

1 Thursday, 22 February 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

6 PRESIDING JUDGE SMITH: 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 just wanted to thank everybody for
12 their attendance at the meeting yesterday and for the constructive
13 comments. We have already started reviewing some of the things that
14 were said and hopefully can come up with some workable plans in the
15 near future.

16 Madam Usher, would you bring the witness in, please.

17 I note that Mr. Krasniqi is appearing via videolink and the
18 other accused are present in court, and Judge Barthe once again will
19 be on Zoom today.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: Good morning, Witness.

22 THE WITNESS: [Interpretation] Good morning.

23 PRESIDING JUDGE SMITH: The record should reflect that
24 Witness W04576 has joined us in the courtroom. Oh, I thought perhaps
25 you had something.

Witness: Hajrush Kurtaj (Resumed) (Open Session)
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1 Witness, I want to remind you to please try to answer the
2 questions clearly with short sentences. If you don't understand a
3 question, feel free to ask counsel to repeat the question or tell
4 them you don't understand and they will clarify.

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

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

10 Please also remember to speak into the microphone and to wait
11 five seconds before answering a question and speak at a slow pace for
12 the interpreters to catch up.

13 If you feel the need to take a break, please let us know and we
14 will try to accommodate you.

15 We continue now with the cross-examination by Mr. Misetic.

16 Mr. Misetic, you have the floor.

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

18 WITNESS: HAJRUSH KURTAJ [Resumed]

19 [The witness answered through interpreter]

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

21 Q. Good morning, Witness.

22 A. Good morning.

23 Q. I would like to continue with a new topic with you, which is how
24 you came to join the KLA. And is it correct that you joined the KLA
25 in June 1998?

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1 A. That's correct.

2 Q. And did you join voluntarily or as part of some conscription
3 process?

4 A. Voluntarily.

5 Q. It was a volunteer army when you joined; correct?

6 A. Correct, a voluntary army.

7 Q. Did you speak to someone in the KLA about joining?

8 A. Initially, I spoke to my brother, Xheladin Kurtaj, now a martyr
9 of the nation, and Agim Bajrami, the commander.

10 Q. So at the time you spoke to Agim Bajrami, he was already the
11 commander of the brigade; is that correct?

12 A. He was the commander of the first units in Kacanik.

13 Q. And so you would not have had any personal knowledge of how he
14 became the commander; is that correct?

15 A. Correct.

16 Q. And you joined as a simple soldier regardless of the fact that
17 you had military education; is that correct?

18 A. Correct.

19 Q. And as a simple soldier, who was the person giving you tasks?

20 A. Commander Agim Bajrami.

21 Q. In terms of the structure of the KLA in Nerodime. You have no
22 personal knowledge of the structure in the Nerodime zone prior to
23 June 1998; correct?

24 A. Correct.

25 Q. You have no personal knowledge, for example, of how Shukri Buja

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1 came to be the zone commander?

2 A. I don't know.

3 Q. Any information in your book about how Shukri Buja or
4 Agim Bajrami came to be commanders is information you would have
5 learned later; is that correct?

6 A. All the information there I learned it mainly after the war.
7 Although, I have mentioned several times in the book that I have
8 amplified and embellished things.

9 Q. Okay. From June to August 1998, is it correct that you remained
10 a simple soldier in the KLA?

11 A. Correct.

12 Q. I'd like to discuss, for a second, the appointment of Agim
13 Bajrami which was mentioned in your book and which was put to you by
14 the Prosecutor at yesterday's transcript page 36, lines 12 to 23.
15 And there the Prosecutor read out a portion of your book, where you
16 say:

17 "At the order of the KLA HQ, Shukri Buja returned to Kacanik and
18 announced the decision of HQ to appoint Agim Bajrami commander of the
19 Kacanik unit."

20 Do you recall being asked questions about that yesterday?

21 A. Yes, I do remember. However, I need to repeat again that I
22 never saw any order and nor did I ever have any meetings with
23 Shukri Buja in relation to that case.

24 Q. And just to again establish the facts, you weren't even in the
25 KLA at the time Agim Bajrami became commander of the Kacanik unit;

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1 correct?

2 A. Correct.

3 Q. Anything you learned about the appointment of Agim Bajrami would
4 have been from information you gathered after the war; is that
5 correct?

6 MR. PACE: Objection, Your Honour. Asked and answered. We've
7 gone through this already.

8 PRESIDING JUDGE SMITH: One last time. Go ahead.

9 MR. MISETIC:

10 Q. Anything you --

11 PRESIDING JUDGE SMITH: Answer the question.

12 THE WITNESS: [Interpretation] Could you please repeat the
13 question?

14 MR. MISETIC:

15 Q. Anything you learned about the appointment of Agim Bajrami you
16 learned after the war; correct?

17 A. After the war. Correct.

18 Q. I'd like you to keep this issue in mind about Agim Bajrami
19 allegedly being appointed at the order of the KLA HQ because I'm
20 going to have some questions about that in a moment. You had no
21 knowledge during the war about any decisions of the KLA
22 General Staff; is that correct?

23 A. That's correct.

24 Q. On 5 August 1998, you became deputy commander for training and
25 operations of the 162nd Brigade; is that correct?

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1 A. That's correct.

2 Q. And who appointed you deputy commander?

3 A. Agim Bajrami.

4 [Specialist Counsel confer]

5 MR. MISETIC:

6 Q. And you stayed deputy commander of the 162nd Brigade when
7 Qamil Ilazi became brigade commander on 10 August following the death
8 of Agim Bajrami; is that correct?

9 A. Correct.

10 Q. And you kept this position, deputy commander, until May 1999?

11 A. Correct.

12 Q. Did you attend any meetings of the zone staff at any time from
13 June 1998 to May 1999?

14 A. I did not because it was not my competency either.

15 Q. Now, you told us that you became the acting commander of the
16 162nd Brigade on 14 May 1999 after Qamil Ilazi was killed; correct?

17 A. I continued carrying out the duties of the commander,
18 considering that I was deputy commander.

19 Q. Okay. And I'd like to discuss for a second, and for you to
20 clarify, what relationship Agim Ceku had to you becoming or taking
21 over the duties of commander of the brigade. So did Agim Ceku call
22 you?

23 A. On the day of the burial of Commander Bardhi, we had a phone
24 conversation during which I informed him that Commander Bardhi,
25 Qamil Ilazi, had been buried.

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Cross-examination by Mr. Misetiç (Continued)

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1 Q. Okay. And was there any discussion about who would succeed
2 Mr. Ilazi in command?

3 A. There was nothing specific. He only said that we need to
4 continue the war effort to the end.

5 Q. Did Agim Ceku tell you that he was speaking on behalf of the
6 General Staff or on his own behalf?

7 A. I don't remember because this was wartime and we didn't go into
8 such analysis.

9 Q. So as you sit here today, you don't know whether Agim Ceku made
10 any representations at all about whether he was speaking on his own
11 behalf or on behalf of the General Staff?

12 A. I don't remember this.

13 Q. If I could show you -- if you don't remember, let me see if I
14 can refresh your recollection and see if you have any comment.

15 MR. MISETIC: I'd like to show you your SPO interview, which is
16 at 074301-TR-ET Part 1, page 26, lines 2 to 8. And in the Albanian,
17 074301-TR-AT Part 1, page 31, lines 10 to 19.

18 Q. So just to clarify this, the SPO asked you in that call --
19 sorry, let me wait for the Albanian.

20 MR. MISETIC: They both seem to be in English.

21 Q. Witness, on your version in the Albanian beginning at line 10,
22 if you would follow along, please. It says:

23 "In that call, did he tell you that it was because he was
24 issuing the order or was it on behalf of the General Staff?

25 "A. For sure, he was -- he was the Chief of [the]

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1 General Staff. I didn't ask him in detail how, but he was the chief
2 of the General Staff.

3 "Q. So by virtue of his position, you understood that it was an
4 order from the General Staff?

5 "A. Yes."

6 Does that refresh your recollection at all about what was the
7 conversation with Mr. Ceku?

8 A. I simply don't remember there being any specific order.

9 Q. All right. Thank you.

10 MR. MISETIĆ: We can take the document down.

11 Q. Witness, do you know after the death of Agim Bajrami who
12 appointed Qamil Ilazi as the new commander?

13 A. I don't know, and I did not see any document.

14 Q. Okay. I'm going to put to you, and this is from the SPO's
15 pre-trial brief at both paragraphs 249 and 520, that the SPO contends
16 that Qamil Ilazi was appointed by Shukri Buja as commander of the
17 brigade. Do you understand?

18 A. I do. However, I was not aware of this.

19 Q. Okay. Is there any reason that you can think of why
20 Agim Bajrami would be appointed commander by the General Staff but
21 then, three months later, Qamil Ilazi would be appointed by
22 Shukri Buja?

23 A. I did not have this information ever.

24 Q. Is it correct that when you became the brigade commander in May
25 1999 that you recall receiving only one order from Shukri Buja?

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Cross-examination by Mr. Misetic (Continued)

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1 A. I never received any orders during the war.

2 Q. Well, you were shown a document yesterday.

3 MR. MISETIC: And let me pull it up from the book. And I
4 believe -- just one second, please. If we could go to P01014, from
5 your book "*The Unextinguished Flame*." And if we could go to page
6 044181, please.

7 Q. Witness, do you remember being questioned about this order?

8 A. Yes, I do.

9 Q. Correct me if I'm wrong, but I believe you said you did receive
10 it but it was never implemented; is that correct?

11 A. I said that on 27 May this order was issued. However, in
12 Kacanik the war ended on 11 June, and this order never reached the
13 brigade command until the end of the war. I only saw this document
14 after the war.

15 Q. Okay. Just to be clear. So when you say "after the war," are
16 you talking about immediately after the war in June 1999 or are you
17 talking about some point later?

18 A. Later, because from 12 June I was not in the brigade anymore. I
19 did not have knowledge, any knowledge, and I did not have the
20 opportunity to see the documents.

21 Q. Where did you see the document later?

22 A. I saw this document at the Command 6 of the KPC where I held the
23 position of the chief of staff.

24 Q. And this is the archive that we talked about yesterday?

25 A. At the administration of Command 6, yes.

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1 Q. Well, is the administration of Command 6 the place where you
2 found archived KLA documents that we discussed yesterday?

3 A. Some of the documents that I have used, yes.

4 Q. Do you know where those documents are today?

5 A. I have no knowledge because pursuant to the international
6 decision, the KPC was not transformed into the Kosovo security force
7 but they were dissolved. So I don't know where those documents are
8 kept.

9 Q. Let me just ask you one more question on this issue of the
10 archive.

11 MR. MISETIC: If we could go to P01015, which is your book --
12 actually, sorry, that page is not admitted, so I'll have to use the
13 actual exhibit number, 036622 at page 036636. And in the Albanian,
14 it's 077053. And if we could scroll down a bit, third paragraph from
15 the bottom, please, in the English. And it's the bottom paragraph in
16 the Albanian, third paragraph from the bottom there.

17 Q. So, Witness, in the book you say the following:

18 "The preparation of this study has involved sifting through many
19 authentic materials, documents orders, reports and analysis, which
20 are still unorganised in the archives of the Area of Operative
21 Nerodima, the 6th Area, Kosova Defending Army, and the Kosova
22 archives, the KLA area."

23 I was just interested in your observation that the archives were
24 unorganised. What did you mean by that?

25 A. I meant with this that the archive -- I saw some documents in

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1 the archives of Zone 6 command, but not more than that. And I have
2 amplified, embellished this sentence for the needs of the book as
3 I've mentioned earlier.

4 Q. Okay. But were the archives unorganised when you went in there
5 looking for documents?

6 A. Only in the Zone 6 command of the -- the only access I had to
7 documents was command of Zone 6. I don't know about any other
8 sources.

9 Q. And were the archives of the Zone 6 command unorganised?

10 A. I don't remember, but they must -- they probably were
11 unorganised because the war had just ended, the KPC had just been
12 formed, so it must -- the archives must certainly have been
13 unorganised.

14 Q. And what do you mean by "unorganised"? Were the -- just
15 documents not properly arranged? Did you find them just sitting in
16 boxes? Can you explain to us what it means that they're unorganised?
17 What did it look like?

18 Let me withdraw the question. Let me ask you a different
19 question. What did the room look like?

20 A. They were probably placed in a disorderly manner, as I remember.
21 I don't know more about it.

22 Q. Your knowledge of -- let me rephrase. References to orders of
23 the General Staff in your book, you don't have any personal knowledge
24 about those orders; is that correct?

25 A. That's correct.

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Cross-examination by Mr. Misetic (Continued)

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1 Q. You were asked some questions about Bislím Zyrapi by the
2 Prosecutor. You never spoke to Bislím Zyrapi during the war; is that
3 correct?

4 A. I never did.

5 Q. Did you ever see an order from Bislím Zyrapi during the
6 conflict?

7 A. I saw after the war those documents we discussed in the last
8 session.

9 Q. But while you were deputy commander or commander, did you ever
10 see an order from Bislím Zyrapi?

11 A. No.

12 Q. Did you ever, in any way, communicate with Bislím Zyrapi while
13 you were deputy commander or acting commander?

14 A. No.

15 Q. Did you communicate with anyone else in the General Staff from
16 June 1998 to June 1999, other than the one phone call with Agim Ceku?

17 A. No, with no one else.

18 Q. You were asked some questions about reference in your book to
19 "all operative decisions being made by the KLA HQ." Based on the
20 answers you just provided, that statement is not based on any
21 personal knowledge that you have; correct?

22 A. That's correct.

23 Q. Let me briefly discuss with you the organisation of the KLA.
24 When you -- you had military experience in the Yugoslav Army.
25 When you entered the KLA in June 1999, did you find that they had the

1 requisite military skills to function as a proper army?

2 A. They almost had no skills because most of the soldiers were
3 young people and they had no military experience whatsoever.

4 Q. What about weapons? Did the KLA have sufficient weapons in
5 1998?

6 A. They had very few weapons. It was very difficult for us to get
7 the supplies.

8 Q. Now, were you aware of efforts to physically coordinate with
9 various units of the KLA?

10 A. No, not back then because there were tasks of preparing the
11 soldiers on how to use weapons and how to be ready to fight, to be in
12 the front line. Therefore, it was not possible for me to coordinate
13 with other units.

14 Q. And what about people who deserted the KLA after the summer
15 offensives? Were there such people that just left?

16 A. Desertion is not a term that we know of because our army was a
17 voluntary army. People joined the army voluntarily. So if they were
18 tired of the war, they would rest for some time or they would go home
19 for a couple of days. Therefore, a deserter, as a term, is not
20 something that we recognised in our army.

21 Q. Well, would someone who just left the KLA, would -- do you know
22 of instances where they would be disciplined?

23 A. I have no knowledge of that.

24 Q. As deputy commander of the brigade, do you know of instances in
25 your brigade where people left, where soldiers left?

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1 A. We never had such cases.

2 Q. So no one in the brigade ever left after the summer offensives?

3 A. Even if they left, they left for a short while and they came
4 back again, and they continued fighting with no problem at all. So
5 they just left to see their families, and then they came back to
6 continue fighting in the war.

7 Q. Was there ever a discussion about needing to take disciplinary
8 measures against people who would leave without permission?

9 A. No, there were not such cases.

10 Q. Witness, let me ask you a few questions about communiqués.

11 Do you know who drafted political declarations and communiqués
12 on behalf of the KLA?

13 A. I don't know. I've never been aware of the existence of such
14 communiqués.

15 Q. Okay. Well, from that answer I take it that you never received
16 a communiqué or political declaration?

17 A. I never did. I never received any declaration or any
18 communiqué.

19 Q. Did you read about a communiqué or a political declaration in
20 the newspaper at any time between June 1998 and June 1999?

21 A. Back then, it was not possible for us because we didn't have
22 access to any newspaper. We didn't have a newspaper of our own or
23 mass media means of our own, and we were busy fighting in the war.

24 Q. Did anyone tell you about any message that they had received
25 through a political declaration or a communiqué?

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1 A. No, there was no such discussion.

2 Q. Have you had an opportunity to see such political declarations
3 or communiqués after the war?

4 A. After the war, through the media, newspapers, they published
5 such documents, but I had no interest in to getting acquainted with
6 their content. And that's it.

7 Q. Were you aware of any KLA guidelines or policies on how to treat
8 collaborators?

9 A. No knowledge whatsoever about this subject matter.

10 Q. Did Shukri Buja convey any guidelines or rules or policies about
11 how to treat collaborators?

12 MR. PACE: Objection, Your Honour. From the previous answer,
13 it's clear that the witness has no basis on which to answer the
14 subsequent question.

15 PRESIDING JUDGE SMITH: Overruled.

16 You can answer the question.

17 THE WITNESS: [Interpretation] I haven't had any communication
18 with Shukri Buja. Because if there was some communication going on,
19 the communication would be between him and the commander, not between
20 him and myself.

21 MR. MISETIC:

22 Q. Well, did Agim Bajrami or Qamil Ilazi ever convey to you any
23 rules or policies on how to treat collaborators?

24 A. No, never. This matter was not something that we had time to
25 deal with because we were busy into preparing the units, training the

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1 soldiers, protecting the country, and fighting the war.

2 Q. Did you have an understanding at the time of what a collaborator
3 was?

4 A. I haven't dealt with that matter at all. I have never even
5 thought of dealing with the subject matter. I have only recognised
6 two forces: The liberation forces and the occupationist forces.

7 Q. Well, let me use a different word then. Were you aware of any
8 people in the Nerodime zone who didn't support the KLA?

9 A. No, I was not aware.

10 Q. You did have dealings with the LDK in Nerodime. Did you view
11 the LDK as an opponent of the KLA?

12 A. I have never considered the LDK as an opponent of the KLA.

13 Q. Were you ever aware that other people within the KLA in the
14 Nerodime zone considered the LDK to be opponents of the KLA?

15 A. I have no knowledge of that.

16 Q. If an Albanian married someone of Serb ethnicity, would they be
17 considered opponents of the KLA?

18 A. No.

19 Q. If someone socialised with Serbs or Roma during the conflict in
20 the Nerodime zone - and I'm asking about the Nerodime zone to keep it
21 within your personal knowledge - would they be considered opponents
22 of the KLA?

23 A. No. Even though I was not responsible for the entire zone. I
24 can only talk about the area of Kacanik where I was operating.

25 Q. Thank you, Witness.

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Cross-examination by Mr. Tully

1 MR. MISETIC: Mr. President, I don't have anymore questions.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. EMMERSON: No questions, Your Honour.

4 PRESIDING JUDGE SMITH: All right.

5 MR. TULLY: Sorry, Your Honour. If I can just rearrange the
6 furniture here.

7 PRESIDING JUDGE SMITH: Sure.

8 MR. TULLY: One second. Thank you. Thank you.

9 Cross-examination by Mr. Tully:

10 Q. Good morning, Witness.

11 A. Good morning.

12 Q. My name is Eric Tully and I represent Rexhep Selimi. I have
13 roughly 30 minutes of questions for you. All of my questions are
14 going to be about your book. And I know you've written more than
15 one, so just so you know I'm always talking about the KLA war in
16 Nerodime when I refer to "your book."

17 I'm going to have roughly three sections, and I'm going to talk
18 to you about the forwards in your book, the process you used to
19 gather interviews, and the footnotes in your book. Okay?

20 So turning to the forwards. Yesterday, the SPO focused on a
21 forward that Dr. Selim Daci wrote in your book, and they read to you
22 a quote from his forward. And the quote was:

23 "The author used" --

24 This is from the provisional transcript of 21 February at
25 page 11. And it's:

1 "The author used as a resource and based this monograph on many
2 authentic documents, orders, reports and studies, which remain not
3 catalogued in the ... Area of Operative Nerodima, Area VI of the
4 Kosova ... Army, and the Kosova archives, mainly in the KLA Area."

5 And it continues from there.

6 So I'll come back to the text of that intro, but you remember
7 being asked questions about that, don't you, yesterday?

8 A. Yes.

9 Q. And your response to when the Prosecution asked you whether what
10 Dr. Daci wrote was correct was that he based this on what he saw in
11 the book.

12 So just as a preliminary question, you approached Dr. Daci to
13 write this forward in your book. Do I have that right?

14 A. That's right.

15 Q. And I note from the introduction to your own book that you
16 mention a thank you for suggestions and critique that Shukri Buja and
17 Dr. Daci may have given you for the book, but you don't thank him for
18 the forward. So do I understand just from the order of things, as
19 usual, that you would have written the book first, presented it to
20 Dr. Daci, and you got the forward that he wrote that was included
21 after you had submitted the manuscript to him; is that right?

22 A. That's right.

23 Q. And I understand correctly from your answers to the SPO in your
24 interview and from yesterday that, in fact, you didn't receive any
25 critique, per se, from anybody on the book's contents, and this would

1 include Dr. Daci; is that correct? No criticism of errors.

2 A. That's correct. Up until this moment, I'm not aware of any
3 critique about the books. I have no knowledge of that.

4 Q. And from your interview with the SPO, you, in fact, categorised
5 Dr. Daci's forward as being an exaggeration, trying to make the
6 author liked in order to market the author better. And that's from
7 Part 1, page 16. That's your evidence, isn't it, that this was a
8 marketing exercise to include what he wrote in that intro?

9 A. Yes, that's correct. It's more than marketing.

10 Q. Okay. So he was doing you a favour by including this forward.

11 A. I don't understand the question.

12 Q. Well, he was giving you something of benefit. By including his
13 name as a respected academic on his book, it increased, to the
14 reader, having seen his name on it, that this was an authentic and
15 robust work; right? That's what you mean?

16 A. Yes, of course. Because when a professor of the University of
17 Prishtine writes a forward, that's -- the work is seen with more
18 value. Yes.

19 Q. And do you remember telling the SPO in your interview also - and
20 this is at Part 1, page 18 - that in relation to Shukri Buja, you're
21 not even certain if he read the book? And I know yesterday you said
22 you received suggestions from Mr. Buja. But when you say you don't
23 know if he read the book, do you mean he didn't really read it very
24 deeply?

25 A. I can't possibly know because I haven't been with him while he

1 was writing the forward. It might have been the case that he has not
2 read the book very carefully.

3 Q. And what about Dr. Daci? Do you know for certain if he read the
4 book or if he read it closely?

5 A. I can't possibly know this as well. However, I don't think that
6 the professor has not read the book at all.

7 Q. Well, I want to then move to the exact text of the forward,
8 because we don't have any proof of whether he did or didn't read the
9 book, but we do have words he included in your book.

10 MR. TULLY: So first I'd like to show on screen from the
11 witness's introduction to the book on 036636 and the Albanian is
12 077053. Thanks.

13 Q. And I'm going to focus on the -- I'm going to focus on what
14 you've written here in your introduction. And you recognise this as
15 your introduction to your book? Your words?

16 A. Yes.

17 Q. And I want to compare it with what Dr. Daci put his name to in
18 your book.

19 MR. TULLY: And if I can have then on screen Defence
20 Exhibit DRS00107, the corrected version we submitted yesterday,
21 please. Sorry, one moment, Witness.

22 THE COURT OFFICER: You wish to have this document --

23 MR. TULLY: Just -- no, just the document on screen. Just that
24 the -- to replace this. Thank you. Thanks.

25 Q. Now, I have on the left, just to orientate you here, the

1 document we're looking at, I have an extract from Dr. Daci's forward,
2 and on the right is an extract from your own introduction. So I'm
3 going to read out what Dr. Daci said, and he's talking about the
4 archive and the sources you used. And he said:

5 "The author used as a resource, and based this monograph on many
6 authentic documents, orders, reports and studies, which remain not
7 catalogued in the Archive of the Area of Operative Nerodima, Area VI
8 of the Kosova Defensive Army, and the Kosova archives, mainly in the
9 KLA Area."

10 And then your introduction similarly says that the study
11 involved using "many authentic materials, documents orders, reports
12 and analysis, which are still unorganised in the archives of the Area
13 of Operative Nerodima, the 6th Area, Kosova Defending Army, and the
14 Kosovo archives, the KLA area."

15 So, Witness, would you agree that these are practically, with
16 the exchange of maybe one or two words, the exact same words that
17 you've used in your introduction? They're the same text.

18 A. That's correct. It's more or less the same text. And you can
19 see it for yourself. And so when it reads that there are many
20 documents -- and if you consider the book, the book does not contain
21 so many documents. And this is something that you can see with your
22 own eyes, so from the paragraph that you've taken from the part
23 written by the professor and the paragraph that I have written
24 myself.

25 Q. Thank you. Okay.

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1 MR. TULLY: And I want to move on to the next in the sequence,
2 and that's 108, please.

3 Q. And this is the same exercise. I'm going to read it out again.

4 Dr. Daci said:

5 "These numerous documents" --

6 Well, with Dr. Daci's name on it, said:

7 "These numerous documents depict a clear tableau the most
8 important events of the KLA war in the Area of Operative Nerodima.
9 Original data abound from the facts, interviews, memoirs and
10 conversations with the KLA Leaders in the Area of Operative Nerodima.
11 The author has also used the media of those times as an additional
12 means of verification of the data, further increasing the
13 professional and scientific value of this monograph."

14 In the interest of time, I won't read out exactly what you said
15 on the right, but that is again the exact same text, isn't it, your
16 introduction to Dr. Daci's forward; correct?

17 A. More or less the same.

18 Q. Okay.

19 MR. TULLY: So if I can have one last document on screen, and
20 this is DRS00109.

21 Q. And, Witness, I'm not going to go through this in its entirety.
22 It's a long quote.

23 MR. TULLY: And perhaps we can go down to the Albanian so the
24 witness can see what I'm talking about.

25 Q. It's taken from the same page of your introduction. And I just

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1 want you to look at the first part in Albanian, and generally the
2 text, and tell me, is that exactly the same words as you wrote more
3 or less in your introduction?

4 A. It's more or less the same.

5 Q. Okay. So for Dr. Daci's forward the Prosecution brought you to
6 to talk about the kind words he used, those were, in fact, your words
7 for your introduction to your own book; isn't that right? He copy
8 and pasted what you wrote and put his name to it as a marketing
9 exercise; is that right?

10 A. That's right.

11 MR. TULLY: Your Honours, if I can, for comparison of the two
12 texts, move the -- because I don't think it's in, the page from the
13 witness's book with his own words for his introduction.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. TULLY: Just that page, which is Exhibit P01015 at
16 page 036636. I don't know if these comparisons are helpful to
17 Your Honours but --

18 PRESIDING JUDGE SMITH: Any objection to that offer, that
19 tender?

20 MR. PACE: No.

21 MR. TULLY: And that would be add to the -- there's already
22 exhibited P01015, so part of the sequence of that so it's not
23 disjointed. Sorry, they're excerpts from pages of the book. They've
24 all been given one -- yeah, okay. Thank you, Your Honour.

25 Q. Okay, Witness. Thank you.

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 We have to have a number, please.

3 THE COURT OFFICER: Your Honours, the page with ERN 036636 in
4 English and 077053 in Albanian will be added to P01015.
5 Classification is public.

6 MR. TULLY: Thank you.

7 Q. And I just have one more quote on this topic, and this is from
8 Shukri Buja's forward, and this is from P01015 at page 36631, and the
9 Albanian is at page 077048.

10 MR. TULLY: Thank you.

11 Q. And I'm going to read just from the -- I think it's the fourth
12 paragraph down in the English, at the very end. And I just want to
13 ask you generally, Witness, we're not going to go through it side by
14 side, but Mr. Buja says -- the sentence beginning with "He uses," and
15 it says:

16 "He uses different sources, memoirs, interviews with the
17 protagonists, historical archives and data, war documents, etc., in
18 order to give his book historical and factual value."

19 Now, Mr. Buja is a little bit more economical with his words,
20 but he's essentially just repeating what you said in your own
21 introduction about the resources and sources you used. Would you
22 agree with that?

23 A. That's correct.

24 Q. Okay. Thank you. I'm going to move on now to a new topic, and
25 I will ask you now about the footnotes -- excuse me, sorry. The

1 interviews that you conducted or, as you describe them,
2 conversations. So you're quite resistant to them being called
3 interviews by the Prosecution, and you refer to them as social
4 conversations in your SPO interview. And that's at Part 1, page 21.
5 And you said in response to the question:

6 "First of all, are the interviews you cite to interviews that
7 you personally conducted with these people?"

8 And you answered:

9 "It has been more like a social conversation than a proper
10 interview, as fighters, co-fighters after the war, so when the war
11 ... finished."

12 So you're basically saying that these were in no sense a formal
13 interview. They were chats; is that right?

14 A. That's right. They were chats between co-fighters.

15 Q. And generally then, and this might be my assumption, but would I
16 understand correctly that you weren't using a tape recorder to record
17 these like a formal interview? They were notes you were taking at
18 the time during the chat?

19 A. No, I have not used a tape recorder. Nothing has been recorded.
20 We just had a social exchange. Just a chat.

21 Q. So you didn't even at any point take written notes of the -- of
22 what you were chatting about; is that right? Not even shorthand
23 notes?

24 A. Time after time, some shorthand notes, but that's it.

25 Q. Okay. And I'll --

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1 PRESIDING JUDGE SMITH: We'll take a brief break for ten
2 minutes. We'll be back in court at 10.10.

3 --- Break taken at 10.01 a.m.

4 --- On resuming at 10.10 a.m.

5 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
6 in.

7 [The witness takes the stand]

8 PRESIDING JUDGE SMITH: Mr. Witness, we will continue with
9 Mr. Tully's questions of you.

10 Mr. Tully, you have the floor.

11 MR. TULLY: Thank you, Mr. President.

12 Q. Welcome back, Witness. I'm going to move on to --

13 A. [No interpretation].

14 Q. I'm going to move on to the footnotes that you use in your book.
15 And do I understand, generally speaking, that along with the
16 interviews we discussed and the other sources that you use as
17 references in your book, you didn't keep copies of these? There's
18 nowhere that we could inspect the sources you use for your book?

19 A. That's correct.

20 Q. So I'm going to suggest to you, and I think that you've made it
21 pretty clear, is that you have a practice of including information in
22 the text of your book that doesn't come from the sources you use for
23 that book. And I'm going to use two examples from events that lead
24 up to the death of Qamil Ilazi, and I'm going to link it back to
25 something the Prosecution asked you about Shukri Buja.

1 So I'm not going -- my questions don't relate to the facts of
2 this incident itself but simply how you represented your sources in
3 the book.

4 MR. TULLY: So if I can have on screen from the "*KLA War in*
5 *Nerodime Operation*," 036717, and the Albanian is 077138.

6 Yes. It might be a little bit easier to see, but I'm going to
7 read from the -- yeah, the sentence that ends in footnote 137. So
8 it's the second sentence of the first paragraph. Yeah.

9 Q. So you're giving a description of the events that lead up to the
10 death of Qamil Ilazi in May 1999. And the first incident which
11 occurs on 7 May, you say the following, and it's that:

12 "The guerilla unit of 162nd Brigade 'Agim Bajrami' was on a
13 surveillance assignment at the Krivareka Bridge on May 7, 1999, when
14 it decided to lay a trap which killed two Serbian soldiers and
15 wounded several more. They also managed to completely destroy [an]
16 enemy war vehicle."

17 And the footnote you cite there is 137.

18 MR. TULLY: And if I can scroll down to footnote 137 on that
19 page. Thank you.

20 Q. So what you used to cite this incident that occurred in May 1999
21 comes from Rufki Suma, the commander of the 3rd Battalion, and a
22 written report on 24 April 1999.

23 So you'd agree with me it's obviously impossible that you could
24 be getting the information in the book from a report that was given
25 several weeks before the incident actually occurred?

1 A. I agree with you. Certainly.

2 Q. Okay. And even if it's just to describe the positioning of the
3 brigade unit, the source is an incomplete reference for the text. So
4 you filled in gaps from extraneous information or your own
5 assumptions, and you put down a reference to something that you
6 received several weeks before; is that right? Do I assume correctly
7 what you did?

8 A. That's correct.

9 Q. Okay. And just additionally, one last thing. The footnote
10 doesn't even refer to the battalion you mention -- or, sorry, excuse
11 me. This is -- yeah, this is for the actions of --

12 MR. TULLY: Can you scroll up a little, please. I'll move on to
13 the next one. So please can you go down further on the page to the
14 sentence that begins "The same day." It's the second-last paragraph.
15 Yeah.

16 Q. And it's the same thing again. You're describing an incident
17 that occurred on 11 May. It describes an attack in the Cakaj
18 neighbourhood of Bob, which was the victim of a penetration attempt
19 by the area. And again you cite at footnote 140 to a report that was
20 received again in April from Hestet Malsiu. So, again, you couldn't
21 be supporting what you wrote in the text from what you have in the
22 footnote.

23 A. This was simply as I wanted it to be, and I've said on several
24 occasions that I amplified and embellished it.

25 Q. Okay. And I'm going to wrap up, but my point here with this is

1 that you have a habit throughout the book -- and this is just two
2 examples I used because I don't have access to the original sources.
3 But just from these examples, we can see an example of where you're
4 editorialising and including your own assumptions in situations that
5 simply could not have come from the information you received. You
6 agree with that point?

7 A. Yes, I do.

8 Q. So then finally, I then want to turn you to something you
9 responded to the Prosecution. And this is at provisional transcript
10 from yesterday at page 36, beginning at line 8. And you were asked
11 in relation to a quote from your book that comes from page 036622 to
12 036837 -- sorry, excuse me, the page is 036645, I don't need it on
13 screen, and the Albanian is 077063. And the Prosecutor said to you:

14 "... I'm going to read to the [quote] again, and I would like
15 you to pay particular attention because, after that, I'm going to ask
16 you to tell the Judges specifically what you ... embellished and
17 amplified ..."

18 And the sentence reads:

19 "'At the order of the KLA HQ, Shukri Buja returned to Kacanik
20 and announced the decision of HQ to appoint Agim Bajrami ... of the
21 Kacanik Unit."

22 And you responded, denying that you'd seen any order, but
23 importantly:

24 "... Shukri Buja did not tell me as it is written there, but he
25 did instead tell me that he appointed Agim Bajrami as the commander

1 of the Kacanik unit.'" "

2 So the examples we've shown here in conjunction with you saying
3 you paraphrased interviews with fighters, this is what you're
4 referring to when you say that Shukri Buja did not actually tell you
5 the information that's contained in your book; isn't that right?

6 A. That's right.

7 Q. Thank you, Your Honour.

8 MR. TULLY: I've no more questions.

9 Q. Thank you, Witness. I wish you safe home.

10 PRESIDING JUDGE SMITH: Thank you.

11 Mr. Ellis.

12 THE WITNESS: [Interpretation] Thank you.

13 Cross-examination by Mr. Ellis:

14 Q. Good morning, Witness. My name is Aidan Ellis, and I'm
15 representing --

16 A. Good morning.

17 Q. -- Mr. Jakup Krasniqi. I want to start, Witness, by -- with
18 your evidence about some of the difficult -- very difficult
19 conditions in which you were operating in the Kacanik area.

20 MR. ELLIS: Could we please pull up DJK00643.

21 Q. Now, Witness, you should see a map on your screen. Just to
22 orientate you, Kacanik is in the middle, slightly towards the lower
23 third. Do you see that?

24 A. Yes.

25 Q. I'm going to ask you to mark a number of locations that you've

1 discussed in your evidence on this map. So please do let us know if
2 you need to zoom in.

3 MR. ELLIS: But if he could be provided with the marking device.

4 THE WITNESS: [Interpretation] If you could zoom in a little bit.

5 MR. ELLIS: Well, can we then zoom in first on the area around
6 Kacanik. If we can scroll it up a little bit. That's -- sorry, down
7 a little bit further.

8 THE WITNESS: [Interpretation] That's fine.

9 MR. ELLIS:

10 Q. Witness, you mentioned villages in which the KLA had a presence.
11 You mentioned Ivaje. Can you see that on the map?

12 A. Yes, I can see Ivaje.

13 Q. Could you make a mark there, please? Thank you.

14 A. [Marks]

15 Q. And Gajre?

16 A. [Marks]

17 Q. Bicec?

18 A. [Marks]

19 Q. And now you mentioned Bob as well. Are you able to see Bob on
20 the map?

21 A. I mentioned the mountains of Bob, above the Bob village, but not
22 the village itself.

23 Q. Quite. Because Bob village itself is very close to Kacanik,
24 isn't it?

25 A. Correct.

1 Q. And so the place where the KLA would have been is in the
2 mountains above Bob village. That's right, isn't it?

3 A. Above the village of Bob, precisely at the house of Hasani's.

4 Q. Yes. And the situation is, isn't it, or was, isn't it, that the
5 KLA had small groups of fighters in each of these villages. That's
6 how it was, isn't it?

7 A. Correct.

8 Q. And it was difficult to move between the villages because of the
9 presence of Serbian forces nearby, wasn't it?

10 A. It was very difficult because the Serbian forces controlled also
11 the left bank of Lepenc river on the road to Skopje and the right
12 bank as well, and the part going towards Macedonia linking Tetovo to
13 Bicec. So all these areas there were presence of Serbian forces.

14 Q. Well, let's deal with that now since you mentioned it.

15 MR. ELLIS: Are we able to change the colour on the marker,
16 please? Thank you.

17 Q. Now, if I've understood correctly, Witness, Kacanik town itself
18 was controlled by Serbian forces, wasn't it?

19 A. Yes.

20 Q. So would you be able to mark that for us in the new colour that
21 you've got?

22 A. Kacanik; right?

23 Q. Yes, please.

24 A. [Marks]

25 Q. Thank you. Now, there are -- you should be able to see on the

1 map the main border crossings into Macedonia. The first I think is
2 at Glllobocice. You'll have to forgive me, I'm doing my best with the
3 pronunciation, Witness.

4 A. [Marks]

5 Q. And that was controlled by Serbian forces, wasn't it?

6 A. Yes.

7 Q. And on the other side, there is another border crossing at Hani
8 i Elezit?

9 A. This was controlled by the occupier's force -- Serb occupier
10 force as well and the state apparatus of the occupier.

11 Q. Now, you should see a main road running down from Hani i Elezit
12 through Kacanik and going on up to Ferizaj. Do you see that on the
13 map?

14 A. Yes.

15 Q. And that's, in fact, part of what was the main road running from
16 Prishtine to Skopje in Macedonia; yes?

17 A. Yes.

18 Q. And that main road was controlled by the Serbian forces and had
19 Serbian checkpoints along it, didn't it?

20 A. There were Serb forces on all sides.

21 Q. And there was a railway running close to that main road; is that
22 right?

23 A. Yes, the railway through Kacanik. But it doesn't go along the
24 main road.

25 Q. I see. But the railroad was also controlled by Serbian forces;

1 correct? By Serbian apparatus.

2 A. Yes, by the Serb occupier's apparatus.

3 Q. Yes. And you can see on the map towards the left-hand side
4 Shterpc. That was another town controlled by the Serbian forces;
5 correct?

6 A. Yes.

7 Q. And the main road running down --

8 A. Yes, by the Serb occupier's forces.

9 Q. And the road running down from Shterpc towards Kacanik,
10 controlled by the Serbian forces, wasn't it?

11 A. This one was also controlled by the Serb forces. And there were
12 checkpoints every two -- 1, 200 metres, be them military,
13 paramilitary, or military checkpoints.

14 Q. Thank you. By the way, there weren't any KLA checkpoints in
15 your area, were there?

16 A. Could you please repeat your question?

17 Q. Yes, it's an answer that you gave to the Prosecution in your
18 interview. You were asked:

19 "Did the KLA have any checkpoints in or around Kacanik?"

20 And you responded:

21 "No, it didn't."

22 That's correct, isn't it?

23 A. That's correct. It didn't.

24 Q. Now, is it correct that in the region of Shterpc there are some
25 villages that have a Serbian majority?

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1 A. That's correct.

2 Q. And those villages were never attacked by the KLA in the
3 conflict, were they?

4 A. Never.

5 MR. ELLIS: Now, are we able to save the markings that we've got
6 and then zoom out a little bit on the map? Thank you.

7 And when we're ready, if we could zoom out a little bit further
8 on the map -- or roll up, actually, would do it. Sorry, could we
9 move a little bit north? Thank you. A little bit further. Thank
10 you.

11 I think we've lost the markings that we had already. Is it
12 possible to go back to that, or should I just mark some new
13 locations?

14 THE COURT OFFICER: Yes, please, if you can mark the new
15 locations on this version, and then we will save that version as
16 well.

17 MR. ELLIS: Will we be able to put them together?

18 [Trial Panel and Court Officer confers]

19 MR. ELLIS: So if I can then -- I'm very grateful for the
20 assistance. If we can mark the new locations that I was going to go
21 to, and then hopefully we can perhaps show both side by side or -- or
22 we'll manage it. Thank you.

23 Could we go up a little bit so we can see the top of the map as
24 well.

25 Q. And, Witness, Ferizaj itself was controlled by Serbian forces,

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1 wasn't it?

2 A. Yes, it was.

3 Q. So if you could mark that in the green colour, please.

4 A. [Marks]

5 Q. Thank you. And Shtime itself was controlled by Serbian forces,
6 wasn't it?

7 A. Yes, this was also controlled by the Serbian forces. I would
8 add, though, that neither Shtime nor Ferizaj were under my
9 competence.

10 Q. I understand, Witness.

11 MR. ELLIS: Could we go back to the red colour, please.

12 Q. Now, it's correct, isn't it, that at times Brigade 161 was
13 located in Jezerc?

14 A. It might have been the case. However, Jezerc was not under my
15 competence.

16 Q. I appreciate that, Witness. But can you see Jezerc on that map?
17 Thank you.

18 A. Yes.

19 Q. And is it within your knowledge that at times the zone command
20 was in Mollopolc for Nerodime?

21 A. I don't know exactly because, again, this was not my competence.

22 Q. I see.

23 MR. ELLIS: Now, could we -- is it possible to now show the two
24 maps marked side by side on the screen? If we could save this one
25 and then show the two? Thank you.

1 Q. The point I'm trying to make, Witness, as I understand it, is
2 you're operating in the villages in the region of Kacanik; correct?

3 A. Correct.

4 Q. And you're effectively surrounded by Serbian forces at the
5 border and controlling the main roads running through Kacanik in both
6 directions; correct?

7 A. Correct.

8 Q. And the villages in which you're operating, we can see on the
9 map, this is very mountainous terrain, isn't it?

10 A. Correct.

11 Q. And so we can imagine what was happening. You typically had a
12 situation of Serbian forces on the main roads and in the towns
13 shelling up from the valleys at your troops in the villages; correct?

14 At your fighters in the villages.

15 A. Correct.

16 Q. And the living conditions for you and the civilians in those
17 villages were very difficult at the time, weren't they?

18 A. Very difficult.

19 MR. ELLIS: Your Honour, I'd seek to tender those two maps in
20 their marked form.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 Give us the numbers of both, please.

23 MR. ELLIS: They were both DJK00643.

24 PRESIDING JUDGE SMITH: Okay.

25 MR. ELLIS: But we now have two marked versions.

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1 PRESIDING JUDGE SMITH: Okay. Can we call them A and B?

2 DJK00643 is tendered. Any objection by the Prosecution?

3 MR. PACE: No.

4 PRESIDING JUDGE SMITH: It is admitted and will be given a
5 number designating A and B.

6 THE COURT OFFICER: Your Honours, markings made by
7 Witness W04576 on ERN DJK00643 will be saved with the Registry number
8 REG01169 and will be assigned Exhibit 4D00029.

9 PRESIDING JUDGE SMITH: That's fine. Instead of using A and B,
10 we'll use two different numbers.

11 MR. ELLIS: Thank you, Your Honour.

12 THE COURT OFFICER: And the second marked map will be saved with
13 the Registry number REG01170 and will be assigned Exhibit 4D00030.

14 MR. ELLIS: Thank you.

15 Q. Now, Witness, at the time, communication by telephone was rare,
16 wasn't it, because of security concerns?

17 A. Rare. And I can easily say there was none.

18 Q. And the security concern was that you knew that if you used
19 them, the Serbian forces might intercept; correct?

20 A. Correct.

21 Q. And no doubt also the mountains in which you were operating
22 would have caused difficulty for both telephone reception and radio
23 reception; correct?

24 A. Correct.

25 Q. Now, you were asked about some of the distances in your

1 interview with the Prosecution, and you said that it would take 12 to
2 13 hours to cover the distance between your villages in Kacanik and
3 Mollopolc. Is that a fair estimate, Witness?

4 A. Even -- it took even more than that. Having in mind that the
5 main points were occupied by the Serb forces.

6 Q. Quite, because at the time, you'd have been moving on -- your
7 fighters would have been moving on foot between the locations;
8 correct? You'd have been walking.

9 A. Correct.

10 Q. And you couldn't use the main roads because, as we've seen,
11 they're occupied by the Serbian forces and there are checkpoints
12 every 100 to 200 metres, you said.

13 A. Certainly. But not only the main road but also the secondary
14 roads were occupied with Serbian forces' checkpoints.

15 Q. So any courier carrying a message between the zone and your
16 brigade would have to make that long journey on foot, then wait for a
17 reply, and travel the same way back; is that right?

18 A. Not only they would have to walk, but they would be exposed to
19 danger in great manner.

20 Q. Exactly. Because if they were stopped at any of these Serbian
21 checkpoints, that would be it. They'd be arrested; correct?

22 A. Certainly, they would have been arrested and maltreated and
23 killed, just like over 15.000 citizens of the Republic of Kosovo were
24 killed.

25 Q. And it's right, isn't it, that in January 1999, say, you had a

1 significant shortage of communications equipment within the unit?

2 That's right, isn't it?

3 A. That's right.

4 Q. And, indeed, you told the Prosecution that:

5 "In cases, there were months before the brigade commander would
6 meet like the zone commander."

7 And that's right, isn't it, given the distances we've looked at?

8 A. Just a correction here. I have said that as a deputy commander
9 it was the case that it took for me about one month to meet with the
10 brigade commander. Whereas when it comes to meetings of the brigade
11 commander with others, I have no knowledge of that.

12 Q. I see. So for your own meetings with your own brigade
13 commander, you're saying it would take about a month; is that right?

14 A. There were occasions that it took even longer than one month for
15 me and him to meet because of the very severe fightings and because
16 of the very difficult mountainous terrain that we mentioned before.

17 Q. Yes, very well. I want to move on to a different topic now.

18 MR. ELLIS: And the maps can be taken down.

19 Q. Witness, I'm going to ask some questions about

20 Mr. Jakup Krasniqi. It's right, isn't it, that you did not meet
21 Mr. Krasniqi during the conflict in 1998 and 1999 or have any other
22 contact with him?

23 A. During the liberation war, I have never met with Mr. Krasniqi.

24 Q. But everyone knew that Mr. Krasniqi was the spokesperson of the
25 Kosovo Liberation Army, didn't they?

1 A. We did hear about that. So when it was possible, we heard about
2 it through the mass media. But, yeah, that was the general
3 knowledge.

4 Q. And that was the only role that you knew that he had during the
5 conflict, wasn't it?

6 A. From what I know, that was the only role that he had.

7 Q. Now, Witness, you've spoken a little about Qamil Ilazi today and
8 yesterday. It's right, isn't it, that Qamil Ilazi was known as
9 Commander Bardhi?

10 A. That's right.

11 Q. And he was the leader of the Kacanik unit, and later the
12 brigade, from around August 1998 until he fell in May 1999. That's
13 right, isn't it?

14 A. Yes.

15 Q. And in the period between March and May 1999, Serbian forces
16 were attacking the villages in the Kacanik area, and the KLA was
17 moving between villages trying to defend them and the civilians as
18 best they could; correct?

19 A. Correct.

20 Q. So everyone in the KLA in Kacanik was vulnerable to being
21 attacked by Serbian forces during that time, weren't you?

22 A. Correct.

23 Q. And on 14 May 1999, Qamil Ilazi was inspecting the 2nd and
24 3rd Battalion units when he was ambushed by Serbian forces in the
25 village of Nikoc. That's correct, isn't it?

1 A. Correct.

2 Q. And not only Qamil Ilazi but also Selim Shehu was killed in that
3 ambush and Shefket Kuka was injured. That's right, isn't it?

4 A. That's right.

5 MR. ELLIS: Could we have on screen, please, P625.

6 Q. We'll just wait for the Albanian, Witness.

7 Witness, you were shown this document by the Prosecution. I
8 think it's right to say, you had not seen this document in January
9 1999, had you?

10 A. No, I've not seen it in January 1999, and I had never seen this
11 document before the Prosecution office presented it to me.

12 Q. Yes. And so you don't have any information about whether this
13 document was ever received by Brigade 162 or by the Nerodime zone?
14 You don't have information about that, do you?

15 A. I don't have any information about that. I didn't have any
16 information about this document during the war. What I know for a
17 fact is that the brigade commander has led the brigade from the
18 beginning up until 14 May when he fell.

19 Q. Exactly. You can confirm that Commander Bardhi remained the
20 commander until 14 May when he fell in a Serbian ambush. That's
21 right, isn't it?

22 A. That's right. He led the command up until 14 May when he fell
23 in the battlefield. So that is something that I can say with a full
24 responsibility. I was the deputy of Commander Bardhi myself.

25 Q. Thank you. Let's move on to a different document.

1 MR. ELLIS: Could we have P168 on the screen, please. It should
2 be the same number in English and Albanian. And if we could scroll
3 down a little bit. Thank you.

4 Q. Witness, this is another document that you were shown by the
5 Prosecution, and it's another document that you had never seen during
6 the conflict and had not seen until the Prosecution showed it to you.
7 That's right, isn't it?

8 A. That's right. And I have told the Prosecutor as well that I
9 have never seen this document before. Even if I'd seen it, I would
10 have not admitted and accepted it because I didn't see any first name
11 and last name, because the signature itself is not very telling to
12 myself. But what is more important, I have never, ever seen this
13 document.

14 Q. You didn't recognise the signature on it, did you?

15 A. No, I didn't recognise it.

16 Q. No. And what you said to the Prosecution is that for you it's
17 not very credible because it doesn't have a first name and a surname
18 at the bottom. That's what you said, isn't it?

19 A. That's correct.

20 Q. But you weren't aware of any such order from the General Staff
21 in 1998, 1999, were you?

22 A. I have never heard of this order.

23 Q. Thank you.

24 MR. ELLIS: We can take that down.

25 Q. Now, in your preparation session with the Prosecution, you told

1 the Prosecution that the Serbian municipality leader in Kacanik was
2 called Ognjenovic. You'll have to help me with the pronunciation on
3 that one, Witness, I'm afraid. You know the gentleman I'm referring
4 to.

5 A. The chair of the municipality from the Serb administration was
6 Ognjenovic, Rado. If you want -- if you show me the document, I can
7 see it more clearly.

8 Q. I'm not talking about a document at the moment, Witness. I'm
9 just asking you if he --

10 A. Orsat Ognjenovic.

11 Q. And it was Ognjenovic who set up a local police force in
12 Kacanik; correct?

13 A. Yes. That's correct. Ognjenovic was from the Serb
14 administration. He was operating in Kacanik.

15 Q. Quite. And there was a local police force operating in that
16 area made up of Serbs and some Albanians; correct?

17 A. That's correct. Because the Serbian authorities also
18 established some local units in addition to the military forces and
19 the paramilitary forces.

20 Q. And to the best of your knowledge, those local units, local
21 police were working with the Serbian police and Serbian army and
22 paramilitary. They're part of the forces that were against you,
23 aren't they?

24 A. Of course. They were part of police, paramilitary police
25 structures. And in addition to being responsible for establishing

1 the local unit, Ognjenovic should face justice because he's
2 responsible for killing over 200 citizens of Kacanik. He was the
3 direct responsible person for taking the lives of these 200 citizens.
4 Q. Witness, you've already answered some questions from Mr. Misetic
5 this morning about communiqués and political declarations. I
6 appreciate you say you didn't see those at the time. But since the
7 conflict, you've done some research for your books. You've said that
8 you followed some of the ICTY hearings.

9 Have you now had the chance to see some of the communiqués and
10 political declarations in more recent times?

11 A. I have not entered into details because I've seen that in all
12 the proceedings that are held up until now, there has been more
13 staging than reality. Therefore, there's been no interest on my end
14 to consider in details what those documents said.

15 Q. And is that because you would consider those documents to
16 contain more staging than reality? Is that what you're saying,
17 Witness?

18 A. Yes. During the ICTY, there was this witness -- I can't recall
19 his name, but there are documents about him. But there was this case
20 of a witness that tells untrue stories, and he says that the diary of
21 Hajrush Kurtaj was found when his house was attacked on 10 August,
22 and that's not true. I've not been there. They have not found
23 anything. And he said that, in that case: We killed Hajrush and two
24 other people. Whereas here I am today before this Trial Panel.

25 But this is just to show on how the ICTY worked and what the

1 Serbian apparatus did.

2 Q. Witness, I'm going to go back into a couple of questions about
3 your book again. You've already explained very clearly that your
4 book contains embellishments. You're aware, no doubt, that a lot of
5 members of the KLA have written books about the war after the war.
6 No doubt you're familiar with some of those works, are you?

7 A. Yes.

8 Q. And in those works that you have read, many of those books
9 exaggerate the author's own role and the organisation of the KLA,
10 don't they?

11 MR. PACE: Objection, Your Honour. If we're going to ask these
12 kind of questions, it should be more specific. We should know what
13 books we are referring to and not in the abstract, and also the basis
14 for the witness's answer for any of these questions.

15 PRESIDING JUDGE SMITH: Overruled. You can ask the general
16 question, but you will have to follow up with some names of the -- if
17 you get the right answer.

18 MR. ELLIS:

19 Q. Witness, did you hear the original question? Shall I read it
20 again? The question was: In the works that you have read, many of
21 those books exaggerate the author's own role and the organisation of
22 the KLA, don't they?

23 A. Yes, they do. This is something that I've said before as well.
24 The Kosovo Liberation Army, in general, when it is reflected in terms
25 of history books, so there is a lot there about the sacrifice of the

1 nation, about the heroism of the martyrs of the nation, and it talks
2 about the developments of the war. And it is more than normal that
3 things are exaggerated or are amplified when the reality is shown in
4 such books. So I fully agree with what you said.

5 Q. Yes. It's a continuation of propaganda from the wartimes, isn't
6 it, effectively?

7 A. Of course. During the wartimes, it was done in order to
8 motivate everyone to make progress towards liberation. And after the
9 war, we tried to give an example and an inspiration for the young
10 generations in order for them to carry ahead.

11 Q. Quite. And, Witness, society in Kosovo tends to be respectful
12 towards writers and authors, doesn't it?

13 A. That's correct. They are respectful.

14 Q. You haven't ever confronted any of the authors of books that
15 you've read to say that they got things wrong or exaggerated, have
16 you?

17 A. No, I haven't discussed about these matters.

18 Q. Yes. Now, you spoke yesterday, and again a bit today, about the
19 KPC archive which you used to source some of the documents for your
20 books. To be clear, in Brigade 162, you did not have any barracks
21 and you did not have any place to keep documentation or to create
22 documentation. That's right, isn't it?

23 A. No, we did not. We were -- during the wartimes, we were in the
24 mountains. We could not have barracks. We were surrounded by all
25 sides from the Serb forces. The answer is no.

1 Q. But you weren't aware of any organised system for retaining
2 documents during the war, were you?

3 A. No, I'm not aware of that.

4 Q. And you don't know how documents got into the KPC archive, do
5 you?

6 A. I don't know that.

7 Q. If individuals had brought documents to the archive over a
8 period of time, you just wouldn't know that, would you?

9 A. I wouldn't.

10 Q. And when you were given documents from the archive, you weren't
11 given any record of where they had come from or who had provided them
12 to the archive, were you?

13 A. I haven't seen any such document.

14 Q. And you aren't aware, are you, if the archive carried out any
15 checks on the authenticity of the documents that it had? You're not
16 aware of any such authenticity checks, are you?

17 A. I'm not aware.

18 MR. ELLIS: Your Honour, I'm looking at the time. Would that be
19 a convenient moment for the break?

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 We will take the morning break for a half hour. Witness, the
22 Court Usher will escort you out of the room. Please do not speak to
23 anybody about your testimony in this courtroom.

24 THE WITNESS: [Interpretation] Thank you.

25 [The witness stands down]

1 MR. ELLIS: Your Honour, I think I have no more than half an
2 hour left after the break, if that assists.

3 PRESIDING JUDGE SMITH: Thank you for the information.

4 We will be adjourned until 11.30.

5 --- Recess taken at 11.00 a.m.

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

7 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
8 in.

9 [The witness takes the stand]

10 PRESIDING JUDGE SMITH: All right. Witness, we will continue
11 with the cross-examination by Mr. Ellis.

12 Go ahead, Mr. Ellis. You have --

13 MR. ELLIS: Thank you, Your Honour.

14 PRESIDING JUDGE SMITH: -- the floor.

15 MR. ELLIS:

16 Q. Witness, we left at the break, we were just asking some
17 questions about your book, and I had a couple more questions about
18 Professor Daci.

19 MR. ELLIS: Could I have on the screen, please, DJK00725 and the
20 equivalent English translation.

21 Q. Witness, it's right, isn't it, that Armend Daci, who was
22 Professor Daci's son, was killed by the Serbian regime in 1996?
23 That's correct, isn't it?

24 MR. PACE: Objection, Your Honour. Can counsel state the
25 relevance of this --

1 THE WITNESS: [Interpretation] Correct.

2 MR. PACE: -- line of questioning concerning the son of an
3 editor of a book that the witness authored.

4 PRESIDING JUDGE SMITH: This has no relevance whatsoever.

5 MR. ELLIS: It's relevant to any value to be attached to
6 Professor Daci's introduction which the Prosecution relied on in
7 its --

8 PRESIDING JUDGE SMITH: Move on to something different. That
9 has no relevance.

10 MR. ELLIS:

11 Q. Professor Daci came from Decan, didn't he? His family came from
12 Decan. That's right, isn't it?

13 A. Correct.

14 Q. He was not part of the KLA in the Nerodime zone, was he?

15 A. He was not.

16 Q. So he wouldn't have known whether the contents of your book were
17 accurate or whether they had embellishments, would he?

18 A. He wouldn't have. He based his forward on what I had
19 represented. It is correct, though, that the Serbian regime killed
20 his son, just like they killed my two brothers, one in our house and
21 another one in the Dubrava prison, knowing that prisoners had rights
22 as per international conventions but which Serbia never complied
23 with.

24 Q. And Professor Daci was part of the PDK, the same party that you
25 were involved with in 2012. That's right, isn't it?

1 A. Correct.

2 MR. ELLIS: I'll move on, and that exhibit can be taken down.

3 Q. In your book, Witness, you also included some references to a
4 book by Mr. Jakup Krasniqi, "*The Great Turn*." Do you recall that?

5 A. I do recall but not the details of it, though.

6 Q. But you've never discussed those parts of the book with
7 Mr. Krasniqi himself, have you?

8 A. I have never met him after publishing the book.

9 Q. And it's the section -- you base the section of your book about
10 the temporary regulations of the KLA on Mr. Krasniqi's book. That's
11 right, isn't it?

12 A. It is possible that I did. But as I said before, I tried to
13 portray this in a way that would add -- give an added value to the
14 book and make it more -- to assure a better reception of it.

15 Q. Quite. Because you didn't actually --

16 A. However, I did not see any regulations.

17 Q. That was my next question, Witness. You didn't actually see the
18 temporary regulations in the Kacanik unit or in Brigade 162 in 1998
19 or 1999, did you?

20 A. I did not.

21 MR. ELLIS: Could we have on screen, please, P8 at page 24.

22 Page 24 in both the English and Albanian, I believe. Could I have
23 page 24, please.

24 THE COURT OFFICER: This document has 16 pages; in Albanian, 17.

25 MR. ELLIS: Ah, page 14 I believe. That's the one. I

1 apologise, I was going by the page numbers at the bottom of the page.

2 Q. It's number -- can you see a point number 11, Witness, on the
3 left-hand side of your screen?

4 MR. ELLIS: We can make that a little bigger.

5 Q. Do you see it says there:

6 "Regular soldiers must always be clean shaven and have short
7 hair."

8 Can you read that in the regulations, Witness?

9 A. Yes.

10 Q. Thank you.

11 MR. ELLIS: Could I then please move to a page from your book.
12 It's 036622 at page 036800. And it's a photograph, so I think one
13 language will be sufficient. And can we just scroll down a little
14 bit.

15 Q. It's just that top photograph on the left, Witness. These are
16 KLA fighters from the Nerodime zone in August 1998; correct?

17 A. Correct.

18 Q. And we can see clearly that a number of them have beards and
19 long hair; correct?

20 A. Correct. And I'm depicted in the middle.

21 Q. Thank you. So the regulation was not followed in your unit;
22 correct?

23 A. This proves that I haven't seen that regulation.

24 MR. ELLIS: Could we go back to the regulation, which was P8.
25 The same page.

Witness: Hajrush Kurtaj (Resumed) (Open Session)

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Cross-examination by Mr. Ellis

1 Q. Now, you should see a heading there, "Rules of Food Service."

2 And do you see there that it provides at number 2:

3 "Soldiers are provided three hot meals a day."

4 At number 3:

5 "Meals are inspected by a doctor or a nurse ..."

6 And that:

7 "... the guard officer before being served ... should keep
8 records about the quality of the food."

9 Witness, that regulation also was not followed, was it, in your
10 brigade?

11 A. Absolutely not. When -- we discussed in the previous session
12 regarding the conditions under which the war was conducted in the
13 area of Kacanik.

14 Q. Thank you.

15 MR. ELLIS: The exhibit can come down.

16 Q. And apart from the temporary regulations, which you say you read
17 about in Mr. Krasniqi's book, you weren't aware of any other written
18 regulations in the KLA, were you?

19 A. I did not have any knowledge.

20 Q. No. And if you had been aware of them, you'd have included them
21 in your book, wouldn't you?

22 A. Of course.

23 Q. Moving on to a different topic, Witness. You were asked some
24 questions about the relationship with the LDK in Kacanik. And it's
25 correct, isn't it, that in Kacanik the LDK supported your efforts

1 with everything that they had? That's right, isn't it?

2 A. Could you please repeat your question?

3 Q. Yes, well, I'll put it slightly different. It's reading back to
4 you something that you said to the Prosecution. Looking at Part 10,
5 page 18, lines 16 to 18, you said previously:

6 "... I would say that the LDK, Rugova's LDK, in Kacanik, they
7 have supported our efforts with everything they had."

8 That's right, isn't it, Witness?

9 A. Yes, absolutely. I would put it differently. I wouldn't say
10 Rugova's LDK but Kosovo's LDK. It was a general popular movement.
11 And the Albanian people in its entirety supported the war in Kacanik.

12 MR. ELLIS: And can I show you, please, DJK00644 to DJK00646,
13 and the relevant page being the final page. And I'm interested in
14 number 13. Witness, on its face, Witness, it appears to be a
15 document listing financial support for the Ministry of Defence. I'm
16 interested in number 13, and it says:

17 "For the needs of Kacanik Sub-zone, withdrawn by Xhafer Shaqir
18 Zharku ..." and then a figure.

19 Do you see that?

20 A. Yes.

21 Q. And was Xhafer Zharku a member of your unit in Kacanik?

22 A. He wasn't a member of the headquarters of the brigade, but he
23 was a member of the brigade.

24 Q. And this document is consistent, isn't it, with what you've said
25 about the LDK supporting the KLA in your region; correct?

1 A. Although this document is unknown to me, because I've never seen
2 this before, nor do I know about its content, but you must have
3 certainly obtained it from somewhere.

4 Q. Can I move on, please, to a document you've seen before today on
5 a different topic. And it's from your book, 044174, at page 044181.

6 Now, you were shown this document by the Prosecution, I think,
7 on Tuesday. And we can see it appears to be a document dated 27 May
8 1999; correct?

9 A. Correct.

10 Q. And that would be after the death of Qamil Ilazi; correct?

11 A. Correct.

12 Q. And the name at the bottom of the document is Shukri Buja, isn't
13 it?

14 A. Correct.

15 Q. And the line above that says that:

16 "The person responsible for the execution of this order is the
17 Acting Commander of 162 'Agim Bajrami' Brigade Mr. Hajrush Kurtaj."

18 Do you see that, Witness?

19 A. Yes, I do.

20 Q. If you had been formally appointed as brigade commander,
21 Shukri Buja wouldn't be referring to you as the acting commander,
22 would he? You would just be the brigade commander.

23 A. Certainly.

24 Q. It's simply the case that in your efforts to continue with the
25 war, you continued in your role after the fall of your commander,

1 Qamil Ilazi?

2 A. It was understood that I was the second in command after
3 Commander Ilazi, Qamil, and it was my obligation to further continue
4 the war.

5 Q. Thank you.

6 MR. ELLIS: That can be taken down.

7 Q. I want to move to a final topic with you, Witness, which is to
8 deal with the situation as the spring and summer of 1999 unfold.

9 The KLA was attacked in your area on 26 February 1999 in Puset e
10 Nikes, wasn't it?

11 A. Correct.

12 Q. And there was a further attack on Gajre on 28 February 1999?

13 A. Correct.

14 Q. And then on Ivaje on 8 March 1999?

15 A. Correct.

16 Q. And those attacks affected the organisation of your unit and
17 people became separated from it, didn't they?

18 A. Correct, because we were greatly outnumbered by the occupier
19 forces and outgunned.

20 Q. And those attacks on you and on the civilian villages carried on
21 through the time when you were the acting commander of the brigade;
22 correct?

23 A. The war ended while I was acting as a commander.

24 Q. I understand. But during the May and June of 1999 at least,
25 there were many displaced civilians fleeing from their homes, heading

1 towards the border with Macedonia, crossing through the Kacanik area;
2 correct?

3 A. Correct. There are figures available. Over 40.000 people from
4 the area of Kacanik only were forcefully expelled from their homes
5 and sent to Macedonia. Two of them were killed.

6 MR. ELLIS: Can I have on screen, please, a video, DJK00724. I
7 want to play a short section beginning at 0:45.

8 [Video-clip played]

9 MR. ELLIS: And we can stop it there. Thank you.

10 Q. Witness, does that show, to your recollection, the position of
11 civilians in the area around Gajre in the Kacanik area at around that
12 time?

13 A. Yes, between Ivaje and Gajre. These are the inhabitants of
14 Ivaje and Gajre that were expelled violently by the occupier's
15 forces.

16 Q. And I want to also talk to you about the situation in Kosovo
17 immediately after liberation. And you've told the Prosecution that
18 90 per cent of the houses in your area were burned. That's correct,
19 isn't it?

20 A. That's correct.

21 Q. And when you entered Kacanik on 12 June 1999, it was filmed by
22 Shefket Palloshi, wasn't it?

23 A. What we see on the screen is not a footage recorded from Shefket
24 Palloshi. This is from the agency AP. However, after the war,
25 Shefket Palloshi recorded the damages and the destruction. But what

1 we see here is not a recording of Shefket Palloshi.

2 Q. I understand that, Witness. I was leading to a second video
3 which I'll show you now, which is DJK00722.

4 MR. PACE: Your Honour, and perhaps before the video is shown,
5 in line with the Panel's guidance on such questioning, could counsel
6 perhaps explain the relevance of the questions being put to the
7 witness?

8 MR. ELLIS: Yes. The relevance is exactly this: Crimes are
9 being charged against the accused in the period after the end of the
10 conflict, at a time when, on the Defence case, the situation was
11 chaotic, there were civilians returning to burned homes, and
12 civilians who, as we'll see in a moment, expressed desires for
13 revenge on the people they thought had done that to them.

14 PRESIDING JUDGE SMITH: Go ahead with your questioning. The
15 objection is overruled.

16 MR. ELLIS: I'm grateful. I said half an hour, Your Honour. I
17 don't think I'll be longer than that. It was DJK00722. Thank you.
18 And perhaps we can start around the 20-second mark. Thank you.

19 [Video-clip played]

20 THE INTERPRETER: [Voiceover] "Mr. Commander, welcome to free
21 Kacanik.

22 "Good to find you."

23 MR. ELLIS: And pause there.

24 Q. Did you perhaps recognise somebody in that video that we just
25 watched, Witness?

1 A. I recognised myself. I am among the co-fighters here. This was
2 on 12 June when we entered the town of Kacanik in the early hours of
3 the morning, at 4.39, as displayed on the screen.

4 Q. And of the fighters around you, we see some are in uniform, some
5 are half in uniform, some are in civilian clothes; correct?

6 A. These were the circumstances and the conditions that made it
7 impossible for all Kosovo Liberation Army soldiers to have a proper
8 uniform. However, the desire was for all the people to join the KLA.

9 Q. Right.

10 MR. ELLIS: And can we continue rolling for a little bit more in
11 the video, please.

12 [Video-clip played]

13 THE INTERPRETER: [Voiceover] "Now we will look at all of the
14 barbarism of the Serbs, Shkaut. Have you ever dreamed of it?"

15 "No, for later, yes."

16 "Here are the positions of the Serbs where they have been, here
17 at the bus station. Here is what they have done: Destruction.
18 Everything is destroyed."

19 MR. ELLIS: I think we can pause it there. Thank you.

20 Q. Witness, is what is seen in that video typical of the
21 destruction that you found when you returned to Kacanik on 12 June?

22 A. Exactly. Everything was totally destroyed. These were small
23 businesses owned by citizens in Kacanik, and this destruction was
24 done by the Serbs.

25 Q. Now, by the time of liberation, there were a very large number

1 of civilians living in refugee camps in Macedonia; correct?

2 A. I said it earlier. The majority of the citizens of Kosovo. But
3 I can say for sure that over 40.000 people from the Kacanik area were
4 forced and expelled -- forced out of their homes and expelled to
5 Macedonia.

6 Q. And after the conflict entered -- and after the conflict ended
7 and KFOR entered, these refugees flooded back to Kosovo to find their
8 homes; correct?

9 A. Yes. In the first days after the liberation, all citizens
10 started coming back, and it was our responsibility to create
11 conditions, in particular in the areas where the Serbs had laid
12 mines, because we were afraid they would cause victims. So we took
13 it on ourselves to make sure that all citizens could go back to their
14 homes to the extent this was possible.

15 Q. And we've seen where the border crossings were on the map
16 earlier. It's right, isn't it, that the refugees that were coming
17 from Macedonia would have all come through your area in Kacanik in
18 order to either get to homes in Kacanik or elsewhere in Kosovo?

19 A. That's correct.

20 Q. And with that number of refugees moving through the area, it was
21 a completely chaotic situation, wasn't it?

22 A. It was very difficult and out of control. Because it is known
23 that at the time the civilians flooded back in, the KFOR forces
24 started entering, there was no other administration in place, so the
25 situation was very dire.

1 Q. And on many occasions, unfortunately, those civilians returning
2 to their houses found, as we've seen in the videos, that they were
3 burnt down; correct?

4 A. That's correct.

5 Q. And can I show you a final clip from a video, which is DJK00723.

6 MR. ELLIS: And it's the ten seconds beginning at 1 minute, 50.

7 [Video-clip played]

8 THE INTERPRETER: [Voiceover] "What am I thinking about? After
9 my house was burned like this, I want it to be done to them as well.
10 Why is mine like this?

11 "Where do I live now?

12 "Let them also remain on the streets like me."

13 MR. ELLIS: Can we stop there, please.

14 Q. Witness, did you hear civilians at the time expressing views
15 like that when they returned to their burned houses in the area in
16 which you operated?

17 A. Yes, of course. They were all in despair because in addition to
18 the destruction of their houses, of their properties, they also lost
19 their relatives and their loved ones. So about 200 citizens of
20 Kacanik were killed.

21 Q. Thank you, Witness.

22 MR. ELLIS: I don't have any further questions.

23 Your Honour, I do seek to tender the excerpts from the three
24 videos that we've just watched.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Witness: Hajrush Kurtaj (Resumed) (Open Session)

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Cross-examination by Mr. Ellis

1 MR. PACE: Your Honour, we only object to the admission of the
2 last video. The one that's on our screen now. We know nothing about
3 who this is, where it is, when it is. And the question asked to the
4 witness does not really bear relation to the circumstances of the
5 video itself. For the other two, no objection.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 DJK00724 is admitted. DJK00722 is admitted. And DJK00723,
8 although it is of very limited value, will be admitted. It does deal
9 with one issue of revenge.

10 Any redirect, Mr. Pace?

11 Oh, go ahead. I'm sorry.

12 THE COURT OFFICER: Your Honours, video with ERN DJK00724 to
13 DJK00724 will be assigned Exhibit 4D00031. Classification is public.

14 Next video with ERN DJK00722 to DJK00722 and its -- both
15 Albanian and English transcript -- can we clarify?

16 MR. ELLIS: I see no reason why it can't be public.

17 THE COURT OFFICER: It's the second video has also corresponding
18 English and Albanian transcripts.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 Reclassified as public.

21 THE COURT OFFICER: And the third video with ERN DJK00723 to
22 DJK00723, with its Albanian and English transcripts, will be assigned
23 Exhibit 4D00033.

24 And I did not mention the exhibit number for the second video,
25 DJK00722, that will be 4D00032.

1 And the portions played will be marked in Legal Workflow --

2 PRESIDING JUDGE SMITH: Thank you.

3 THE COURT OFFICER: -- in the comment.

4 PRESIDING JUDGE SMITH: All right. Mr. Pace, any redirect?

5 MR. PACE: Yes, Your Honour. It won't take me long.

6 And, Court Officer, I'd like to call up a page that we just
7 looked at a few moments ago from the witness's book, which is 036622
8 to 036837, and that's page 036800. And it's the image on the top
9 left. Yes, thank you.

10 Re-examination by Mr. Pace:

11 Q. Witness, during cross-examination just a few minutes ago, you
12 confirmed that the people in this image from your book were KLA
13 fighters in the Nerodime zone in August 1998, and you also said that
14 you were the person depicted in the middle.

15 MR. PACE: And for those in the courtroom, that's at page 52,
16 lines 14 to 23.

17 Q. And, Witness, do you recognise anybody else in the image other
18 than yourself?

19 A. I can't remember the names. I cannot recognise them by names,
20 but I can only tell that it's myself and Qamil Ilazi, the commander.
21 These are the two people I can name names for.

22 Q. And could you indicate by description which of the people
23 featured in the photograph is Qamil Ilazi, please?

24 A. Qamil Ilazi is this person here. This is myself. Whereas the
25 others are co-fighters, but I can't tell you by name who these people

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1 are.

2 Q. And I see that you've marked the document. And just to be clear
3 about who's who. Are you the person on the left that you circled and
4 Qamil Ilazi on the right that you circled?

5 A. Yes.

6 Q. And the other persons, although you don't remember their name,
7 do you remember what unit or battalion they were a part of?

8 A. I don't remember.

9 Q. And do you recognise the location that you're in?

10 A. This is in the valley of Jezerc.

11 Q. And do you remember the occasion why you were there, what you
12 were doing in the valley of Jezerc in August 1998?

13 A. This is some free time for us, and a joint photo with other
14 co-fighters.

15 Q. And could you tell the Judges what weapons you see depicted in
16 this photograph, please?

17 A. Automatic weapon.

18 MR. PACE: And, Your Honour, we seek admission of the version of
19 this image as annotated by the witness, please.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. ELLIS: No.

22 PRESIDING JUDGE SMITH: No objection is shown. So 066322 at
23 P036800 is admitted and will be assigned a number for the
24 Prosecution.

25 MR. PACE: And, Your Honour, could I just clarify that I'd like

1 the version marked by the witness to be admitted.

2 PRESIDING JUDGE SMITH: As marked. Yes, as marked.

3 THE COURT OFFICER: Your Honours, markings made by
4 Witness W04576 on ERN 036800 will be saved with the Registry number
5 REG01171 and will be assigned Exhibit P01019.

6 PRESIDING JUDGE SMITH: Thank you.

7 MR. PACE:

8 Q. And, Witness, a little earlier today as well - and I'm going to
9 be referring to the realtime transcript, page 38, lines 15 to 17 -
10 you were asked the following question and you gave the following
11 answer:

12 "Q. Now, Witness, at the time, communication by telephone was
13 rare, wasn't it, because of security concerns?

14 "A. Rare. And I can easily say there was none."

15 Witness, my question is whether you're saying that no one in
16 Brigade 162 ever had a mobile phone to use in 1998 or 1999?

17 A. What I mean is that myself, I didn't have any telephone, and I
18 haven't seen anyone using a telephone.

19 MR. PACE: And, Court Officer, I'd like to call up 018655-01,
20 and this is a video that's already on the SPO's presentation queue.
21 And I would like to play, without sound, minutes -- from the
22 beginning until minute 00:29, please. And it can also be broadcast
23 to the public.

24 So just before we press play.

25 Q. Witness, please look -- are you seeing, first of all, a video on

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Re-examination by Mr. Pace

1 your screen right now?

2 A. I can't see it very clearly.

3 Q. Okay. Then we're going to play the first, as I said, 29 seconds
4 of this video. There's no need for sound. And I'd just ask you to
5 pay attention, and then I'm going to have a couple of questions.

6 MR. PACE: Thank you, Court Officer. You can play it, please.

7 [Video-clip played]

8 THE WITNESS: [Interpretation] That is not my telephone. That
9 was taken from one of the citizens in order for them to talk with
10 their family members, and it can be seen from the picture that they
11 are talking to family members.

12 MR. PACE: Okay. So we can stop the video, as indicated, at
13 29 seconds.

14 Q. And, Witness, if I understood correctly, you said it's not your
15 phone. It was taken from one of the citizens for them to talk with
16 family members.

17 Could you tell us, first of all, who is depicted in these 29
18 seconds of video that we just saw, please?

19 A. One of them is myself. Another is Nehat Caka, a martyr of the
20 nation. And the other is a co-fighter that was injured on 9 April
21 1999, and his name is Rrustem Demaj.

22 Q. And so yourself, Rrustem Demaj, and Nehat Caka were all KLA
23 members; right?

24 A. Yes.

25 Q. And could you tell the Judges what -- or clarify what you are

1 doing with that phone, then? You took it from a civilian and you're
2 doing what exactly?

3 A. We took it from a friend of ours who was a civilian. We took it
4 in order for us to talk to our families, in order for us to know
5 whether they managed to pass the border to Macedonia. And I believe
6 that you can pick the words up through the recording, and you can
7 make sure that we're talking to family members.

8 Q. Yes, I'm happy for the same clip to be played with sound. Thank
9 you.

10 [Video-clip played]

11 MR. PACE: I myself didn't hear a sound. I don't know.

12 [Trial Panel and Court Officer confers]

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 Apparently, there's no sound on the video.

15 MR. PACE: That's very possible.

16 Q. So, Witness, unfortunately, there is no sound so we can't hear
17 what is being said. I'd just like to clarify. You said that this
18 phone that you were seen here with two other KLA members using was
19 taken from civilians. Are you telling the Judges today that the KLA
20 members in Brigade 162 never had a mobile phone to use at any point,
21 even in 1999?

22 A. No, we didn't have a telephone because of security reasons, like
23 I've said before. We didn't have a telephone, and we didn't want to
24 use telephones, except for family reasons.

25 Q. And do you recall during witness preparation a few weeks ago now

1 telling the Prosecution that people received mobile phones after
2 8 March, perhaps 24 March 1999?

3 MR. MISETIC: Same objection as before for impeaching without
4 leave of the Panel. Thank you.

5 MR. PACE: Your Honour, if I may, I'm asking if he remembers
6 something.

7 PRESIDING JUDGE SMITH: Yeah, this is just a question asked
8 *viva voce*. He's not showing him anything. He's not asking him to
9 look at anything.

10 MR. MISETIC: Well, whether it's refreshing recollection which
11 requires leave or -- but he's referring to a specific meeting, which
12 I'm assuming is in the prep note, which -- I don't know if they
13 consider prep notes now a statement or not. I assume it is a
14 statement for purposes of 143. And if he's putting it to him, I
15 would say it's impeachment or refreshing recollection, but either way
16 it needs leave.

17 PRESIDING JUDGE SMITH: The objection is overruled.
18 Go ahead, Mr. Pace.

19 MR. PACE: Thank you, Your Honour.

20 Q. So, Witness, just -- my question is whether you remember, during
21 the witness preparation session a few weeks ago now, telling the
22 Prosecution that people received mobile phones after 8 March, perhaps
23 on 24 March 1999?

24 A. This is not very clear to me. So who are you talking about?
25 Who has been given telephones to and who gave the telephones to them?

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1 Because during the wartimes, it was not possible for us to have
2 telephones. And this was true for the civilians as well, because
3 civilians were to leave their houses. They were forced to do that.

4 MR. PACE: Your Honour, could you --

5 Q. Sorry. Witness, could you clarify. You just said that it's
6 also true for civilians, but moments ago you told the Judges that you
7 took that mobile phone from civilians. Could you explain, please?

8 A. We just borrowed the telephone from a friend of ours in order
9 for us to talk to our family members, because our family members were
10 forced out of their own houses. And I'm not clear as why you are
11 interested into our communication with our family members. Those
12 were really dire situations for us. It's not clear where you want to
13 go with this question.

14 PRESIDING JUDGE SMITH: This has very little importance to the
15 Panel. I would suggest you move on to another question line.

16 MR. PACE: I have no further questions, Your Honour. Thank you.

17 PRESIDING JUDGE SMITH: We will begin with some questions from
18 the Judges.

19 Judge Mettraux will lead off.

20 Go ahead.

21 JUDGE METTRAUX: Thank you, Judge Smith.

22 Questioned by the Trial Panel:

23 JUDGE METTRAUX: And good afternoon, Witness.

24 Can the Registry please bring up ERN --

25 A. Good afternoon.

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1 JUDGE METTRAUX: -- 074300.

2 Sir, I have a number of short questions in relation to this
3 document. First, can you confirm that this is a sort of biography of
4 yourself that you prepared?

5 A. Yes, that is a short biography of myself.

6 JUDGE METTRAUX: And as far as you can tell, the content of that
7 biography is accurate; right?

8 A. Yes.

9 JUDGE METTRAUX: And as it's said, you joined the KLA on 1 June
10 1999; is that right?

11 A. Yes.

12 MR. MISETIC: I'm sorry to interrupt, Judge. I believe you
13 meant 1998.

14 JUDGE METTRAUX: I'm grateful, Mr. Misetic.

15 Witness, I meant 1998. 1 June 1998; correct?

16 A. Correct.

17 JUDGE METTRAUX: And it says that you were a member of the KLA
18 until 19 September 1999; is that correct?

19 A. That's correct.

20 JUDGE METTRAUX: And yesterday you said that, and I quote from
21 page 108 of the live transcript, it was actually not yesterday, the
22 day before, you said that:

23 "The Nerodime operational zone within the KLA completed its
24 mission on 19 September [1999]."

25 Do you recall that?

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1 A. Yes. This was the date when the transformation of the KLA into
2 the Kosovo Protection Corps happened.

3 JUDGE METTRAUX: Okay. So that means that you were effectively
4 demobilised from the KLA on that date, 19 September 1999; correct?

5 A. Correct.

6 JUDGE METTRAUX: Now, I want to ask you about a number of
7 individuals that are of relevance to this case, and I'll ask you to
8 be as precise and as short as you can in your answers.

9 So in your interview with the SPO, you confirmed that Rustem
10 Demaj, Nuhi Provoliu, and Bujar Tafili, were all members of the
11 platoon led by Xhabir Elezi. Do you recall saying that to the SPO?

12 A. Yes.

13 JUDGE METTRAUX: And do you stand by it today?

14 A. Yes, of course.

15 JUDGE METTRAUX: And Xhabir Elezi, you said, was the commander
16 of the military police unit in Kacanik; is that right?

17 A. Based on this document, yes. But that was not part of my
18 responsibility. That was a responsibility of the brigade commander,
19 and it was not myself appointing him in that position.

20 JUDGE METTRAUX: I understand. We'll come to who was in charge
21 of him in a moment. At this stage, I'd ask you to confirm also what
22 appears from your book is that Xhabir Elezi was already the commander
23 of that military police platoon in February 1999; is that correct?

24 A. This comes out of a document, but the document is not signed.
25 Therefore, I can't confirm it because that document is not signed,

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1 like I said.

2 JUDGE METTRAUX: I understand. But you drew up a chart that you
3 dated February and March 1999 in which he is the military police
4 chief, is that correct, based on this document?

5 A. We have to be clear. This is deriving from a document that
6 bears no signature.

7 JUDGE METTRAUX: And from your book, it appears that he was
8 still the military police chief in June 1999; correct?

9 A. I am not sure about this.

10 MR. TULLY: Excuse me, Your Honour, I'm sorry.

11 JUDGE METTRAUX: Go ahead.

12 MR. TULLY: Just for a point of clarification for the
13 transcript. I think I know where in the book you're talking about.
14 If we could have the ERN just for our own records, please. Thank
15 you.

16 JUDGE METTRAUX: Sure. We can actually go to the book. That
17 might be easier. It's 036622. That's your book, "*KLA War in*
18 *Nerodime Operation Area.*" And I'm interested -- or the last question
19 I asked you has to do with page 101 of the book with an ERN 036718.
20 And perhaps I should also give the number for the Albanian. It's
21 077139. It's page 101 of the Albanian PDF and 97 of the English PDF.

22 So here what we have is a chart prepared by you, published in
23 your book, entitled "The Command of the 162nd Brigade
24 'Agim Bajrami'," and there is an italicized date underneath of "May
25 15, 1999, Kacanik, at Hasan's House." Do you recall preparing that

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1 chart, sir?

2 A. It is true that I have prepared this chart, but I am repeating
3 it yet again, this is a reflection of how I wished the chart to
4 function and the command to function, not how it worked in reality.
5 Even today it's impossible for forces in peace to operate the way
6 that I have reflected it in my book.

7 JUDGE METTRAUX: Well, what I'm asking you here is simply to
8 confirm that on the date that you say this chart is relevant to,
9 15 May 1999, the commander of the military police is still
10 Xhabir Elezi; correct?

11 A. Just think about it. It was wartimes. It was just one day
12 after the falling of the commander.

13 JUDGE METTRAUX: No, Witness. I'm asking you, on this chart, is
14 the commander of the military police still Xhabir Elezi, 15 May 1999?

15 A. On 15 May, yes.

16 JUDGE METTRAUX: And do you know anyone at any stage between
17 1 June 1998, when you joined the KLA, up to June 1999, anyone other
18 than Xhabir Elezi having held that position?

19 A. I have no knowledge about this question, and it was not my
20 responsibility back in 1998.

21 JUDGE METTRAUX: I'll repeat my question: Do you know any other
22 person other than Xhabir Elezi who held the position of commander of
23 the military police within the 162 Brigade; yes or no?

24 A. No.

25 JUDGE METTRAUX: Now, do you agree that as head of the military

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1 police, Xhabir Elezi reported to the brigade commander? Do you agree
2 with that?

3 A. Up until 15 May, I don't know because that was not my
4 responsibility.

5 JUDGE METTRAUX: Well, in your interview with the SPO - that's
6 Part 2 RED, page 17 - you were asked, and I'll read it for you:

7 "Did Xhabir report to the brigade commander or somebody else?"
8 Your response:

9 "To the brigade commander and only to the brigade commander."

10 Now, do you stand by that response or do you want to qualify it?

11 A. I must have said it, for sure, but I cannot attest to the fact
12 that you mentioned because I've never been present when he reported
13 to the brigade commander.

14 JUDGE METTRAUX: So I'll ask you in a different way. Do you
15 know whether Xhabir Elezi ever reported to anyone other than the
16 brigade commander?

17 A. I have no knowledge of that.

18 JUDGE METTRAUX: Now, there's another person I want to ask you
19 about. It's Fadil Caka. I'm not sure whether that's the correct
20 pronunciation, but you know who I'm referring to?

21 A. Fadil Caka.

22 JUDGE METTRAUX: Thank you. You know that person; right?

23 A. Yes, I do. He fell in the battle of 9 April in Kacanik, where
24 32 civilians were killed by the Serbian forces as well as 27 soldiers
25 of the KLA that fell while they were protecting their patriots.

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1 JUDGE METTRAUX: And he, too, Fadil Caka, was a member of the
2 military police unit, correct, of the 162 Brigade?

3 A. Yes, of Brigade 162.

4 JUDGE METTRAUX: And you said during your SPO interview that one
5 of the tasks of the military police was to ensure that members of the
6 force complied with the rules of discipline. Do you recall saying
7 that?

8 A. Not one of the tasks but the only task that they had was the one
9 that you mentioned.

10 JUDGE METTRAUX: Well, we'll come to that in a moment, but
11 that's one of the tasks. Now, that means, doesn't it, that already
12 in February 1999, if not before, there were regulations on discipline
13 within the KLA; correct?

14 A. There were not, because the first attack happened and the action
15 of the first units happened on 26 February 1999. Therefore, there
16 were no such documents.

17 JUDGE METTRAUX: So if you say, as you told me a moment ago,
18 that the only task of the military police was to enforce the rules of
19 discipline and that there were no rules before 26 February 1999, what
20 were they doing before that?

21 A. Nothing has existed before this date. Absolutely not. The
22 first units were established starting from the beginning of March and
23 onwards.

24 JUDGE METTRAUX: Well, in that case I'll take you back a little
25 bit in your book. That's again ERN 036622. And this time to page 42

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1 in the English. I'll give you the ERN in a second. It's 036662.
2 It's PDF page 41 in the English, and PDF 42 in the Albanian. Thank
3 you.

4 So maybe we can go one page back. We'll start with that. So
5 that's ERN 036661 in the English, and 077079 in the Albanian.

6 Now, that's what you called: "Members of the Ferizaj
7 Headquarters Operating in Jezerc." That would be the very initial
8 structure in which you operated; is that right?

9 A. I've said this in numerous occasions and I repeat it. I have
10 portrayed it here as I would have wanted it to be and not as it was
11 in reality.

12 JUDGE METTRAUX: And if we can go now to the next page. That is
13 what then became the Kacanik unit; correct?

14 A. When?

15 JUDGE METTRAUX: Well, do you agree or you don't agree that this
16 was the structure that was in place already in February 1999?

17 A. It operated until beginning of March with small units from
18 Kacanik area.

19 JUDGE METTRAUX: So I'll repeat my question. Are you disputing
20 or are you accepting that this was the structure of the Kacanik unit
21 in February 1999?

22 A. Which structures are we talking about, the one in English or the
23 other -- the one in the Albanian version? Because I can see two
24 different structures on the screen here.

25 JUDGE METTRAUX: Well, pick the one you can read in Albanian and

1 tell us if there is anything on that structure on the right of your
2 screen that did not exist in February 1999.

3 A. It was not. This was a unit that -- Kacanik unit that operated
4 from 4 August 1998 until 28 September 1999 in Jezerc.

5 JUDGE METTRAUX: And just to be clear on that, are you saying
6 that in February 1999 there was no military police unit in Kacanik,
7 or are you saying something different?

8 A. I repeat it. This structure was not functional. It functioned
9 during those two months I mentioned with the unit in Jezerc.

10 JUDGE METTRAUX: I'll repeat my question a third time. In
11 February 1999, is it your evidence that there was or there was no
12 military police unit in Kacanik?

13 A. I do not have any knowledge in relation to this matter because
14 this was not my responsibility.

15 JUDGE METTRAUX: Now, back to Mr. Fadil Caka. Do you agree that
16 his immediate superior, including before March 1999, was also
17 Xhabir Elezi? Do you agree with that?

18 A. I am not sure because the structures were in the process of
19 being formed, and I'm not certain that at that point in time it was
20 formed.

21 JUDGE METTRAUX: So during your SPO interview - that's Part 7
22 RED, page 7 - you were asked, and I quote:

23 "And before that, in March 1999," I repeat, "before that in
24 March 1999, who did Fadil Caka report to?"

25 Your answer:

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1 "To the commander of the military police platoon, Xhabir Elezi."

2 Do you stand by that response or you want to change it?

3 A. I am not certain about this because this was not my
4 responsibility.

5 JUDGE METTRAUX: So you want to change what you told the
6 Prosecutor; is that right?

7 A. I repeat it. I do not have exact knowledge because this was not
8 my responsibility at the time.

9 JUDGE METTRAUX: So the answer to my question is yes, you want
10 to change what you told the Prosecutor; correct?

11 A. Yes.

12 JUDGE METTRAUX: In Part 10 of your interview, RED, page 28, you
13 were asked by the SPO:

14 "Who would have been in a position to issue ... an order to
15 Fadil Caka?"

16 Your answer:

17 "For as long as I don't know whether such an order has been
18 given, but I would say that Fadil Caka was part of the platoon led by
19 Xhabir Elezi."

20 Do you want to change this as well?

21 A. I am not certain, and I have stated in there that I was not
22 certain. I did not have knowledge about the functioning of this
23 because this was not the responsibility of the deputy commander.

24 JUDGE METTRAUX: Do you know of anyone else to whom Fadil Caka
25 would have reported? Are you able to name anyone to who he would

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1 have reported other than Xhabir Elezi?

2 A. I don't have any knowledge.

3 JUDGE METTRAUX: And Xhabir Elezi, as the head of the military
4 platoon, he would have been reporting directly, I understand, to
5 Qamil Ilazi, the brigade commander; correct?

6 A. It can be understood like this. But I repeat, this was not my
7 responsibility. I was deputy commander in charge of combat
8 operations. Qamil Ilazi, the brigade commander, dealt with this.

9 JUDGE METTRAUX: Yes, I understand. But you were a trained,
10 experienced military officer, so do you accept that as head of the
11 military police he would have been reporting to the brigade commander
12 or are you disputing that?

13 A. I have no knowledge -- or complete knowledge. I was not very
14 experienced as an officer. I was an NCO with secondary education.
15 So my duties were those that were assigned to me: Training soldiers,
16 weaponry, preparations for the front line tasks. I don't have
17 knowledge about higher levels. I completed the secondary level
18 military academy.

19 JUDGE METTRAUX: Well, in your interview with the Prosecutor,
20 Part 7 RED, page 7, you were asked that question. You were asked
21 about a specific incident where there was combat operations, and more
22 generally about who he reported to, and it goes like this:

23 "Did -- Fadil Caka, was he directly reporting to Qamil Illazi?"

24 Your answer:

25 "On that occasion, yes ..."

1 You're talking about the operation in question.

2 "... but he was part of the structure of the military police.

3 "Q. So in April 1999, he was reporting the Qamil Illazi?

4 "Until that moment, because he was killed in action on that
5 fighting."

6 So when you were asked that question by the SPO, you confirmed
7 that Qamil Ilazi was, in fact, the person to whom Xhabir Elezi was
8 reporting. Now, my question is do you stand by that account or do
9 you wish to change it?

10 A. I need to give a clarification in relation to this statement.

11 On 9 April when the Prroi i Rakocit and Lagjja e Re part of the town
12 were attacked, where 32 civilians and 27 fighters were killed in the
13 course of that fighting --

14 JUDGE METTRAUX: No, no, no, Witness. No, no, I don't want --
15 I'm sorry. I don't want that clarification. I want an answer to my
16 question.

17 You've given an account to the Prosecutor to the effect that
18 Xhabir Elezi was reporting to Qamil Ilazi. I'm asking you simply
19 whether you stand by that account or you wish to change it.

20 A. I might have said it. However, I repeat it again. My
21 responsibilities were not such as to know who's reporting to whom. I
22 had my own tasks.

23 JUDGE METTRAUX: So you stand by it or you don't?

24 A. I don't.

25 JUDGE METTRAUX: Then I'm suggesting to you, and we'll go to

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1 your statement if necessary, that then Qamil Ilazi would have been
2 subordinated to the zone commander, Shukri Buja, at the time. Do you
3 accept that?

4 A. This was not my responsibility either. And I did not attend any
5 meeting nor did the commander, Qamil Ilazi, inform me who he was
6 reporting to.

7 JUDGE METTRAUX: During your SPO interview, Part 2, page 11, you
8 say, and I quote:

9 "... the [brigade] commander reported to the zone commander."

10 In other words, Qamil Ilazi was reporting to Shukri Buja.

11 The same question as before: Do you stand by that account or do
12 you wish to change it?

13 A. I am not able to confirm something that I have not witnessed,
14 seen, or attended. I never -- I was not present when
15 Commander Bardhi reported to Shukri Buja. Therefore, I cannot
16 confirm something which was not my responsibility and which I did not
17 see.

18 JUDGE METTRAUX: So tell me this: When you said that to the SPO
19 in your interview, what were you basing yourself on if not your own
20 knowledge?

21 A. I am not certain about my base for that.

22 JUDGE METTRAUX: I see. Now, in terms of reporting let's
23 continue. Do you agree that from the zone command, or the zone
24 commander, I should say, it would go upwards normally - normally - to
25 the chief of staff of the KLA General Staff? Do you agree with that?

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1 A. Now, I don't know if we're talking about normal times or
2 wartime. Wartime is something different. And I did not have this
3 information during wartime.

4 JUDGE METTRAUX: Well, I'm only interested in one answer. We're
5 talking about the period when you were a member of the KLA, so I'm
6 not interested in other periods. So my question --

7 A. [Overlapping speakers] ...

8 JUDGE METTRAUX: Wait a second. I'll simplify the question. In
9 your interview with the SPO, Part 2, page 14, you were asked:

10 "And who did the zone commander report to?"

11 And you started by saying:

12 "I was not a zone command, in fact. But normally, they would
13 report to the Chief of General Staff. But the zone commander, if you
14 will have the occasion to meet him, he can tell you about that."

15 So when you told the SPO that normally the zone commander would
16 report to the chief of the General Staff, what were you basing that
17 assertion on, sir, if not on your knowledge?

18 A. I did not have this knowledge. It must have been an assumption
19 I made, which I'm not in a position to confirm because I did not see
20 and I did not attend any of these, so I can't say either way.

21 JUDGE METTRAUX: Look at the assumption from your position as an
22 experienced military officer. Mr. Buja, in your book, said, and I
23 can quote if you want, that you used your "considerable knowledge of
24 military structure." That's how he describes you. Is it an accurate
25 depiction of you, having a considerable knowledge of military

1 structure, or was Mr. Buja exaggerating, embellishing?

2 A. I had military knowledge which correspond to what you're taught
3 at the secondary level military academy. It's understood how much
4 military knowledge one can acquire as an NCO having completed the
5 secondary level military academy.

6 JUDGE METTRAUX: So let me ask the military in you that
7 question: If not the General Staff, who would you expect the zone
8 commander to be reporting to?

9 A. I did not have this knowledge at the time.

10 JUDGE METTRAUX: You were a member of the KLA and you had no
11 idea what the relationship between the zone command and the
12 General Staff was; is that your evidence?

13 A. I did not have knowledge. And I could not, as a vice-commander,
14 deputy commander of the brigade, know what the zone commander was
15 doing or what was this -- his relationship with the General Staff.
16 These were not my responsibilities.

17 JUDGE METTRAUX: Well, let's look then how it worked in
18 practice. And I'm going to ask you to comment on those.

19 Can the Registry please bring up Exhibit P887. The same number
20 in Albanian.

21 Sir, take a moment to acquaint yourself with the document and
22 tell me when you're finished reading it.

23 A. I have never seen this document.

24 JUDGE METTRAUX: Well, that was my first question. Then the
25 second is this. Let's look at this document in detail.

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1 First, it's called a "clarification" in English, "sqarim" in
2 Albanian. It's dated either the 17th or 18th December 1998. And as
3 you can see, it has a number, 06/01, and it comes from the KLA
4 General Staff Directorate of Military Police. The title is:
5 "Clarifications and advice for carrying out duties." And it's
6 directed to the military police, company commander of the Nerodime
7 operational zone. Can you see that?

8 A. Yes.

9 JUDGE METTRAUX: And if we go on in the document, we can see
10 that there was a request by the military police company commander of
11 the Nerodime operational zone on 15 December. We'll see who that
12 person is in a moment. And it's addressed to the military police
13 directorate of the KLA General Staff for clarifications and advice.
14 Do you see that?

15 A. Yes.

16 JUDGE METTRAUX: Now, if we continue on the document, it says,
17 number 1:

18 "On the basis of the MP Regulations, the [military police
19 directorate] clarifies that the [military police] Company of the
20 [operational zone] receives and carries out the orders of the
21 [operational zone] Commander, whereas the [military police
22 directorate] appoints company commanders in the [operational zone],
23 inspects and supervises the progress of the KLA [military police]."

24 Do you see that?

25 A. Yes.

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1 JUDGE METTRAUX: And that, you will agree, as a military
2 educated person, is an example of a functioning hierarchy; correct?
3 Military hierarchy.

4 A. First of all, I've never seen this document. Secondly, I am not
5 able to comment on a document which I have never seen before and a
6 document which origin --

7 JUDGE METTRAUX: Sir, I'll stop you there.

8 A. -- which I don't know the origin.

9 JUDGE METTRAUX: I'll stop you there. I'll stop you there.
10 That's not my question. My question, I'll read it again. You will
11 agree, or you can disagree if you wish, as a military educated
12 person, is this an example of a functioning military hierarchy; yes
13 or no?

14 A. No.

15 JUDGE METTRAUX: Now, under point number 2, it goes to say:

16 "In case there is a need to arrest individuals, you must have in
17 your possession an arrest warrant from the [operational zone]
18 Commander."

19 Now, do you agree or disagree with the proposition that this is
20 the KLA General Staff ordering the military police of the zone how to
21 carry out arrests? Do you agree or disagree?

22 A. I disagree.

23 JUDGE METTRAUX: And tell us why you disagree.

24 A. I don't agree about a document which I've never seen before and
25 which I don't know where it originated from.

1 JUDGE METTRAUX: That was not my question. Stop, Witness.

2 A. And during the war --

3 JUDGE METTRAUX: Witness, stop. My question is, and I will
4 repeat it, do you agree or disagree with the proposition that this is
5 the KLA General Staff ordering the military police of the zone how to
6 carry out arrests? Do you disagree or disagree?

7 A. I don't agree.

8 JUDGE METTRAUX: And why don't you agree?

9 A. I don't agree because we never encountered any such cases in the
10 area of responsibility which was mine. I've never seen any such
11 document, and I cannot agree with something which never occurred to
12 me in practice and never discussed about these documents.

13 JUDGE METTRAUX: Again, that's not the question. The question
14 is do you agree that this is, in effect, an order from the
15 General Staff to the zone as to how to carry out arrests of people?
16 Do you agree or you don't agree?

17 A. I don't agree.

18 JUDGE METTRAUX: Now, it says:

19 "For irregularities that are noticed you need to respond in
20 writing through the [operational zone] Command who is obligated to
21 send them to the KLA [General Staff military police directorate]."

22 Do you agree or disagree with the suggestion that this is an
23 order from the General Staff to the military police of the zone as to
24 how to regulate this matter?

25 A. I don't agree.

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1 JUDGE METTRAUX: And tell us why you don't agree?

2 A. I said this in relation to point 2. With respect to a document
3 which I've never seen, I've never used in the area of my
4 responsibility, I cannot agree with it. Besides, it is not my
5 responsibility to speak about the zone commander or the
6 General Staff.

7 JUDGE METTRAUX: Now, there's a p.s. in this document. It says:
8 "The [military police department]," and that would refer to the
9 General Staff, "will visit you soon for other clarifications."

10 Do you see that?

11 A. Yes.

12 JUDGE METTRAUX: Do you recall such a visit, sir, or you know
13 nothing about it?

14 A. I am not aware of any such visits having taken place.

15 JUDGE METTRAUX: But you do know, don't you, that the
16 coordination between the zone and the General Staff was, at least in
17 part, carried out by Fatmir Limaj? Do you know that; right?

18 A. I don't.

19 JUDGE METTRAUX: Well, then let's look at your book, if
20 necessary, we'll go to the page. But at page 23, in the English,
21 that's page 036643 of the English version, it's 077457 in the
22 Albanian, you say, and I quote:

23 "After the creation of [the] fighting units and strongholds in
24 the Kacanik Commune, and thanks to the connection between Shukri Buja
25 and Fatmir Lima, KLA had a functioning war network. It was time for

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1 another step. After the arrival of Imri Ilazi (Ferri), Shukri Buja
2 and Fatmir Lima thought to put him in charge of organising the
3 Ferizaj Commune."

4 And then there's another passage in your book at page 20, that's
5 036640, where you say:

6 "Gazetari," that's Shukri Buja, "would also coordinate
7 activities between Zefi," that's Agim Bajrami, "and Celiku, and
8 Celiku would in turn coordinate with [the headquarters]."

9 Now, do you recall saying these things in your book; and if you
10 do, do you stand by them?

11 A. I repeat again. These were my assumptions, my amplifications,
12 because I was not in a position to know in the beginning of March
13 1998 what was happening between these personalities. I joined the
14 KLA on 1 June 1998.

15 JUDGE METTRAUX: So what you are saying, and tell me if that's a
16 correct understanding, you don't stand by what I've read from your
17 book?

18 A. I don't stand by it because at the time I was not a member of
19 the Kosovo Liberation Army until 1 June.

20 JUDGE METTRAUX: Now, let's look at another document. That's
21 Exhibit P872, the same in the Albanian.

22 So now what we have -- take a moment to read it, perhaps, and
23 tell me when you're done.

24 A. I've read it.

25 JUDGE METTRAUX: So what we have here in front of us is -- we'll

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1 come to the title in a second. It's a document from the KLA
2 General Staff Directorate of the Military Police again. It's written
3 that it's 06/10, and it's dated 1 February 1999, military secret.
4 It's sent to the Nerodime Operational Zone Command.

5 Now, can you read for us the title of that document?

6 A. Which title?

7 JUDGE METTRAUX: The one that's in the middle that says
8 "*Obligon*." Can you read that for us?

9 A. "Obligates the Nerodime operational zone."

10 JUDGE METTRAUX: So do you agree that it's an order that is
11 being sent here by the General Staff Directorate of the Military
12 Police?

13 A. I personally disagree with this order because I have never seen
14 it. Had I seen this order only with a signature, I wouldn't have
15 accepted it. So for me, this document has no value.

16 JUDGE METTRAUX: We agree it's an order at least. Now it says,
17 under point I, that --

18 A. This is what it says. However, it is unacceptable to me in
19 wartime, and I haven't seen him before, and this is first time I'm
20 seeing it.

21 JUDGE METTRAUX: I understand. Now, the order, under point I,
22 says that the Nerodime operational zone command has:

23 "To propose a candid for the personnel of the KLA Directorate of
24 the Military Police."

25 Do you see that?

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1 A. I do.

2 JUDGE METTRAUX: And then it sets conditions under points II and
3 III as to the qualifications that these individuals should have;
4 correct? Yes?

5 A. This is what it says.

6 JUDGE METTRAUX: And if we go to the bottom of the page, just
7 before the break, you will see - in the Albanian as well, please - it
8 bears the stamp of the KLA and a signature. Do you see that?

9 A. Yes.

10 JUDGE METTRAUX: And do you have any reason to believe that this
11 document is not what it purports to be?

12 A. Two reasons. First, I've never seen this document before. And,
13 second, it doesn't bear a name or surname. Just a signature to me is
14 not -- doesn't mean much.

15 JUDGE METTRAUX: And the reason why you haven't seen this
16 document, you told us, is, in your account, because you had nothing
17 to do with the military police. Would that be your reason?

18 A. Yes, certainly. With the police. And I was deputy commander in
19 the brigade.

20 PRESIDING JUDGE SMITH: It's time for the lunch break.

21 Please escort the witness out of the courtroom.

22 Witness, do not speak to anyone about your testimony outside of
23 this courtroom.

24 THE WITNESS: [Interpretation] Understood.

25 [The witness stands down]

1 PRESIDING JUDGE SMITH: We are adjourned until 2.30.

2 --- Luncheon recess taken at 1.03 p.m.

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

4 PRESIDING JUDGE SMITH: Before we continue with the testimony of
5 4576, I have an oral order on the admission of W04576's prior
6 inconsistent statements.

7 The Panel notes that the SPO has indicated, by e-mail, the
8 portions of W04576's prior statements to be put to the witness that
9 it seeks to tender for admission. The Panel also notes that the
10 Thaci Defence has indicated that it maintains its objection to the
11 admission of the excerpts.

12 Rule 143(1) provides that:

13 "The examining Party may ask questions to the witness and may
14 show the witness any document or other evidence in compliance with
15 these Rules. If a witness cannot recall the facts he or she has
16 provided in a previous statement, the witness may, with permission of
17 the Panel, be shown documents to refresh his or her memory."

18 This provision requires that authorisation of the Panel may be
19 sought to refresh a witness's memory.

20 This was done and permission granted if and when the witness's
21 statement was used for that purpose. The Panel refers, in
22 particular, to the draft transcript of yesterday at pages 12668 to
23 12669.

24 Rule 143(2)(c) then provides that with leave of the Panel, the
25 party who called a witness may question that witness about the

1 following matters where relevant to the witness's credibility.
2 Specifically, at paragraph (c), "whether the witness has, at any
3 time, made a prior inconsistent statement."

4 This again was done. The Panel refers, in particular, to pages
5 12672 to 12673 and 12701 of the draft of the transcript of yesterday.

6 Rule 143 does not require that leave be sought each and every
7 time a question is being asked. It only asks leave to be sought to
8 determine whether the witness has made a prior inconsistent
9 statement.

10 This is consistent with the approach taken by the Popovic
11 appeals chamber of the ICTY which only required that the process of
12 impeachment of a witness be authorised by the Panel. It did not
13 suggest that each and every question that the calling party wants to
14 put to a witness might be inconsistent with a prior account should
15 lead to a renewed request under Rule 143(2)(c).

16 Furthermore, the inconsistent nature of a prior statement might
17 only become apparent when the witness has given his evidence in court
18 and when his memory has been refreshed and he refuses to adopt an
19 earlier account.

20 The relevant procedure was therefore followed in the case, and
21 the decision to impeach the witness was not left to be made by the
22 SPO. The Panel made it clear that the calling party was permitted to
23 use the prior statement.

24 The suggestion that the Panel breached Article 6 of the European
25 Convention on Human Rights is without merit. First, regarding the

1 issue of notice repeatedly raised by the Defence, the Panel notes
2 that the SPO pre-trial brief contains more than 20 references to
3 W04576's record of interview with the SPO. The Defence was therefore
4 clearly on notice that the SPO intended to rely upon that document.
5 That notice was reinforced when the SPO sought to tender it through
6 154.

7 The suggestion of lack of notice of the intention of the SPO to
8 rely upon that evidence for the truth of its content is therefore
9 without merit.

10 Secondly, the Defence's right to an adversarial process is fully
11 preserved by the possibility of asking the witness any question about
12 the admitted parts of the prior statement and/or any other relevant
13 parts of that interview.

14 Thirdly, Defence has failed to establish any prejudice.
15 Instead, it will have the ability to cross-examine the witness on all
16 relevant aspects of the admitted SPO interview, which counsel for
17 Mr. Thaci indicated they are prepared to question the witness about.

18 Based on what has been said, the Panel is satisfied that the
19 offered parts of W04576's SPO interview meets the requirements for
20 admission under 143(2)(c) and 138(1). The parts of W04576's SPO
21 interview are inconsistent with his evidence in court, relevant,
22 *prima facie* authentic, probative, and their probative value is not
23 outweighed by any prejudice to the Defence.

24 The Panel therefore admits the following portions of W04576's
25 statements as tendered by the SPO: One, 074301-TR-ET Part 1 RED,

1 page 24, at lines 16 to 20; two, 074301-TR-ET Part 1 RED, page 25, at
2 line 22 to page 26, line 8; three, 074301-TR-ET Part 4 RED, page 1,
3 line 25, to page 2, line 3; four, 074301-TR-ET Part 2 RED, page 18,
4 line 22 to page 19, line 20; five, 074301-TR-ET Part 4 RED, page 6,
5 line 13 to page 7, line 5; and, finally, P074301-TR-ET Part 1 RED,
6 page 17, lines 13 to 22.

7 This concludes the oral order.

8 Madam Usher, you may bring the witness in.

9 Oh, yes. Just a second.

10 MR. PACE: Sorry, Your Honour. Just to check. Maybe I
11 misheard. Just on the first reference, we tendered page 24, lines 16
12 to 22, but I heard you say 16 to 20. I just wanted to make sure
13 that's intentional.

14 PRESIDING JUDGE SMITH: This is the number one, the first one.
15 I believe I said 074301-TR-ET Part 1 RED, page 24, lines 16 to 22.

16 MR. PACE: That's great. That's correct, Your Honour. It's
17 just that the transcript also reflects --

18 PRESIDING JUDGE SMITH: Okay. To the extent I said something
19 different, it's now corrected.

20 All right. Now you may bring in the witness.

21 Oh, yeah, you can assign numbers to it first.

22 THE COURT OFFICER: Your Honours, witness statement with ERN
23 074301-TR-ET Part 1 RED, and its corresponding Albanian translation,
24 including the parts just admitted, will be admitted as P01020.1.

25 Part 2 of the same statement, 074301-TR-ET Part 2 RED, and its

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1 corresponding Albanian translation, parts that have just been
2 admitted, will be assigned Exhibit P01020.2.

3 And statement with ERN 074301-TR-ET Part 4 RED, and its Albanian
4 translation will be admitted. The parts that have just been read and
5 admitted on the record will be assigned Exhibit P01020.3.

6 And the classification is confidential.

7 PRESIDING JUDGE SMITH: There's three more.
8 Madam Court Officer.

9 [Trial Panel and Court Officer confers]

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. PACE: Your Honour, while we wait perhaps -- sorry, and I
12 apologise, I missed it. The Court Officer said they were
13 confidential. There is no reason that they can't be publicly
14 admitted excerpts.

15 PRESIDING JUDGE SMITH: Those last documents will all be
16 reclassified as public.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: Witness, I remind you that you are still
19 under an obligation to tell the truth as stated by you in your solemn
20 declaration.

21 We are ready to continue with the questioning by Judge Mettraux.
22 Go ahead.

23 JUDGE METTRAUX: Thank you, Judge Smith.

24 And good afternoon, Witness. When we parted a moment ago, I was
25 asking you about the military police at the zone level. Can you

1 confirm, first, for us what you said in your book; namely that the
2 head of the military police battalion at zone level was Isak Musliu?

3 A. I cannot confirm it because that was not my responsibility.

4 JUDGE METTRAUX: Well, do you know or you don't know that Isak
5 Musliu was the head of the military police battalion at the zone
6 level at the time?

7 A. I do not know. I have never met him.

8 JUDGE METTRAUX: So can we see your book once again. It's
9 036622. And we'll go to what is page 62 of the book. Sorry, I said
10 62. It's 52. It's 036672. And in the Albanian, I believe it is
11 077089. It should be page 51 of the PDF. If you can go forward one
12 page in the Albanian, please. In the English, that was the correct
13 page. And one more in the Albanian, please. Thank you. And if you
14 can scroll up both pages, please.

15 What we have here, sir, is again an excerpt from your book, and
16 it's one of these charts you've included in the book. And this one
17 is about the command of the Nerodime sector in January and February
18 to June 1999. Do you agree?

19 A. Yes. But I have written the book after the war, so the book has
20 been written 12 years after the war. During the wartime, I have
21 never met with Isak Musliu.

22 JUDGE METTRAUX: So can you tell us who you put as the head of
23 the military police battalion in your chart? And that's the bottom
24 right-hand corner.

25 A. This is what I've written after the war, and the name is Isak

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1 Musliu.

2 JUDGE METTRAUX: And two pages earlier in your book, you say,
3 and I quote:

4 "The commander of the Military Police of the Area of Operative
5 Nerodima became Isak Musliu-Qerqiz."

6 Now, do you know anyone other than Isak Musliu who served as
7 head of the military police at zone level during 1998 or 1999?

8 A. I have no knowledge related to this question. I don't know that
9 somebody else was in that position. But even about Isak Musliu, I
10 told you before that I didn't know that he had that position and I
11 had never met him during the war.

12 JUDGE METTRAUX: So you put it into your book not once but twice
13 without any basis; yes?

14 A. In most of the cases in the book I have exaggerated things. I
15 have presented things as I wanted them to be, not as they were
16 really.

17 JUDGE METTRAUX: I see. Now, I want to ask you about two other
18 individuals. One of them is Enver Axhami. Do you know who that
19 person is?

20 A. He was a soldier in 162 Brigade.

21 JUDGE METTRAUX: And can you tell us what his function was
22 during the war? And if you know of several functions, tell us what
23 those are.

24 A. He only had one task. He was a simple soldier, and he was
25 accompanying the commander of the brigade.

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1 JUDGE METTRAUX: So in other words, he was the escort of the
2 brigade commander; correct?

3 A. Yes.

4 JUDGE METTRAUX: And are you aware that before he became the
5 escort of Qamil Ilazi, he had been a member of Fadil Caka's unit? Do
6 you know that?

7 A. No, I don't know that. I never had that information.

8 JUDGE METTRAUX: Now, the last person I want to ask you about is
9 someone you've been asked about already. It's Ejup Runjeva. And
10 you've confirmed, I think, that he was also a member of Brigade 162;
11 correct?

12 A. Yes.

13 JUDGE METTRAUX: And he was, in fact, a member of the brigade
14 command structure; is that right?

15 A. That's right.

16 JUDGE METTRAUX: Now, I think you told to the SPO during your
17 interview that you knew nothing, if I understand, of the crimes for
18 which Ejup Runjeva, Rrustem Dema, Enver Axhami were convicted.
19 That's your account; correct?

20 A. That's correct. I have had no information about that. Not only
21 that, but these persons have never committed crimes.

22 JUDGE METTRAUX: But you do know that they were prosecuted in
23 Kosovo and found guilty of mistreating detainees; right? You do know
24 that?

25 A. I have understood that later on. But like I have told you

1 yesterday, I have never trusted the staged proceedings of UNMIK that
2 were based on the Serb propaganda.

3 JUDGE METTRAUX: But contrary to what you just said a moment
4 ago, they have committed crimes against detainees. Do you accept
5 that, sir?

6 A. No, I do not accept that. They have never committed crimes. I
7 have no knowledge of that.

8 JUDGE METTRAUX: I see. Now, let's imagine for a second that
9 they had committed crimes. Whose responsibility would it have been
10 within the brigade to take steps if people within your brigade had
11 become aware of their actions? Who was responsible to take measures?

12 A. For as long as nobody has been involved in war crimes, I can't
13 imagine what should have happened if that were the case. There has
14 been no soldier in Brigade 162 that committed crimes. Instead, it
15 were the Serb forces that committed crimes against civilians in
16 Kacanik, in particular in the area of my responsibility but also all
17 over Kosovo.

18 JUDGE METTRAUX: So let me make sure I understand your evidence.
19 If you, deputy commander of the brigade, then commander of the
20 brigade, were to learn that these three individuals had badly
21 mistreated detainees, civilian detainees, and you could do nothing
22 about it? Or did I misunderstand your response?

23 A. There was a misunderstanding. Once again, I wish to repeat that
24 these persons have committed no war crimes against any civilian.

25 JUDGE METTRAUX: That you've said three times. Now, what I'm

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1 asking you is --

2 A. Yes.

3 JUDGE METTRAUX: -- if you had become aware of that.

4 A. As the deputy commander, under my responsibility I would have
5 never allowed for a crime to happen.

6 JUDGE METTRAUX: So that I understand correctly. You do accept,
7 don't you, that both you as a deputy commander and the commander of
8 the brigade would have had the disciplinary authority to take steps
9 and measures against such individuals; correct?

10 A. I would have not allowed for any crime to happen, and no crime
11 has happened.

12 JUDGE METTRAUX: I'll take that as a yes.

13 Now, can we please see Exhibit P899. I'm sorry. It's better
14 maybe P897. We'll go to that one directly.

15 Do you recall being asked questions about members of the KLA
16 being free to come and go as they pleased from the ranks of the KLA,
17 and your evidence, as I understood it, to say that there was no such
18 thing as a deserter in the KLA? Do you recall your evidence on that
19 point?

20 A. I do.

21 JUDGE METTRAUX: Now, I want to show you something that we have.
22 It comes not from your brigade but from the brigade next door, the
23 161 Brigade. And it's called a "Decision on disciplinary
24 detention ..." It's dated 3 May 1999 and signed by the brigade
25 commander of the 161. Do you see that?

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1 A. Yes.

2 JUDGE METTRAUX: And you see here it's based -- this decision is
3 based on Article 17(1), 18(2), 20(f) of the KLA Disciplinary Rules.
4 Do you see that?

5 A. Yes.

6 JUDGE METTRAUX: My first question is were you aware at the time
7 of the existence of these disciplinary rules of the KLA? Were you
8 aware of them?

9 A. I was not aware.

10 JUDGE METTRAUX: Then it explains - and take your time to go
11 through it - that the soldier in question, date of birth, is given
12 15, 1-5, days of detention as a disciplinary measure or action
13 starting 3 May 1999 until 18 May 1999. There's a right to appeal.
14 And under the justification for the disciplinary measure, it says
15 that:

16 "The soldier received this punishment as a disciplinary action
17 because he blemished the standing of a soldier by leaving his
18 position without a permission from his superior.

19 "The detention will achieve its effect by ensuring that such
20 violations do not repeat again."

21 So do you accept, sir, that what we see here, at least in the
22 161 Brigade, is disciplinary measures being taken against a member of
23 the KLA for leaving their post and duties without authorisation? Do
24 you accept that?

25 A. I cannot accept something that is related to an entirely

1 different brigade. I have this document in front of me, but it has
2 no first name, no last name. It only reads the brigade commander at
3 the end of it. Therefore, this decision is not acceptable for me.

4 JUDGE METTRAUX: Let's assume it is what it is for a second.
5 Are you telling us that the 161 Brigade on that issue operated
6 differently than the 162? In other words, in the 161, if you leave
7 your post, you get disciplined; but in the 162, you can go home? Is
8 that your evidence?

9 A. I can only speak about Brigade 162. I can tell you that no
10 soldier has left the post of this brigade because everybody that took
11 upon themselves their tasks and responsibilities, they were keen to
12 deliver to the end. About the other brigades, I can't tell you
13 anything. Otherwise, it would be speculation.

14 JUDGE METTRAUX: So let me ask you again maybe a speculative
15 question. If this had happened in your brigade, what we see in that
16 document - namely, that a soldier is leaving his or her position -
17 you would take no disciplinary measure? Is that what you are saying?

18 A. What I'm saying is that there have been no such cases in my
19 brigade. Because during the communication with my soldiers, we have
20 always exchanged ideas and discussed with one another, and I've told
21 the soldiers that if you wish to go and see your family members or to
22 have some days of leave, they can come and talk these matters with us
23 and they would be permitted to do so. Therefore, we never had an
24 occasion of this nature.

25 JUDGE METTRAUX: Well, I don't think you answered my question.

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1 A scenario where the person has not asked for permission. If one of
2 your soldiers within your brigade left his or her position without
3 authorisation, are you saying that there would be no consequences and
4 no measures taken against him or her?

5 A. For as long as there was not even one single occasion, I can't
6 suggest, I can't say things that I don't know about. I can't be held
7 responsible for things that never happened. What I can tell you for
8 a fact is that there was never an occasion of this nature happening
9 in my brigade.

10 [Trial Panel confers]

11 JUDGE METTRAUX: Thank you, sir.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 Judge Barthe has no questions.

14 Any questions from the Prosecution based upon the Judges'
15 questions?

16 MR. PACE: No, thank you, Your Honour.

17 PRESIDING JUDGE SMITH: All right.

18 Anything from Thaci?

19 MR. MISETIC: Yes, Mr. President. Thank you.

20 Further Cross-examination by Mr. Misetic:

21 Q. Witness, good afternoon once again. Let me ask you some
22 follow-up questions --

23 A. Good afternoon.

24 Q. -- to the questions that Judge Mettraux posed to you. And,
25 first, I'd just like to ask you a question about a line of

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1 questioning that was pursued at the realtime transcript page 81,
2 beginning at line 20, and it was a line of questioning about who the
3 zone commander reported to. And Judge Mettraux then put your SPO
4 interview before you.

5 MR. MISETIC: And so if we could go back to that, please,
6 because I'd like to quote more than what Judge Mettraux quoted to you
7 and continue on with the quote. So if we could go back to Part 2,
8 page 14. And this is -- yeah, this is 074301-TR-ET Part 2.

9 Q. So the question was about to whom did Shukri Buja report. I'm
10 just orienting you as to what we're discussing here. So if you can
11 look on the screen and follow along in the Albanian, and I believe
12 there's a translation error in the English that I would like you to
13 correct for us.

14 But what was read out to you by Judge Mettraux is beginning at
15 line 14:

16 "And who did the zone commander report to?"

17 And your answer to the SPO was:

18 "I was not a zone command, in fact. But normally, they would
19 report to the Chief of General Staff. But the zone commander, if you
20 have -- will have the occasion to meet him, he can tell you about
21 that."

22 The next question:

23 "But your understanding, the structure was: There was a
24 General Staff, and then there were the zones underneath them, and
25 then brigades under the zones; right? Is that a yes?"

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1 And your answer is:

2 "Yes."

3 A. It was simply an assumption I made because this was not my
4 responsibility.

5 Q. Let me finish reading from the interview, and then I'll ask you
6 a question. The next question is:

7 "In your capacity starting ... when you were the deputy
8 commander, were you in a position to issue orders to anyone?"

9 And then you say:

10 "Sorry, I want to go back to that again. I want to make it
11 clear, when I say that the commander -- brigade commander would
12 report to the zone commander, I -- I didn't know, but I suppose it
13 works that way depending on the structure, because I haven't been in
14 person, never been in person to the General Staff."

15 And so now this is the sentence that I want you to clarify. Am
16 I correct that in the Albanian the next sentence says:

17 "So I can't guarantee that the zone commander reported
18 somewhere, but I would suppose that the zone commander would report
19 to the superior structure."

20 Is that what it says in Albanian? Line 4 in Albanian.

21 A. I said it here, saying that this was an assumption of mine. It
22 was not my responsibility. And it says here: I suppose that it
23 might have been like that. However, this was not my responsibility
24 and I did not have any knowledge about this.

25 Q. Can you read what it says in line 4 in the Albanian page in

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1 front of you?

2 A. Line 4 -- line 3:

3 "I have never been in person to the General Staff, so now I
4 cannot guarantee that the zone commander reported," dot, dot, dot, I
5 don't know what is there. "But I would suppose that the zone
6 commander would report to a superior structure."

7 Now, this was only an assumption I made because I was not the
8 zone commander.

9 Q. Okay. That's what I wanted to clarify is that you, in fact, did
10 tell the SPO that you were only assuming things; is that correct?

11 A. That's correct. And that's what it reads in this transcript.

12 Q. Okay. You were asked questions about to whom Xhabir Elezi
13 reported. And my question to you is to whom did Xhabir Elezi report
14 after 15 May 1999?

15 A. After 15 May, I held the main responsibility in Brigade 162.
16 However, we don't have any case of classic reporting or any activity
17 that ought to be reported, be that orally or in writing. However,
18 from 15 May to 11 June, I had the main responsibilities within
19 Brigade 162.

20 Q. Did Xhabir Elezi ever report to you from 15 May to 11 June?

21 A. We did not have any such cases. There was fierce fighting going
22 on, and then the war ended shortly after.

23 Q. I'd like to turn to a different topic, which is this issue of
24 how to interpret certain documents that were put to you by
25 Judge Mettraux concerning requests for advice and whether something

1 was an order or not.

2 MR. MISETIC: So first thing I want to put on the screen is a
3 document that does purport to be an order. If this can be shown on
4 the screen, please. This is P01017.

5 Q. The word in the middle in the screen there in all caps and bold,
6 what does it say?

7 A. At the beginning?

8 Q. Right in the middle. All bold.

9 A. "Order."

10 Q. "Order." So this is an order issued by Bislim Zyrapi. Do you
11 have any doubt that if the General Staff wanted to issue an order, it
12 knew how to use the word "order"?

13 A. Could you please repeat your question?

14 Q. You've actually been shown this document in your
15 examination-in-chief by the Prosecution, and I'm just trying to
16 establish terminology here. Do you have any doubt that Bislim Zyrapi
17 and the General Staff would use the word "order" when they intended
18 to order someone to do something?

19 A. I have no knowledge about this. I simply cannot assume what the
20 General Staff would have done.

21 Q. Well, let me take you to the documents that Judge Mettraux
22 showed you. And let's start with P887.

23 Now, again, your background is you served several years in the
24 Yugoslav Army; correct?

25 A. Correct.

1 Q. And how many years did you serve in the Kosovo Protection Corps?

2 A. Ten years.

3 Q. So roughly 13, 14 years' experience in the military; is that
4 correct?

5 A. Correct.

6 Q. Let's look at this document. The first -- I'd ask you to look
7 in the upper left-hand corner. It talks about: "Clarifications and
8 advice for carrying out duties."

9 Now, in your 14 years in the military, how often does a
10 subordinate write to a superior command asking for advice? In your
11 14 years, how often has that happened?

12 A. Never.

13 Q. And how often does your command respond to something like that
14 with a, quote/unquote, clarification and advice? Have you ever had
15 that happen before in 14 years?

16 A. Never.

17 Q. Okay. If someone is truly a superior, how would you expect them
18 to address a subordinate? With what kind of document?

19 MR. PACE: Objection, Your Honour. That's a very vague
20 question, and I don't see the relation with anything asked by the
21 Judge's questions. The witness is also not a military expert.

22 PRESIDING JUDGE SMITH: If he knows an answer, he can give it.

23 THE WITNESS: [Interpretation] Could you please repeat your
24 question?

25 MR. MISETIC:

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1 Q. Yes, let me rephrase the question. A superior issues orders to
2 a subordinate, would you agree? That's your experience?

3 A. Yes.

4 Q. And someone who's perhaps on a more equal level might issue a
5 clarification or ask the other for advice. Would you agree with that
6 as well?

7 A. Correct.

8 Q. So looking at this document, would you expect that what's
9 happening here is two somewhat equals are writing to each other
10 asking for advice and clarification?

11 A. For me, my view, this document is unacceptable,
12 incomprehensible, has no basis, no legal basis, I would say.

13 Q. And Judge Mettraux asked you if this was an example of a
14 functioning military hierarchy. And I'm going to put to you the
15 counter-proposition that this is an example of a non-functioning
16 military hierarchy. Would you agree?

17 A. Correct.

18 MR. MISETIC: Now if we could turn to P872, please.

19 Q. Now, you were shown this document by Judge Mettraux. And this
20 is more than two months after the Bislum Zyrapi order I just showed
21 you to start. And instead of the word "order," this uses the word
22 "obligon," or "obligates." What is an "obligon" in the military as
23 far as you understand?

24 A. This is not a military term.

25 Q. So for what reason then would you accept Judge Mettraux's

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1 suggestion to you that this is an order? Why would you have accepted
2 that suggestive question?

3 A. I absolutely did not accept it as an order. I said that this is
4 a document which is not -- has no value. I did not see it during the
5 war, and it has no value today.

6 Q. Okay. Do I understand this document correctly that the
7 General Staff Directorate of Military Police is asking the Nerodime
8 zone to propose a candidate for the Directorate of the Military
9 Police of the General Staff? Is that how I understand this?

10 MR. PACE: Objection, Your Honour. The witness cannot tell
11 counsel how counsel understands a document. I don't understand the
12 question.

13 PRESIDING JUDGE SMITH: Sustained.

14 MR. MISETIC: Okay.

15 Q. Witness, then let's be hyper-technical here. How do you
16 understand an "*obligon*" from the Directorate of the Military Police
17 to the Nerodime zone to propose a candidate for the personnel of the
18 KLA Directorate of Military Police? Do you understand that to mean
19 that the Directorate of Military Police is asking the Nerodime zone
20 to nominate someone for the Directorate of the Military Police? Is
21 that how you understand it?

22 A. I said it earlier, and I repeat it, I don't even understand this
23 document. I did not see it during the war, and it has nothing to do
24 with the documents. I mentioned that the word "*obligates*" is not a
25 military term. To me, it's a document more of a manipulative nature

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1 than a real one.

2 Q. Witness, I know you have no personal knowledge of this document.
3 So I'm just going to ask you as an Albanian speaker and someone who
4 has served in the KLA and subsequently in the KPC. Read the document
5 and tell me what you think it is requesting.

6 A. It reads that they obligated the Nerodime operative zone - I
7 don't know why is it in between brackets - to propose an officer at
8 the military police directorate. This is what it reads. But to me,
9 this document is unknown, and it's not as it should have been.

10 Q. So is it, in your experience, in a proper military, the
11 procedure that the higher command asks the lower command to propose
12 someone to be a member of the higher command?

13 A. According to me, it's not.

14 Q. And would you consider this to be an example of a
15 non-functioning military hierarchy?

16 A. That's correct.

17 Q. And, finally, you were asked some questions about disciplinary
18 authority. And in some of your answers, you said that you would not
19 have allowed the mistreatment of civilians.

20 My question to you is what abilities did you have as either the
21 deputy commander or the commander to discipline soldiers? I know
22 that it never came up. But what was your understanding at the time
23 of what actual ability you had?

24 A. Based on my duty and position as a deputy commander for combat
25 operations who would receive new recruits, train them for the

1 military tasks and the use of weapons and the front line tasks, I
2 continuously reminded them that we were there to wage war against the
3 police, paramilitary, and military Serbian forces but never against
4 civilians. This was sufficient for the soldiers of the Brigade 162,
5 Agim Bajrami, and we never had any such cases as you suggest. I
6 constantly told my new recruits that we are here to fight against the
7 Serbian paramilitary, military forces, and we cannot allow for any
8 civilian to be harmed regardless of their nationality.

9 Q. Let's assume, hypothetically, that despite your training to
10 treat civilians properly something - hypothetically - happened, what
11 powers did you have to arrest or detain someone for committing a
12 crime?

13 A. Maybe this doesn't make sense to you but we simply never had any
14 such case. This -- we never encountered this phenomenon. We made
15 sure to educate and train soldiers so that we never encountered any
16 such cases. Now we're dealing with assumptions and suppositions, and
17 we're somewhere trying to present suppositions and assumptions as
18 real facts, actual facts. I would appreciate and I would like to
19 talk about and discuss real facts.

20 Q. Thank you, Witness.

21 MR. MISETIC: Mr. President, that concludes my
22 re-cross-examination.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 MR. EMMERSON: Nothing, Your Honour.

25 PRESIDING JUDGE SMITH: Anything? I'm sorry.

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Further Cross-examination by Mr. Tully

1 Mr. Tully.

2 MR. TULLY: Just five minutes, Your Honour.

3 PRESIDING JUDGE SMITH: All right.

4 MR. TULLY: Madam Court Officer, can I please have on the screen
5 page 036672. And, I'm sorry, I don't have the Albanian reference at
6 the moment.

7 Further Cross-examination by Mr. Tully:

8 Q. These all relate to the organigrammes as shown by Judge Mettraux
9 to you in his questions, Witness. And while I'm waiting for that to
10 come up on the screen, we've heard that you're not a military expert,
11 but I'm interested in how did you construct these organigrammes?
12 What method did you use to put these together?

13 A. I prepared these after more than ten years of training within
14 the KPC trainings provided by NATO armies, armies' officers. I used
15 the knowledge acquired from during this decade of trainings with NATO
16 armies and presented them as best as I could in the book.

17 Q. Okay, as best as you could. But what documents did you use?
18 What was your source for these?

19 A. I did not use any specific document.

20 Q. You didn't use loose documents from the archives, perhaps, to
21 help you?

22 A. I did not.

23 Q. Okay. Well, one thing that is clear from your book is that,
24 regardless of what you used, there are no citations to anything that
25 you based any of your knowledge to compile these diagrams that we can

1 check where you used -- that you based them on; is that right?

2 That's true, isn't it?

3 A. There are no references because, I repeat, I arranged this,
4 prepared this using my decade-long experience within the KPC.

5 MR. TULLY: Okay. And, sorry, Madam Court Officer, it's 672,
6 not 62.

7 Q. Okay. And just to clarify, I think it's clear from your earlier
8 answers, but just sure, neither of your editors, that's Dr. Daci or
9 Major-General Shukri Buja, commented or pointed out any mistakes that
10 you had made in these organigrammes; is that true?

11 A. That's true.

12 Q. Thank you. Now I want you to look at your screen. So at the
13 diagram here you were shown by Judge Mettraux, you were asked
14 questions about individuals on it. I want to focus on the
15 description you have below, which is: "Mollopolc,
16 January-February-June 1999."

17 Now, I don't have the original documents you used to put this
18 together, but just going off the fact that there's a whole chapter
19 dedicated to his death in your book, Qamil Ilazi couldn't have been
20 the head of Brigade 162 in June 1999 at the very least; isn't that
21 right? He was dead in May.

22 A. That's correct. He was not from 15 May because he fell in
23 action -- he was killed in action on 14 May. So this was another
24 assumption.

25 Q. So there's one very glaring mistake, at least, in this

1 organigramme, you'd agree, and neither of your editors pointed this
2 out to you either, and no one else has?

3 A. Correct.

4 MR. TULLY: And if I can just go, to illustrate the point, just
5 back to the page that precedes this one. That's ending in 71. And
6 if you scroll down just a little bit, yeah, to make sure that 162 is
7 there. Yeah. Thank you.

8 Q. So this is actually an error that you yourself reported on in
9 your interview where in the description of Brigade 162 you left out
10 the chief of staff, Xhemajl Krivanjeva, and that's on Part 5 on page
11 10 of the SPO interview. So you left out the chief of staff of an
12 entire brigade on an organigramme. Do you remember doing that?

13 THE INTERPRETER: Counsel is kindly requested to repeat the name
14 because we failed to catch it.

15 THE WITNESS: [Interpretation] That's correct. This is my
16 omission and that of my team.

17 MR. TULLY: Okay. Sorry. And for the interpreter's benefit,
18 that name is Xhemajl Krivanjeva. Sorry if my pronunciation isn't
19 amazing.

20 Q. So, Witness, these are just two organigrammes that I've shown
21 you and there are two extremely glaring problems with them. So would
22 you agree with me that you were perhaps less than scientific in
23 putting these organigrammes together?

24 A. That's correct.

25 Q. Thank you.

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1 MR. TULLY: Those are my questions, Your Honour. Thank you.

2 PRESIDING JUDGE SMITH: Thank you, Mr. Tully.

3 Mr. Ellis, anything?

4 MR. ELLIS: Nothing. Thank you, Your Honour.

5 PRESIDING JUDGE SMITH: All right.

6 Witness, that ends your testimony today. You will be escorted
7 from the courtroom by the Court Usher.

8 [The witness withdrew]

9 PRESIDING JUDGE SMITH: Anything further to come before the
10 Court today?

11 I think it's a little late to start a witness anew, so we will
12 adjourn today and see you all on Monday. Thank you for your
13 attendance.

14 We are adjourned.

15 --- Whereupon the hearing adjourned at 3.27 p.m.

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