] ...

10 MR. KEHOE: [Overlapping speakers] ... I just note my objection.
11 I don't want to have a continuing objection, to stand up, object all
12 the time, but I agree with my colleague with the basis of this and
13 just to preserve my objection for the record.

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. TIEGER: All right. I just want to say that is not entirely
16 an objection. That was actually an argument. I am not going to
17 respond by making a counterargument, and I'll move on to actually
18 another subject at the moment.

19 Q. Witness, at some point did you become aware of the detention by
20 the KLA of two Tanjug journalists?

21 A. Yes, I did.

22 Q. And do you recall approximately when that was?

23 A. That would have been in November or October 1998.

24 Q. Did you or other Human Rights Watch representatives make efforts
25 to confirm whether or not the journalists were indeed being held by

Witness: W04408 (Open Session)

Page 7308

Examination by Mr. Tieger

1 the KLA?

2 A. Yes, we did.

3 Q. And do you recall what you did?

4 A. Yes. So we took two steps, as I recall. One was conferring
5 with the International Committee of the Red Cross, which confirmed
6 their knowledge of the detention. And we also raised this with
7 Mr. Demaci in Prishtine.

8 MR. TIEGER: Your Honour, could I call up Exhibit IT-03-66
9 P212.7.

10 Q. Witness, I hope you can see on your screen a document that is
11 labelled "Serbian Journalists' Detention Condemned," datelined for
12 New York, October 24, 1998, and beginning that:

13 "Human Rights Watch today expressed grave concern about the
14 detention of two Serbian journalists in Kosovo by the Ushtria
15 Clirimtare e Kosoves (UCK), the armed ethnic Albanian group fighting
16 for Kosovo's independence."

17 Do you have that in front of you?

18 A. Yes, I do.

19 Q. It goes on to note in the third brief paragraph that:

20 "UCK political representative Adem Demaci and the International
21 Committee of the Red Cross (ICRC) have since confirmed that the two
22 men are being held by the UCK."

23 And is this a reference to HRW's confirmation of the detention
24 that you referred to earlier?

25 A. Yes.

1 Q. And was this document released by Human Rights Watch?

2 A. Yes, this is what we would call a press release.

3 Q. The final at the bottom of the page, that is the final paragraph
4 on the first page, it notes that:

5 "Radosevic and Dobricic are not the first Serbian journalists to
6 be captured by the UCK. On August 21, Djuro Slavuj from Radio
7 Prishtina and his driver Ranko Perinic were taken by men believed to
8 be with the UCK near the city of Orahovac. They have not been heard
9 from since."

10 Did this previous event referred to in the press release impact
11 the concern by HRW surrounding the detention of the Tanjug
12 journalists?

13 A. We would have concerns regardless about detentions of media
14 workers. But, yes, the additional case of Mr. Slavuj and Mr. Perinic
15 exacerbated or increased our level of concern.

16 MR. TIEGER: Your Honour, I would tender this document.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. KEHOE: No objection.

19 PRESIDING JUDGE SMITH: IT-03-66 is admitted, and a number needs
20 to be assigned.

21 THE COURT OFFICER: Your Honours, that will be Exhibit P375.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. TIEGER: Can we next call up P300. And I believe that's
24 listed in at least one of the documents as P341, which is the number
25 it bore before the numbers were rectified. But P300 is the document

1 we want.

2 Q. Witness, on the screen is a document that bears the heading
3 "Military Police Directorate of the Kosovo Liberation Army for
4 media," and is headed "Statement no. 3." If I can ask you to take a
5 quick look at that.

6 It states that:

7 "On Sunday 18 October of this year around 15:00 hours the Kosovo
8 Liberation Army Military Police patrol met a Yugo Florida vehicle
9 with registration plates from Belgrade ... without 'Press' signs with
10 a driver and passenger Vladimir Dobricic and Nebojsa Radosevic."

11 It explains they were given signs to stop. They stopped after a
12 delay, which led to doubts about their identity. And that the -- and
13 not believing that they were journalists and that the purpose of
14 their visit is espionage, they were stopped and were sentenced to
15 pre-trial detention for the purpose of investigating their real
16 identity and the purpose of their travel.

17 And at the bottom, you see the date of Thursday, 29 October
18 1998, in Zeri i Kosoves.

19 First of all, Witness, do you recall whether or not you saw this
20 document at the time?

21 A. I recall the document, seeing the document. I cannot state
22 precisely when I viewed it.

23 Q. Was the information provided in that document consistent or
24 inconsistent with the information you had at the time about the KLA
25 position on the detention?

1 A. Well, I'm not sure because I can't recall exactly when I saw
2 this statement. I don't remember how I interpreted it at that time.
3 But reading it now, it is consistent with what I know about the case.

4 Q. Now, you explained that one of the ways that you confirmed that
5 the KLA was holding the journalists was via Adem Demaci; is that
6 right?

7 A. Correct.

8 Q. Can you tell us who was Adem Demaci?

9 A. He's an important figure in Kosovo Albanian society. He was a
10 renowned and well-respected human rights activist, had spent many,
11 many years in a Yugoslav prison for his -- as a political prisoner.
12 I believe -- I have to confirm this, but I believe he was even
13 honoured by Human Rights Watch prior to my activities.

14 So we knew him -- I knew him personally. I had a respect for
15 him and went to him, not just for this, there were other reasons for
16 speaking with him, but asked about this case.

17 Q. And why did you contact him? What did you understand his
18 position to be?

19 A. At the time, Mr. Demaci had been named a -- I believe the title
20 was political representative. I'm not sure about the official title.
21 But he functioned in Prishtine, had a public presence in Prishtine,
22 spoke with the media, and interacted with organisations such as mine.

23 Q. And when you went to see him, did you have an understanding of
24 his position in terms of authority for the KLA?

25 A. Yes, I did.

1 MR. KEHOE: Sorry, Judge. That is a question for which there
2 has to be a foundation about what Demaci's authority happens to be.
3 If he says "yes," what's the foundation?

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. TIEGER:

6 Q. And before you tell us that opinion, what was it based on?

7 A. Yes. A number of factors. One important element was that
8 Mr. Demaci was allowed to operate in Prishtine by the Serbian
9 authorities publicly. And I immediately interpreted that and
10 understood that to mean that his influence with the armed wing and
11 with those who were engaged in hostilities was limited because I did
12 not think the Serbian state and its powerful and abusive forces would
13 have tolerated the open activities of any KLA member who was engaged
14 in an armed struggle.

15 And I also understood Mr. Demaci's profile within the
16 Albanian -- Kosovo Albanian society, which was based on respect for
17 his outspoken opinions and the suffering that he had endured because
18 those expressions, namely, many, many years in prison. And so he had
19 a high moral authority in the society.

20 At the same time, I always believed, based on my knowledge of
21 the situation, that his influence in decision-making was limited.
22 Again, coming back to the first point, that someone who had direct
23 ties to armed struggle would not have been tolerated, would have been
24 prosecuted, and probably potentially with abuse, but would not have
25 been allowed to function in that way.

1 Q. Did you have conversations with Mr. Demaci after his appointment
2 to this position in connection with -- well, in connection with the
3 KLA?

4 A. I'm sorry. Can you repeat that?

5 Q. Did you have conversations with Mr. Demaci after his appointment
6 about what he was doing and what his role was?

7 A. Yes, for sure. I was there at least once. Not many times. Not
8 regularly. I cannot recall the specifics of our conversations. But
9 I do remember in this case him confirming the detention.

10 Q. During your not many conversations with Mr. Demaci, did he ever
11 say anything to you that disabused you of your understanding of his
12 limited authority?

13 A. No, no. I always emerged from those conversations understanding
14 that his influence over those engaging in armed struggle was limited.

15 Q. After you had confirmed that the journalists were indeed being
16 held by the KLA, did Human Rights Watch seek to do more about that
17 situation?

18 A. Yes. We requested a meeting with KLA representatives to discuss
19 it, among other issues.

20 Q. And, first of all, who did you request that meeting with?

21 A. We requested a meeting with individuals who would be responsible
22 or authorised to discuss matters pertaining to human rights and
23 international humanitarian law. We did not submit a request to speak
24 with anyone in particular.

25 Q. And to whom -- either to whom did you make that request or how

1 did you attempt to make those arrangements?

2 A. Through an intermediary who we knew in Kosovo.

3 Q. Were you successful in making arrangements to meet with KLA
4 representatives authorised to speak about the detention?

5 A. Yes.

6 Q. And did the meeting take place?

7 A. Yes.

8 Q. And where was that?

9 A. Where was the meeting?

10 Q. Yes.

11 A. Well, the meeting took place in November. I believe November
12 10th. And at the time, I did not know exactly where it occurred. We
13 were instructed or requested to drive to an area, I believe, near
14 Malisevo, or Malisheve in Albanian, where we were met and escorted to
15 what I would describe as a farmhouse. And I later learned this was
16 in a village called Banje, but I didn't know that at the time.

17 Q. And you say "we." Who were you with?

18 A. My colleague, Peter Bouckaert.

19 Q. And when you arrived at that location, were you the first to
20 arrive or were the KLA representatives there?

21 A. We were the first to arrive and waited for a short period of
22 time.

23 Q. And when the KLA figures arrived, did they introduce themselves?

24 A. They did, but after we went to the farmhouse and had sat down,
25 had a cup of tea, and began conversation.

Witness: W04408 (Open Session)

Page 7315

Examination by Mr. Tieger

1 Q. In what language was the meeting conducted?

2 A. In Albanian.

3 Q. And did you have a translator?

4 A. Yes.

5 Q. And when the KLA representatives arrived, did they -- I'll
6 repeat that question. Did they introduce themselves?

7 A. Yes, they did.

8 Q. And how did they introduce themselves?

9 A. One -- and I think the main spokesperson was Mr. Hashim Thaci,
10 who was the political representative of the General Staff. And the
11 other gentleman introduced himself by his *nom de guerre*,
12 Commander Celiku.

13 Q. And did you find out either during the meeting or subsequently
14 who -- the real name of Commander Celiku?

15 A. Yes, I did.

16 Q. And that was?

17 A. Mr. Fatmir Limaj.

18 MR. TIEGER: Your Honour, I note the time.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 We will break for the day. We will start again tomorrow at
21 9.00. We thank you for your attendance today. Remember not to talk
22 about the case outside of the courtroom. The Court Usher will escort
23 you out.

24 THE WITNESS: Thank you.

25 PRESIDING JUDGE SMITH: We'll see you tomorrow.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[The witness stands down]

PRESIDING JUDGE SMITH: We're adjourned until 9.00 tomorrow.

--- Whereupon the hearing adjourned at 4.02 p.m.