

1 Monday, 11 December 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

5 --- Upon commencing at 9.02 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: Thank you.

12 Today we will continue hearing the evidence of Prosecution
13 Witness Sandra Mitchell. The accused are present in court today --
14 three of the accused are. Mr. Krasniqi is appearing by videolink.

15 Before I invite the witness in, there are a few matters to
16 address.

17 First, during the last hearing day, the Defence for Mr. Thaci
18 tendered an excerpt of a video that was marked for identification,
19 1D00096. The SPO objected on the basis that the video is not
20 complete, and the Defence undertook to obtain the full version.

21 I understand there was *inter partes* correspondence on this
22 issue. The Defence has since made the full version of the video
23 available to the SPO, and the SPO has reviewed it and no longer
24 objects to the admission of the excerpt that is already marked for
25 identification.

1 Is that correct, Ms. Mayer?

2 MS. MAYER: It is, Your Honour.

3 PRESIDING JUDGE SMITH: Thank you. So the Panel will make an
4 oral order on this matter.

5 The video excerpt marked for identification as 1D00096 will be
6 admitted.

7 This concludes the Panel's first oral order.

8 Secondly, the Panel will address the request of the SPO for a
9 suspension of deadlines for transcript redaction review falling
10 during the winter recess.

11 The SPO requests that any such deadline be extended to
12 12 January 2024. This is filing F01987. The SPO submits that the
13 suspension would allow all parties and participants to conduct a
14 meaningful review once official transcripts are notified, and that
15 only the rolling ten-day deadlines for the SPO to propose redactions
16 and the other parties and participants to respond would be affected.

17 Any objection to this suggestion by the Defence?

18 MR. KEHOE: No objection, Judge.

19 MR. ROBERTS: No objection, Your Honour.

20 MR. ELLIS: No objection, Your Honour.

21 PRESIDING JUDGE SMITH: No objection being heard, we will
22 proceed on that.

23 The Panel grants the SPO request that F01987, in accordance with
24 Rule 9(5), the deadlines for transcript redaction review falling
25 during the winter recess are extended to 12 January 2024.

1 This concludes the Panel's second oral order.

2 Madam Court Usher, please bring the witness in.

3 MR. KEHOE: Your Honour, may I just bring up one brief
4 housekeeping matter before that.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. KEHOE: I understand that the list of witnesses for January
7 is scheduled to be released on Thursday. Given the fact that we're
8 not in session, and many folks are going to be on the move on
9 Thursday, we'd just ask that that be moved up a day to Wednesday if
10 that's feasible.

11 PRESIDING JUDGE SMITH: Prosecution, is that possible to do?

12 MS. MAYER: I will absolutely check with my office. I'm not
13 coordinating the witnesses, so I will let them know of the request
14 and try to have an answer right after the first break.

15 PRESIDING JUDGE SMITH: Thank you.

16 Now you may bring the witness in.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: Good morning, Witness.

19 THE WITNESS: Good morning, Your Honour.

20 PRESIDING JUDGE SMITH: Today we will continue with your
21 testimony, and we hope to conclude it today as you requested.

22 THE WITNESS: Thank you.

23 PRESIDING JUDGE SMITH: We will begin with, first, the
24 Prosecution.

25 Do you have any redirect?

Witness: Sandra Mitchell (Resumed) (Open Session)

Page 10878

Re-examination by Ms. Mayer

1 MS. MAYER: Very brief.

2 PRESIDING JUDGE SMITH: Go ahead.

3 WITNESS: SANDRA MITCHELL [Resumed]

4 Re-examination by Ms. Mayer:

5 Q. Good morning, Witness. Last week you were asked questions by
6 Mr. Kehoe and also by Ms. O'Reilly dealing with Dr. Kouchner and
7 specifically Mr. Thaci spent some time with you on videos and
8 articles with statements of Mr. Thaci in the second half of 1999, so
9 in the time period after you returned to Kosovo from June 1999
10 forward.

11 Do you recall those questions?

12 A. Yes.

13 Q. All right. I'd like to focus on that.

14 MS. MAYER: And I'd ask the Court if we can pull up SITF00172746
15 to SITF00172749 RED.

16 Q. So looking at this first page of the document. Do you see here
17 that it's from Kouchner, UNMIK, Prishtine, and the date is 29 July
18 1999, and it's to MIYET, UNATIONS, New York. Do you know who that
19 is?

20 A. That's the UN Secretariat, I believe, where code cables go.

21 Q. And it says right below that under the subject:

22 "Attached please find a report on a meeting on 27 July of the
23 SRSG and COMKFOR with Thaci and Ceku on the transformation of the
24 UCK."

25 Do you know what COMKFOR stands for?

Witness: Sandra Mitchell (Resumed) (Open Session)

Page 10879

Re-examination by Ms. Mayer

1 A. Commander of KFOR.

2 Q. And do you know who that was at the time? Was that
3 General Jackson?

4 A. Early July, most likely. Yes.

5 Q. All right. And it says --

6 MS. MAYER: If we can go to the next page, which is SITF00172747
7 RED.

8 Q. And at the top there again, it recites that it's "Meeting of the
9 SRSG and COMKFOR ... on 27 July."

10 You had testified in your testimony that you were at several
11 meetings with Mr. Thaci and/or Mr. Ceku. Do you recall if you were
12 at this meeting, if you were at a meeting with the two of them and
13 General Jackson and Dr. Kouchner?

14 A. I do not.

15 Q. All right. Well, I'd like to go through a couple of portions of
16 it. In the summary - if we can zoom in on the first paragraph under
17 "Summary" - and just the beginning of that paragraph, it says:

18 "A difficult meeting on the transformation of the UCK in which
19 Thaci insistently set out the UCK's intention to form an Army at the
20 end of the demilitarisation ... and denied responsibility for any
21 acts committed in the name of the UCK since KFOR's arrival."

22 When did KFOR arrive, if you know?

23 A. Immediately following the signature of the Kumanovo Agreement,
24 KFOR began going in. It would have been around June 12th, maybe,
25 1999.

1 Q. And is that description of a denial of any reactions consistent
2 with the -- with Mr. Thaci's reactions when you raised allegations of
3 human rights violations by the UCK?

4 A. Yes, it is.

5 Q. And is it also consistent with the reaction of the other UCK
6 leaders that you testified last week that you met with and when you
7 raised allegations of human rights violations to them?

8 A. Yes, it is.

9 MS. MAYER: And if we go to the next page, which is SITF00172748
10 RED.

11 Q. Under the heading d), "Paramilitary Forces." There it says:
12 "COMKFOR said that he was worried about PU elements in black
13 uniforms. He asked who they were. They had no authority to make
14 arrests. It was kidnapping. He was losing confidence and might have
15 to react. Thaci's answer was evasive."

16 In this description, it mentions "PU elements." Do you know
17 what PU is or what that stands for?

18 A. No.

19 Q. Understood. The mention of black uniforms, is that consistent
20 with the description of UCK individuals who had been reported to have
21 been abducted when you received those reports as part of OSCE KVM and
22 OMiK?

23 A. Yes.

24 Q. And if we go just above that paragraph, the heading -- the
25 entire paragraph is on this page, but the heading from the previous

1 page says "Occupation of commercial premises." And that first
2 sentence, it says:

3 "The SRSG ..."

4 And that's Dr. Kouchner; right?

5 A. Yes.

6 Q. And it says:

7 "The SRSG raised the issue of alleged occupation of commercial
8 premises by individuals claiming to be members of the UCK ..."

9 And, again, I'm not going to read the whole paragraph to you.
10 You're welcome to read the whole thing on the screen. It's there for
11 everyone to see. But it lands at the end where it says:

12 "After much prompting Thaci reluctantly agreed to visit a site
13 with the SRSG and tell any illegal occupiers to leave."

14 Again, was this consistent, a sort of reluctance on Mr. Thaci's
15 part, was that consistent with how he responded to allegations when
16 you were in meetings that you were present for?

17 A. Yes.

18 Q. And if we go to the last page, which is SITF00172749 RED, under
19 the heading "Comment," and it says there at the top:

20 "Thaci is neither willing to accept responsibility for anything
21 that takes place in the UCK's name nor to take a duty upon him to
22 show leadership to organise a joint Kosovo Albanian approach to
23 establishing a stable administration. He tried to make clear that
24 the UCK had a right to run Kosovo and to quickly deliver it into
25 independence. He knows that he is in opposition to UNSCR 1244 but

Witness: Sandra Mitchell (Resumed) (Open Session)
Re-examination by Ms. Mayer

Page 10882

1 clearly wants to test out how far he can go in pushing UNMIK and KFOR
2 to accept UCK [as] '*faits accompli*'."

3 Did Mr. Thaci, in your meetings with him, make similar
4 statements about the UCK's right to run Kosovo?

5 A. Yes, he did.

6 Q. And, again, from your meetings with Mr. Thaci during this
7 timeframe, which is late July 1999, was it your impression as well,
8 like Dr. Kouchner's here, that Thaci was pushing for international
9 authorities to accept control of the UCK as a *fait accompli*?

10 A. Yes.

11 MS. MAYER: I have no more questions, Your Honour. I would
12 offer this document into evidence which is SITF00172749 to
13 SITF0017 -- I'm sorry, it's 26. Let me start over. SITF00172746 to
14 SITF00172749 RED.

15 I would ask the Court's permission to add this document to the
16 exhibit list. It is a more legible version of item number
17 SPOE00246103 to SPOE00246106, which is item number 11757 on the
18 exhibit list, and it was disclosed on 18 August 2021. And this item
19 was redisclosed or it was disclosed on Friday in package 1045 as a
20 more legible version.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MR. KEHOE: No objection. [Microphone not activated]

23 I understand the legibility issue.

24 PRESIDING JUDGE SMITH: SITF00172746 through SITF00172749 is
25 admitted as a substitute of exhibit list number 11757.

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10883

1 MS. MAYER: Thank you, Your Honour. I have no more questions.

2 PRESIDING JUDGE SMITH: Thank you.

3 THE COURT OFFICER: Your Honours, that document will be assigned
4 Exhibit P755. And can we confirm the classification for it? Thank
5 you.

6 MS. MAYER: It can be classified as public.

7 MR. KEHOE: [Microphone not activated] ... questioning on
8 these -- this area that was just raised, if I may?

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 MR. KEHOE: If I may, with leave, recross on what was just
11 presented and some ancillary issues concerning this?

12 PRESIDING JUDGE SMITH: All right. Go ahead. Briefly.

13 Further Cross-examination by Mr. Kehoe:

14 Q. Good morning, Ms. Mitchell. Obviously you were not at this
15 meeting with Ambassador Kouchner and General Jackson and General Ceku
16 and Mr. Thaci; is that correct?

17 A. I believe so, yes.

18 Q. And we are talking about a period of time in July 1999 where, I
19 think, last week we talked about difficulty with police, difficulty
20 with administration, difficulty with UNMIK coming in and standing up
21 and taking control; isn't that right?

22 A. That's correct.

23 Q. And in this period of time, what we see here is some negotiation
24 back and forth about -- and you're welcome to look at this document.

25 MR. KEHOE: If we can put this document back up. I'm sorry,

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10884

1 counsel. I didn't mean to take that down. If we can put that back
2 up. And if I may, we can scroll down just a little bit to the second
3 page.

4 Q. And the summary that counsel just read is talking, in part,
5 about the demilitarisation of the KLA. And from your experience, you
6 know that that was a very difficult issue for the KLA, especially
7 when it came to disarming them, wasn't it?

8 A. Yes, it was.

9 Q. Just going in the fashion that counsel just went through. In
10 the Mitrovice situation in a), Ambassador Kouchner asked Mr. Thaci
11 to, once again, intervene in issues in Mitrovice on about 31 July
12 1999, as you can see here. And Thaci did, in fact, try to exert his
13 influence, didn't he?

14 A. Yes.

15 Q. And if we turn to the next page, at the top of the page where
16 counsel read the issue of occupation of commercial premises, and
17 after the last sentence, it said after -- in that paragraph:

18 "After much prompting Thaci reluctantly agreed to visit a site
19 with the," Ambassador Kouchner, "SRSG and tell any [occupants] to
20 leave."

21 He did that, didn't he? Thaci was out there telling people to
22 get out of other people's houses, wasn't he?

23 A. Yes.

24 Q. And if we move a bit in this document, and if we talk about the
25 COMKFOR, and this is General Sir Mike Jackson, talking about the

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10885

1 standing up of the army, this is at a point when the KLA wanted to
2 have an army -- set up an army within the country; isn't that right?

3 A. Yes.

4 Q. And Jackson, if we read here:

5 "... said that the proposed Army was an even bigger problem.
6 There was no possibility for KFOR [sic] to have an Army before a
7 final political sentiment was reached."

8 Do you see that? Do you see that in that paragraph, ma'am?

9 A. Yes. I believe it was Kosovo, not KFOR, to have an army.

10 Q. I'm sorry, I misspoke. I apologise if I said "KFOR." But the
11 way they put it in their paper arrogated to Kosovo the status of an
12 independent state and that was reinforced by using the term "minister
13 of defence." But there was no such ministry as there was no
14 provisional government of Mr. Thaci.

15 Now, while Thaci was, according to your testimony, attempting to
16 assert the influence of the provisional government and the KLA, the
17 UN administration was telling him that: You have no government, you
18 have no Ministry of Defence, and we're the only people in charge.
19 Right?

20 A. Yes.

21 Q. And when all this wrangling was going back and forth, there was,
22 in fact, an ultimate disarmament on 21 September 1999 and the KLA
23 gave up their weapons, and the establishment of the Kosovo protection
24 corps took place, didn't it?

25 A. Yes.

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10886

1 Q. Let me show you SITF00173538 to SITF00173542. And this is,
2 again, a cable going to the MIYET from Ambassador Kouchner dated
3 21 September 1999. And if we can just -- this is the cover page.
4 And if we go to the next page, it's talking about the
5 establishment -- page 2, the establishment of the Kosovo Protection
6 Corps.

7 MR. KEHOE: And if we can just go down four paragraphs.

8 Q. On that same page, it notes:

9 "The Corps will consist of up to 3,000 active and 2,000 reserve
10 member ..."

11 And the idea in the international community here, Ms. Mitchell,
12 was that young soldiers that had been in the KLA were going to move
13 into the Kosovo Protective Corps and give them a job and allow them
14 to be productive in society, wasn't it?

15 A. Yes.

16 Q. And the Kosovo Protection Corps was going to provide emergency
17 and other specialised services -- other services; right?

18 A. Yes.

19 MR. KEHOE: And if we can turn to the next page. And this is
20 the background paper for the demilitarisation and transformation of
21 the UCK.

22 Q. And we're not going to read this whole item but just the first
23 sentence of the first paragraph:

24 "The concept of transforming ... fighting forces into a civil
25 role is well established in peacekeeping practice[s]."

1 If we can go to the next paragraph:

2 "Demobilisation is problematic in any society. Veterans have
3 ... needs and their strong sense of entitlement is a powerful ...
4 factor in any post-conflict setting."

5 That was the general understanding, obviously, that transforming
6 an army is difficult but they had to do something to assist these
7 veterans; right?

8 A. Yes.

9 Q. And paragraph 3:

10 "Some former fighters will move into organised crime if they
11 have no other employment option; whole units are reportedly being
12 recruited by Albanian crime syndicates. Other fighters will go
13 underground if they feel betrayed - in their view, denied even a hope
14 for the eventual establishment of the national guard referred to in
15 the Undertaking."

16 That was, again, the general tenor of the KLA, that soldiers
17 would drift into -- excuse me. The general tenor or understanding of
18 the international community that -- the general tenor was that, left
19 to their own devices, you had soldiers that might drift into
20 organised crime or they might just continue to act in their own
21 self-interest if not given other employment; right?

22 A. Yes.

23 Q. And if we go to paragraph 4:

24 "Against this background, KFOR, in close consultation with
25 UNMIK, developed a concept for a civilian, disciplined, uniformed and

1 multi-ethnic emergency corps closely modeled on the *Sécurité Civile*
2 of France. The Kosovo Protection Corps will provide needed emergency
3 and other specialised services while absorbing substantial UCK
4 manpower and redirecting its aspirations."

5 That, of course, again, was the goal of the Kosovo Protective
6 Corps in the diplomatic -- the international community, wasn't it?

7 A. Yes.

8 Q. And this goal was applauded -- this transformation or the
9 establishment of the Kosovo Protection Corps while absorbing
10 substantial UCK manpower and directing its aspirations, this goal was
11 applauded by the international community - General Clinton,
12 Prime Minister Blair, the Secretary-Generals at the time, the head of
13 NATO, they all applauded this effort, didn't they?

14 A. Yes.

15 Q. Let me just show you one last document and I will conclude.

16 MR. KEHOE: SITF00172765 to SITF00172784.

17 Q. And this is another cable of the same day of Ambassador
18 Kouchner. Do they refer to him as Ambassador Kouchner or
19 Dr. Kouchner? I never get that straight.

20 A. In the UN, they dropped the rank of ambassador. So it would be
21 doctor or SRSG.

22 Q. Thank you. You read these things and never quite get it
23 straight. So Dr. Kouchner is sending this back. And if we can go to
24 the next page, it's a statement by General Ceku in accordance with
25 the terms of UN Security Council Resolution 1244:

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10889

1 "... and in keeping with the Undertaking of Demilitarisation and
2 Transformation signed on 21 June 1999 and received by Commander KFOR,
3 I declare that the UCK has complied with all provisions of the
4 Undertaking, and completed its process of demilitarisation."

5 The next page, if we can, is a statement by Mr. Thaci at the
6 time, and the next pages are the -- if we can go to the UNMIK
7 regulation, which is 1999/18 [sic] on the establishment of the Kosovo
8 Protection Corps. And we're not going to go through the whole thing.
9 You're welcome to do that.

10 But, Ms. Mitchell, as we go through this, the initial
11 undertaking is on the 21st. We saw, based on the document shown to
12 you by the Prosecutor, that there is some wrangling going on back and
13 forth between Mr. Thaci and General Ceku and Dr. Kouchner and
14 General Jackson. But at the end of the day, in September, there was
15 a complete demilitarisation of the KLA and the establishment of the
16 Kosovo Protection Corps, wasn't there?

17 A. Yes.

18 Q. And in addition to -- and in addition to signing on to that,
19 Mr. Thaci was also, at the time, promoting the establishment and the
20 training of the Kosovo police force, wasn't he?

21 A. Yes.

22 MR. KEHOE: Your Honour, at this time I will offer into evidence
23 SITF00173538 to 173542, which is the first document that I was
24 referring to. And the next document is the document concerning the
25 Kosovo Protection Corps, SITF172765 and SITF172784. That is the

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10890

1 preliminary documents and plus the regulation. And I think I
2 misspoke on the regulation. This is UNMIK regulation 1999/8.

3 And we will put that into evidence.

4 PRESIDING JUDGE SMITH: Any objection?

5 MS. MAYER: No objection, and no objection to a public
6 classification of both of those.

7 PRESIDING JUDGE SMITH: And of yours as well?

8 MS. MAYER: Yes, Your Honour.

9 PRESIDING JUDGE SMITH: All right.

10 SITF00173538 to 173542 and SITF00172765 to 00172784 are both
11 admitted, and these two exhibits will be reclassified as public, as
12 well as reclassifying as public SITF00172746 through 172749.

13 MR. KEHOE: And just one -- I'm sorry. I'm sorry.

14 THE COURT OFFICER: Your Honours, the first document,
15 SITF00173538 to 00173542, will be assigned Exhibit 1D98, and it will
16 be public.

17 The second document, SITF00172765 to 00172784, will be
18 Exhibit 1D99 and also reclassified to public.

19 And likewise, Your Honours, Exhibit P755 will be reclassified to
20 public.

21 MR. KEHOE: And just one correction, if I can here, Judge. I
22 think I misspoke.

23 Q. When I was talking to you about the international community
24 applauding this, I didn't mean General Clinton. You understood me to
25 mean President Clinton and Prime Minister Blair, did you not?

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

Page 10891

1 A. I did, sir.

2 MR. KEHOE: Okay. Your Honour, I have no further questions.

3 Q. Thank you, Ms. Mitchell.

4 PRESIDING JUDGE SMITH: All right. Ms. O'Reilly?

5 MS. O'REILLY: No more questions from us, Your Honour.

6 PRESIDING JUDGE SMITH: Mr. Roberts?

7 MR. ROBERTS: Nothing from me at this stage, Your Honour.

8 PRESIDING JUDGE SMITH: Mr. Ellis.

9 MR. ELLIS: Nothing. Thank you, Your Honour.

10 PRESIDING JUDGE SMITH: All right. [Microphone not activated].

11 JUDGE BARTHE: Thank you.

12 Questioned by the Trial Panel:

13 JUDGE BARTHE: Good morning, Witness.

14 A. Good morning.

15 JUDGE BARTHE: As already said by my colleague, Judge Smith, the
16 Panel has some more questions for you. I hope that's okay.

17 A. Of course.

18 JUDGE BARTHE: So let me start with my first question. Last
19 week during your examination by the Prosecution, you told us that you
20 had meetings with several KLA members, including Mr. Thaci, in which
21 you spoke about arrests, kidnappings, disappearances, and the
22 detention of persons by men dressed in black with UCK insignia.

23 And you further said that there had also been, I quote, "a
24 series of démarche or small protests outside the headquarters in
25 Prishtine by Serbian families wondering where their missing were as

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

Page 10892

1 there was a number of Serbians that were missing as well."

2 Do you remember saying this?

3 A. Yes, sir.

4 JUDGE BARTHE: For the record, I was referring to page 10536,
5 lines 19 to 22 of the transcript.

6 Ms. Mitchell, my first question is the following: Were there
7 also media reports about these incidents, that is, kidnappings,
8 disappearances, and the detention of persons by men dressed in black
9 with UCK insignia?

10 A. Yes, I believe there would have been.

11 JUDGE BARTHE: And when did the media coverage of these
12 kidnappings and detentions start, if you know?

13 A. Sir, with regards to the missing Serbs, those would have begun
14 in 1998 in the summer and would have continued thereafter at
15 different peaks in the media cycle.

16 JUDGE BARTHE: Thank you. Do you know where were these reports
17 published or broadcasted, only in the international press, or also in
18 local Albanian-speaking media?

19 A. I believe they were in the international media and the Serbian
20 media. I do not know about the Albanian media.

21 JUDGE BARTHE: Are you aware of any publications or public
22 announcements in the media or elsewhere in which the KLA, the UCK,
23 either accepted or denied responsibility for the alleged acts?

24 A. No, sir, but that's not to say they didn't happen. I just don't
25 recall them.

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

Page 10893

1 JUDGE BARTHE: Thank you. My next question specifically relates
2 to the time period between February and April 1999. I think you
3 already mentioned what you called in your examination by the
4 Prosecution last week the failed agreements in Rambouillet a couple
5 of times.

6 I would like to know do you know whether the release of abducted
7 persons by both parties to the conflict was a topic, a subject of the
8 negotiations in Rambouillet?

9 A. No, sir. I would be guessing.

10 JUDGE BARTHE: Madam Court Officer, could you please IT-05-87
11 P00474 for us on the screen and go to page 2, please. Thank you.

12 Ms. Mitchell, can you see on the bottom left side under the
13 headline "Detention of Combatants and Justice Issues," number 10,
14 where it says:

15 "All abducted persons or other persons held without charge shall
16 be released. The Parties shall also release and transfer in
17 accordance with this Agreement all persons held in connection with
18 the conflict."

19 Can you see that?

20 A. Yes.

21 JUDGE BARTHE: Madam Court Officer, could we please go back to
22 page 1 of the document. Thank you.

23 So, Ms. Mitchell, this is from the so-called Interim Agreement
24 for Peace and Self-Government in Kosovo (Rambouillet Agreement),
25 23 February 1999, Article 2. Would you agree with that.

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

Page 10894

1 A. Yes.

2 JUDGE BARTHE: Thank you. I move on to my next question.

3 Last Tuesday you were asked by the Prosecution how you or your
4 team learned about detained or missing persons, and you answered that
5 this had been an issue of enormous stress for the population across
6 Kosovo at the time, and that local political leaders as well as other
7 individuals came to your office and reported about missing family
8 members. Do you recall that?

9 A. Yes.

10 JUDGE BARTHE: This is from page 10528, lines 7 to 13 of the
11 transcript.

12 Ms. Mitchell, my question is did the people who came to your
13 office to report about the disappearances of their family members
14 also tell you that they had already contacted the KLA either at local
15 or the high level?

16 A. Some did, yes.

17 JUDGE BARTHE: And what was the reaction or the response of the
18 people they had contacted? Did they tell you that?

19 A. Some -- yes, sir, some. Some would have said that the KLA,
20 perhaps, yes, they were detaining them, and that the people were
21 okay, the detainees were okay, and other times it would be denied.

22 JUDGE BARTHE: Thank you. Ms. Mitchell, you already told us
23 about the meetings you had with Mr. Thaci during your time in Kosovo
24 in 1998 and 1999. Could you please give us more details on how these
25 meetings took place? I assume you spoke English and Mr. Thaci

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

Page 10895

1 Albanian; is that right?

2 A. Yes, I would have had a translator.

3 JUDGE BARTHE: And how would you describe the relationship
4 between Mr. Thaci and the other members of the KLA who were present
5 during the meetings? How did the other KLA members behave towards
6 Mr. Thaci, if you can say that?

7 A. I would say that they deferred to Mr. Thaci.

8 JUDGE BARTHE: So you were able to observe a hierarchy --

9 A. Yes.

10 JUDGE BARTHE: -- between Mr. Thaci and the other KLA members;
11 is that right?

12 A. Yes, sir.

13 JUDGE BARTHE: And, Ms. Mitchell, after speaking about your
14 impressions of Mr. Thaci during your meetings with him during and
15 after the war, can you also tell us something about the other three
16 accused here in the courtroom and on Zoom? For example, have you
17 ever met any of them in person?

18 A. I don't remember, sir.

19 JUDGE BARTHE: Do you know what role or function the other three
20 accused had during or after the war? Do you know, for example,
21 whether they were members of the KLA General Staff?

22 A. It's my understanding they were members of the KLA but
23 generally.

24 JUDGE BARTHE: Not of the General Staff in particular.

25 A. I don't recall that, no.

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

Page 10896

1 JUDGE BARTHE: Thank you. Did you ever discuss all or any of
2 the other three accused - Mr. Veseli, Mr. Selimi, and/or Mr. Krasniqi
3 - in meetings with your colleagues in 1998 or 1999? Can you recall
4 that.

5 A. I can't recall specifically, no.

6 JUDGE BARTHE: Do you know if any or all -- all or any of the
7 other accused have also been confronted by international
8 organisations or media with reports of abductions or detentions
9 allegedly committed by members of the KLA?

10 A. Beyond being familiar with the names, no, sir.

11 JUDGE BARTHE: Thank you. Ms. Mitchell, my next questions
12 concern specifically the period between April and September 1999 when
13 the so-called Provisional Government of Kosovo, or PGoK, was
14 established.

15 And I would like to ask you first can you tell us what you know
16 about the establishment or the creation of the PGoK. In particular,
17 what was the relationship between the KLA General Staff or members of
18 the KLA General Staff and the Provisional Government of Kosovo?

19 A. It was my understanding that they were one of the same.

20 JUDGE BARTHE: That leads me to my next question. Do you know
21 whether some members of the KLA General Staff were dismissed or
22 replaced within the KLA General Staff after the establishment of the
23 PGoK, the Provisional Government of Kosovo?

24 A. No, sir. I am not aware of such details.

25 JUDGE BARTHE: Thank you. And generally speaking, what was the

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

Page 10897

1 role of the PGoK, the Provisional Government of Kosovo, after the
2 withdrawal of the Yugoslav or Serbian forces in June 1999?

3 A. Following the Security Council resolution, they had no official
4 role. But as a matter of fact, they stepped in in the absence of any
5 political apparatus or security apparatus outside Kosovo -- or
6 outside KFOR, forgive me, and appointed people as mayors and made
7 appointments to try to get some sort of civil administration running.

8 JUDGE BARTHE: And do you know whether Mr. Thaci, as
9 prime minister of the PGoK, issued political decisions, legal orders,
10 or declarations during this time?

11 A. Yes.

12 JUDGE BARTHE: Have you seen any of these political decisions or
13 legal orders or declarations?

14 A. Only as a matter of fact. Someone would tell me that they had
15 been appointed as the mayor by Mr. Thaci. I don't recall seeing
16 specific documents.

17 JUDGE BARTHE: I understand. And did Mr. Thaci, to your
18 knowledge, meet with international representatives on domestic or
19 foreign policy issues? I mean, apart from your office, of course, as
20 far as you know.

21 A. Yes.

22 JUDGE BARTHE: Could you be more specific about that? For
23 example, give --

24 A. Very frequently meeting at the SRSG's office, in Dr. Kouchner's
25 office, also meeting with the European Union on reconstruction

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

Page 10898

1 issues. I believe there were donor conferences as well that he would
2 have spoken at. COMKFOR, of course. He met with the OSCE. I don't
3 recall how much he would have been meeting with UNHCR.

4 JUDGE BARTHE: Thank you. My next question is how would you
5 describe in general terms the security situation after the withdrawal
6 of the Serbian forces on 20 June 1999? Were there still hostile or
7 provocative acts by the Serb forces and/or the KLA?

8 A. I was in Prishtine as part of the advance team, and the Serbian
9 forces were still occupying Prishtine, looting, things of this
10 nature. At that point, there was no one stopping them. I think that
11 there was an effort to -- there was very little security, sir. Very
12 little security. Very little people. As the people came back, then
13 you saw the emergence of *de facto* police authorities -- excuse me,
14 what I would call *de facto* police authorities.

15 JUDGE BARTHE: And was there still fighting going on in some
16 parts of the country as far as you know?

17 A. Very little. I would say there was fighting but not necessarily
18 between the Serbians and the international forces. There may have
19 been some pockets of resistance, but mostly it became a period of
20 what I would describe as civil unrest.

21 JUDGE BARTHE: And more specifically, what about the KLA?
22 Fightings going on between the KLA or elements of the KLA and the
23 Serbian forces, Yugoslav forces?

24 A. There were skirmishes going on between the KLA and Serbians.
25 Whether they were VJ or MUP, I don't recall that. I think very

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

Page 10899

1 little -- they did withdraw as agreed. In the northern part of
2 Mitrovice, there was ongoing violence. But, again, I think it was
3 more Serbian civilians. They may have been part of the Serbian
4 apparatus dressed in civilian clothes in the northern part of Kosovo.
5 I think that continues to be a flash point.

6 JUDGE BARTHE: Thank you. Ms. Mitchell, I have a few more
7 questions about your encounters with Mr. Thaci now.

8 In your interview with the SITF, the Special Investigative Task
9 Force, in June 2014, this is Exhibit 013312 to 013334, page 18, para
10 50, you said that:

11 "When internationals needed something they turned to the KLA,
12 and [Mr.] Thaci, in particular, became the 'go-to guy' for delivering
13 at either the local level or the national level."

14 Do you remember saying this?

15 A. Yes.

16 JUDGE BARTHE: Could you please explain what you meant by that?
17 Perhaps by giving us an example of when and how Mr. Thaci had
18 delivered at local and/or national level? I think you mentioned one
19 example during your preparation session with the SPO in relation to
20 Mitrovice.

21 A. Yes, Mitrovice is the one I recall the most. In part because I
22 had been in Mitrovice during one of these clashes and there had been
23 a lot of tear gas. And I do remember in that particular instance --
24 I'm trying to think who the regional director was. It may have been
25 Jacques Klein. And there were phone calls made to try to disperse an

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

Page 10900

1 Albanian crowd -- and similar efforts were going on across the river,
2 outreach was being made to the Serbian leadership in the north part
3 of Mitrovica. So it was both sides. To try to get the Albanian
4 crowd to move back and get the Serbian crowd to move back, et cetera,
5 and that was -- that was successful. The crowd did disperse at the
6 request of Mr. Thaci.

7 That's the one that stands out the best because I was so -- I
8 remember the tear gas.

9 JUDGE BARTHE: So that I can understand you correctly, Mr. Thaci
10 made these phone calls?

11 A. Oh, no, sorry. The phone calls would have been made by the
12 regional director or by Daan Everts. I would -- I don't know which
13 one would have contacted Mr. Thaci, but somebody from the OSCE and
14 the UNMIK regional office.

15 JUDGE BARTHE: And as far as you know, what did Mr. Thaci do?

16 A. Contacted the Albanian leadership on the ground and told them to
17 withdraw and to dissipate the crowd and the mob, and it worked.

18 JUDGE BARTHE: And how do you know that?

19 A. Because the crowd dissipated and moved back from the bridge.

20 JUDGE BARTHE: No, I mean that Mr. Thaci was the one who called
21 and made --

22 A. I was told. I was told.

23 JUDGE BARTHE: By who?

24 A. I am trying to think if it was either the regional director for
25 the OSCE or by the head of missions office.

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

Page 10901

1 JUDGE BARTHE: Thank you. Ms. Mitchell, in para 52 of your SITF
2 statement, you stated the following, and I quote:

3 "The two KLA leaders who had the highest visibility after the
4 war were Agim Ceku and Hashim Thaci. Ceku was viewed as a
5 professional soldier and someone who was a [responsible] interlocutor
6 for NATO."

7 "Thaci," or Mr. Thaci, "was seen, however, as the KLA leader who
8 really had the power and who controlled the inner workings of the
9 organisation. He was seen as the one who could deliver on both
10 political and military issues, and we recognised that he was the one
11 that controlled the more shadowy elements of the KLA such as their
12 intelligence service, the 'Ministry of Public Order' police, and
13 their 'enforcement' guys."

14 Could I ask you, Ms. Mitchell, to elaborate on this? In
15 particular, how you or your colleagues came to the conclusion that
16 Mr. Thaci was the KLA leader who really had the power and who
17 controlled the inner workings of the organisation.

18 A. The way we were collecting information, as I mentioned, was
19 through first-hand accounts, talking to local officials. And in
20 speaking with local officials, they would remind us that they had
21 been appointed by Mr. Thaci and were representing the provisional
22 government, and they would then make statements along the lines of,
23 "Well, we will contact his office for additional information," things
24 of this nature.

25 So we were hearing it from those people that were in the local

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

Page 10902

1 positions of authority, whether it was mayors or the electric
2 company. Electricity was a big issue at the time. There was power
3 that was being cut off to certain sectors of the town where
4 minorities would live, so it was a constant struggle to get that
5 reactivated, and his name would come up in those contexts.

6 Also from KFOR representatives in trying to identify whether or
7 not these were crimes or human rights violations, et cetera. KFOR
8 representatives would also share their impressions of what was going
9 on, so that was another big source of information.

10 JUDGE BARTHE: And specifically why do you think that or did you
11 think that he was the one who controlled the more shadowy elements of
12 the KLA? As you said, the intelligence service, the Ministry of
13 Public Order police --

14 A. Yeah.

15 JUDGE BARTHE: -- and the enforcement guys.

16 A. Yeah. I remember once, and this is in the report, a, quote, KLA
17 police officer had a business card, and on the back of that business
18 card seemed to be some sort of authority that the holder would have,
19 and that doesn't happen without leadership approval, to have that
20 type of a document.

21 Could you just ask your question? I blurred it with the other
22 one, sorry.

23 JUDGE BARTHE: Yeah, just, I was asking for the basis of your
24 assumption that Mr. Thaci was the one who controlled the shadowy --
25 the intelligence service, for example, or the Ministry of Public

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

Page 10903

1 Order police.

2 A. I think we really would have picked that up from KFOR.

3 JUDGE BARTHE: Thank you. On page 19, para 55 of your SITF
4 statement, you noted that, I quote:

5 "I was in meetings with Thaci or Ceku, or sometimes both, on
6 perhaps five or six occasions with respect to our human rights
7 reporting ... Thaci and Ceku would brush off the allegations and
8 always tried to turn it around, saying that the Albanians were the
9 victims and that we should be investigating the Serbs not the KLA."

10 First question: Is that correct?

11 A. Yes.

12 JUDGE BARTHE: And can you tell us, Ms. Mitchell, what Mr. Thaci
13 and/or Mr. Ceku said exactly? How would they brush off the
14 allegations as far as you remember?

15 A. They wouldn't answer to them. There'd just be silence.

16 JUDGE BARTHE: You also said during your examination by the SPO
17 last Tuesday, in relation to the time period from June to September
18 or October 1999, that, I quote:

19 "... there were reports of UCK abducting people, arresting
20 people, taking people for informative talks, of being involved in a
21 plethora of activities from house burnings to threatening people,
22 Serbian, Roma, to leave the province. Across the board we were
23 hearing this, and it was coming from all provinces, all parts of
24 Kosovo as the time progressed."

25 And this is from page 10591 of the transcript, lines 12 to 17.

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

Page 10904

1 And you were further shown videos by the Thaci Defence last week
2 in which Mr. Thaci called for peace, reconciliation, and a
3 multi-ethnic Kosovo. We also heard about people wearing KLA uniforms
4 pretending to be KLA and committing crimes in the name of the KLA or
5 the UCK.

6 In this context, Ms. Mitchell, the Panel would like to know the
7 following: Did Mr. Thaci or any other representative of the KLA you
8 met during this time period - that is, from June to October 1999 -
9 tell you that they had asked UNMIK, KFOR, or another international
10 organisation present in Kosovo at that time to look into these crimes
11 or into the crimes people dressed in KLA uniforms were committing, or
12 that they're in contact with the aforementioned authorities, either
13 UNMIK or KFOR, to stop those crimes?

14 A. Yes.

15 JUDGE BARTHE: So Mr. Thaci told you that he was in contact with
16 UNMIK and KFOR in order to stop these crimes?

17 A. He may not have told me, but I do recall, and it is in the
18 report, that -- that at times, I mean, they were somewhat frustrated
19 and said that KFOR had the responsibility of policing or that UNMIK
20 had the responsibility of policing, and we should speak to them.

21 JUDGE BARTHE: I understand. But my question was slightly
22 different. I wanted to know whether Mr. Thaci told you that he was
23 in contact with KFOR, that he had raised the issue of crimes
24 committed by imposters, people dressed in KLA uniform committing
25 crimes.

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

Page 10905

1 A. I don't recall that specifically, but he may have said it in a
2 meeting.

3 JUDGE BARTHE: Thank you. In your interview with the SPO in
4 2018, 2019, Exhibit 076826 to 076840, page 11, paragraph 42, you
5 mentioned that "the KLA leadership was reluctant to speak out to
6 condemn the violence and did not cooperate in trying to identify the
7 purported imposters."

8 And you went on by saying that they, the KLA leadership, were
9 "not prepared to stop the violence or to say to the population that
10 the violence was not us. Although some statements were made in the
11 international media by the KLA leadership following pressure from
12 KFOR or UNMIK, these statements did not appear throughout local
13 media."

14 Ms. Mitchell, can you describe how this pressure was put on the
15 KLA leadership? I assume that you and your office also tried to
16 persuade the KLA to make such public statements; is that right?

17 A. Yes.

18 JUDGE BARTHE: So what did you do exactly to achieve this?

19 A. I would go to my superior, to Ambassador Everts or his deputy,
20 as information was coming in and discuss it and urge him in his
21 meetings. I would provide talking points for him. I would also
22 coordinate with Bill O'Neill in the SRSG's office and share
23 information back and forth and urge that similar démarches be made by
24 Dr. Kouchner as well as by Dennis McNamara at UNHCR. At that point,
25 I would not have had much to do with the EU reconstruction pillar.

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

Page 10906

1 JUDGE BARTHE: And what was the reaction of the KLA leadership,
2 of Mr. Thaci or Mr. Ceku or others, when you did that, or when people
3 addressed them, raised the issue?

4 A. It was reported back to me that the issues had been raised and
5 that -- what I remember was that these were not KLA. These were men
6 that were wearing their uniforms, criminals or others impersonating
7 the KLA soldiers.

8 JUDGE BARTHE: Thank you. And, finally, in the next paragraph
9 of your SPO statement, paragraph 43, you came to the conclusion that,
10 I quote:

11 "The idea that the KLA did not have control and thus were unable
12 to control the violence is not plausible."

13 You further said that:

14 "If you look at those occasions when Thaci," Mr. Thaci, "and
15 [Mr.] Ceku called for restraint, there was restraint. For example,
16 there were instructions given not to attack the Roma under the bridge
17 in Pec/Peja. Children were allowed to attend school after a
18 statement was made not to attack schoolchildren. In Mitrovica, there
19 were examples when violence flared up and the KLA leadership got the
20 Albanian population to pull back."

21 Ms. Mitchell, could you please tell us when these three
22 incidents took place, you know, the attack on the Roma under the
23 bridge in Pec or the children and the events in Mitrovica? Was that
24 before or after the withdrawal of the Serb forces in June 1999?

25 A. Those three incidents would have been after the withdrawal of

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

Page 10907

1 the Serbian forces. The schoolchildren would have been around the
2 school year starting, September. It may have been a little bit
3 delayed depending on if there was damage to schools in the particular
4 area.

5 The situation with the Roma under the bridge, I think that was
6 towards the end of summer as tensions were increasing there. That
7 happened over a several-week period, that there was challenges with
8 the Roma wanting to leave.

9 And Mitrovice, I think, was an ongoing incident. Mr. Thaci's
10 interventions there were more than once in helping to dispel the
11 crowd.

12 JUDGE BARTHE: And could you be more specific in relation to the
13 incident with the Roma under the bridge and/or --

14 A. Yeah, it's --

15 JUDGE BARTHE: -- the incident with the schoolchildren?

16 A. Those two I know are documented in the report, and the dates
17 would have been there. I can't be more specific, sorry.

18 JUDGE BARTHE: And in general what happened? What was the
19 problem?

20 A. The problem was the Roma in the Pec/Peje area, which was
21 predominantly a Kosovo Albanian area, had been perceived to have been
22 collaborating with the Serbian authorities. They would have remained
23 during the conflict and therefore were tainted with some sort of
24 collaboration with the Serbian authorities. They were, I think,
25 largely removed from what homes they had, and they were seeking

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

Page 10908

1 safety under a bridge. I think it was a pretty big bridge. And
2 UNHCR was providing relief to them.

3 And then, I think, some of them actually did end up leaving
4 Kosovo under KFOR escort.

5 JUDGE BARTHE: And was Mr. Thaci involved in that incident; and
6 if so, how? If you know.

7 A. Yes, there had been a lot of concerns about attacks being made
8 on the Roma as they were in this *ad hoc* camp around the bridge, under
9 the bridge. And I do remember this -- I think this was discussed at
10 one of the minority task force meetings. UNHCR would have had the
11 lead on that particular case with it being focused on a minority
12 population, and a *démarche* would have been made through the
13 provisional authorities, first with the local authorities and then
14 going up to the chain, to stop the attacks at night, banditry,
15 harassment, intimidation that would have been going on. And that,
16 that would have slowed down or stopped.

17 JUDGE BARTHE: And you're saying Mr. Thaci was involved in that?

18 A. Yes, sir.

19 JUDGE BARTHE: And how do you know that? What's the basis of
20 your knowledge?

21 A. The basis of my knowledge would have been in meetings with
22 Pec/Peje colleagues, with KFOR, with UNHCR.

23 JUDGE BARTHE: And what was the problem with the schoolchildren?
24 If you could tell us more about that, please.

25 A. Sure. In those areas where they were mixed or there was an

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

Page 10909

1 enclave and children had to either walk through a particular
2 neighbourhood, and it could have been -- it was usually Serbs, but it
3 could also been Albanians walking through a Serbian area to go to
4 school, there would have been harassment.

5 And so what happened was I think the schools started going in
6 shifts so that Albanian children would go in the morning and Serbian
7 children would go in the afternoon or vice versa. And the harassment
8 of these children as they would have been walking to school or
9 their -- in fact, their access to those schools would have been the
10 first thing that would have been negotiated with the principal and
11 the local authorities.

12 And then at times, KFOR was actually escorting the children.
13 And ensuring that the children were actually going to be allowed into
14 the school would have been the big issue that would have required
15 some sort of higher-level intervention up to the KLA provisional
16 authority at this time to ensure that that education was given, and
17 that was usually given, but it was a logistical challenge to try to
18 have it done. And obviously not good for the children either to be
19 harassed on their way to and from school.

20 JUDGE BARTHE: And it was given by Mr. Thaci?

21 A. It would have been given either by Mr. Thaci or one of his
22 representatives. I can't remember at that point if they had somebody
23 appointed as the head of their -- as the head of education.

24 JUDGE BARTHE: So Mr. Thaci helped to solve that problem?

25 A. Yes.

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

Page 10910

1 JUDGE BARTHE: That affair?

2 A. Yes.

3 JUDGE BARTHE: And you said, Ms. Mitchell, the reference to
4 Mitrovica was more a general reference because there was violence in
5 Mitrovica flaring up?

6 A. Yes, Mitrovica was a constant problem, a constant challenge. It
7 flared up worse at certain moments - holidays, things of this nature.
8 But, yeah, it was the hot-spot in Kosovo at the time because it was
9 very difficult for KFOR forces to go to the north and to secure the
10 perimeter of the province's borders.

11 JUDGE BARTHE: And Mr. Thaci was also involved in that, solving
12 that problem or --

13 A. Yes.

14 JUDGE BARTHE: -- stopping violence; is that right?

15 A. Yes, he would intervene.

16 JUDGE BARTHE: Personally by going there?

17 A. Yes, at times.

18 JUDGE BARTHE: And my final questions. Are you aware,
19 Ms. Mitchell, of other occasions where, for example, Mr. Thaci
20 successfully or unsuccessfully called for restraint, apart from these
21 three incidents you mentioned?

22 A. There may be others documented but those stand out after the
23 time.

24 JUDGE BARTHE: What about the other three accused? Do you
25 remember whether they called for restraint?

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

Page 10911

1 A. I'm sorry, I don't. As I said, I recognise the names, but I
2 don't recall specifics.

3 JUDGE BARTHE: Thank you very much. I have no further
4 questions.

5 PRESIDING JUDGE SMITH: All right. Judge Mettraux.

6 JUDGE METTRAUX: Thank you, Judge Smith.

7 Good morning, ma'am. Last week Mr. Kehoe, for Mr. Thaci, asked
8 you about an incident that occurred in the Panda bar, and he showed
9 you a few press articles about it. Do you recall?

10 A. Yes.

11 JUDGE METTRAUX: Do you know whether the true identity of the
12 perpetrators of that incident, and in particular whether they were
13 Albanians or Serbs, was ever investigated and established by an
14 authority?

15 A. No, I do not.

16 JUDGE METTRAUX: And are you aware of the fact that there are,
17 in effect, conflicting accounts about who perpetrated that crime?

18 A. Yes.

19 JUDGE METTRAUX: And is it fair to suggest that, as far as you
20 are concerned, of course, this is still an incident which you
21 reported that has to be elucidated?

22 A. Yes, sir.

23 JUDGE METTRAUX: And would it be fair also to suggest that this
24 is the case with quite a few other incidents that are reported in "As
25 Seen, As Told" volume 2? They were, in effect, and I think you used

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

Page 10912

1 the expression, allegations that you brought to the attention of
2 authorities. Would that be fair?

3 A. Yes.

4 JUDGE METTRAUX: And you did so, if I understand correctly, in
5 the hope that those authorities would investigate them; right?

6 A. Yes.

7 JUDGE METTRAUX: Now, there's something else you were asked last
8 week by the parties, and I want your assistance with this. It's your
9 visit to the detention facilities in Llapashtice. Do you recall
10 that?

11 A. Yes.

12 JUDGE METTRAUX: And if the Registry could assist and bring up
13 Exhibit 1D7 for a second.

14 Do you recall discussing this document last week, Ms. Mitchell?

15 A. Yes.

16 JUDGE METTRAUX: And am I right to understand that you
17 personally participated in this visit and in the meetings with the
18 individuals who are mentioned there?

19 A. Yes.

20 JUDGE METTRAUX: And I'd like you to look first under number 1
21 here. For the time being, I'll just ask you to recall or to remember
22 the name that you can see under number 1 here and under number 2. Do
23 you see those?

24 A. Yes.

25 JUDGE METTRAUX: And if we can turn to the next page, please.

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

Page 10913

1 And if you can look and recall the name under number 7. Do you
2 see that?

3 A. Yes.

4 JUDGE METTRAUX: Now, I'll come back to this document in a
5 moment and several times, but I would like to go to Exhibit P104 for
6 a second.

7 So I'll give you a moment to acquaint yourself with the
8 document, Ms. Mitchell, but I'll -- this is an UNMIK report. It
9 pertains, the title suggests, to war crimes with multiple Albanian
10 victims. It has a file number. And the first paragraph, in effect,
11 explains what this document is. It says this:

12 "Among the material seized from K-SHIK headquarters the attached
13 document was found. The document lists the names of 23 Albanian men
14 who were apparently suspected of collaboration with the Serbian
15 authorities. Subsequent investigation into the current status of the
16 names has revealed that some are now listed as missing persons and,
17 according unconfirmed intelligence, some have been killed by the
18 UCK."

19 And it goes on to say:

20 "From the list the following are known to be dead:"

21 There's number 3, Alush Kastrati, and number 7, Hetem Jashari.

22 Now, is the person under number 7, Hetem Jashari, the same
23 person whom you met on 18 February 1999 in Llapashtice?

24 A. I don't know.

25 JUDGE METTRAUX: Can we please turn to the next page. And to

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

Page 10914

1 the next, please.

2 So for your information, that's the document to which the first
3 page refers, Ms. Mitchell.

4 And if we can go to the translation of that page, that would be
5 the next. And to the next. Thank you.

6 And that's the translation of the document. It contains, as you
7 can see, a list of cooperators. And further up in the English, it
8 says these are people from the Podujeve region. And I'll ask you to
9 look at number 7.

10 There is a person here by the name of Hetem Jashari from
11 Podujeve, till the year 1990. It says that he "was a cooperator of
12 Lorenc, from 1990 cooperated with secret information centre in
13 Prishtina, Podujevo and Serbia."

14 Can you see that?

15 A. Yes, sir.

16 JUDGE METTRAUX: And do you recall that when you met Hetem
17 Jashari in detention on 18 February 1999, that he mentioned to you
18 that he was being accused of being a collaborator of Serbia? Do you
19 recall that?

20 A. Yes.

21 JUDGE METTRAUX: And you recorded it in your report; right?

22 A. Yes.

23 JUDGE METTRAUX: Were you aware during the conflict in Kosovo in
24 1998 or 1999 that the KLA was making use -- drawing up and making use
25 of lists of alleged collaborators? Is that something you were aware

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

Page 10915

1 of at the time?

2 A. Yes.

3 JUDGE METTRAUX: Can you recall how you became aware of that?
4 On what basis?

5 A. I was told by some of the local village KLA that they were, you
6 know, policing and looking for collaborators.

7 JUDGE METTRAUX: And in your experience, was it a localised
8 practice or was it something that you encountered in several areas in
9 which you were active?

10 A. It was always spoken to us in a localised way, but it was
11 throughout Kosovo or throughout where we were dealing with the KLA.

12 JUDGE METTRAUX: Can we go back to Exhibit 1D7, please. Thank
13 you. And to the first page, please. Thank you. And if we can
14 scroll down a little. Thank you.

15 And I'll ask you to focus on number 2, Ms. Mitchell, Hetem
16 Jashari. First, it says that:

17 "[He] has been in detention for 19 days."

18 Now, doing basic math, that would suggest that he was detained
19 either in late January 1999 or early February 1999; correct?

20 A. Yes.

21 JUDGE METTRAUX: And was that information that he gave you
22 during the interview or was that information you received from the
23 persons detaining him?

24 A. Everything under the name would have been something that was
25 given to us by the detainee.

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

Page 10916

1 JUDGE METTRAUX: So looking at the next sentence, it says:

2 "He came to Llapashtica himself after having received a 's' from
3 the KLA."

4 Now, you told us the "s" stands for summons; right?

5 A. I believe so, yes.

6 JUDGE METTRAUX: And that again is information that he, Hetem
7 Jashari, would have given to you; correct?

8 A. Yes.

9 JUDGE METTRAUX: And then it goes on to say that:

10 "He is accused of collaboration with the enemy."

11 Do you see that?

12 A. Yes.

13 JUDGE METTRAUX: Now, can we please see SITF00069014. And the
14 Registry doesn't need to broadcast this to the public. Thank you.

15 So I'll just give you a moment to acquaint yourself with the
16 document.

17 If we could make it a page so that the witness can read it,
18 please. Thank you.

19 So just take a moment to go through it and tell me when you're
20 at the end of the page.

21 A. Yes, sir.

22 JUDGE METTRAUX: Can we please turn to the next page.

23 So while we're on it, two things here. There's a date, a
24 location, "Llapashtice 18.02.1999." Now, that's the day when you
25 actually went there and met with the detainees; is that right?

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

Page 10917

1 A. Yes.

2 JUDGE METTRAUX: And the signatory of this document is, I think
3 there's a translation problem here, but it's the commander of the
4 military police of the Llap zone region, someone whose nickname is
5 Dini. Does that ring a bell?

6 A. Drini rings more of a bell to me.

7 JUDGE METTRAUX: Well, we've been told that this Dini nickname
8 refers to someone called Nazif Mehmeti. Does that name ring a bell?
9 A member of the military police.

10 A. No.

11 JUDGE METTRAUX: Now can we go back to the first page of this
12 document.

13 Now, the first thing I want to ask you is this is a list of
14 persons detained by the KLA. And if we go to the top of the page,
15 please, in English, it says that it's the Kosovo Liberation Army, the
16 Llap operational zone. And it says in English "Military Army," which
17 we understand should refer to military police, and it's dated
18 18 February 1999. And then it has the name of eight detainees.

19 Now, looking at these names, ma'am, can you confirm whether
20 these would be the eight detainees whom you met on that day?

21 A. No.

22 JUDGE METTRAUX: "No" as in you don't know or "no" --

23 A. I don't -- I don't know. I would have to look at the other
24 document.

25 JUDGE METTRAUX: I'll go back to your own --

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

Page 10918

1 A. Yeah.

2 JUDGE METTRAUX: -- document in a second. But do you recall
3 being given a list of the people whom you would meet either by
4 Commander Drini or by someone of the military police in the Llap
5 zone?

6 A. I don't remember receiving a list.

7 JUDGE METTRAUX: Do you recall that in one of your reports, and
8 I'll show it to you if necessary, but that you record the fact - it's
9 P116 - that Commander Drini told you that you would be permitted to
10 see eight of the detainees? Do you recall that?

11 A. I don't, but I also don't --

12 MR. KEHOE: [Microphone not activated]

13 A. -- challenge it.

14 MR. KEHOE: With all due respect, Judge, I think you meant Remi.

15 JUDGE METTRAUX: You are correct, Mr. Kehoe. And I'm grateful
16 for that. It's Commander Remi, Rrustem Mustafa. Do you recall that
17 he told you that?

18 A. I don't, but I also don't challenge it. I simply don't
19 remember.

20 JUDGE METTRAUX: That's fine.

21 Now, can you confirm whether the commander of the military
22 police was present as well on 18 February when you went there, or did
23 you meet only with Commander Remi?

24 A. I remember meeting two individuals, one the commander and one
25 was somebody from the military -- from the police.

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

Page 10919

1 JUDGE METTRAUX: And that would have been the person who wanted
2 to participate in your meetings; right?

3 A. I believe so, yes.

4 JUDGE METTRAUX: Now, I want to ask you about the process by
5 which this meeting was approved, if you can recall, and maybe that
6 will help to see Exhibit P3.

7 It's another one of the reports by the OSCE, and you were shown
8 it last week. It refers to another meeting as is apparent from the
9 title. It's a record of meetings with the zone commander in Petrova
10 on 23 February 1999 regarding detention visits, but what interests me
11 is the second paragraph there. It says:

12 "I informed the Zone Commander that KVM had already successfully
13 established a contact with the Zone Commander in Llapashtica, who
14 allowed us to meet privately with eight ethnic Albanian detainees."

15 Stopping there for a second. Does that refresh your memory
16 about the number of detainees whom you met with on that day?

17 A. Yes.

18 JUDGE METTRAUX: And it goes on to say:

19 "I suggested this could be an opportunity to set precedence for
20 regular visits to all KLA detention facilities and that KVM
21 appreciated the positive gesture made by Zone Commander 'Remi'."

22 Now, do I get it from that that the meeting that you had on
23 18 February 1999 with, we know, eight detainees was approved by
24 Commander Remi?

25 A. Yes.

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

Page 10920

1 JUDGE METTRAUX: And can you recall whether he approved it on
2 the day or was it approved before you went to Llapashtice? Have you
3 any memory of the process?

4 A. We would have had approval before we left the office. Whether
5 it was earlier that morning or the day before, I don't recall.

6 JUDGE METTRAUX: And do you recall that when met with
7 Commander Remi on that day, 18 February, you were told by him that
8 the military police commander would be in charge of the
9 practicalities of that visit? Do you recall that?

10 A. Yes.

11 JUDGE METTRAUX: And as you were carrying out this visit, was
12 there a presence, a military police presence with you or close to you
13 as you were interviewing these detainees?

14 A. Yes.

15 JUDGE METTRAUX: And I want to ask you about something you
16 recorded. It's in P116, Exhibit P116.

17 Again, that's a document you were shown last week. And that
18 report would have been prepared within a week or so of your meeting.
19 Would that be right?

20 A. Yes.

21 JUDGE METTRAUX: And if I can ask you to focus on what is the
22 fourth paragraph in that document. It starts with "SM ..." which I
23 understand to be referring to you.

24 "[Sandra Mitchell] asked what the KLA intended to do with all
25 the detainees when a political settlement was reached which may

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

Page 10921

1 include some amnesty provisions. The ZC," which I understand to
2 refer to the zone commander, "did not appear to have given this
3 question any thought, so it was suggested that the KLA think about it
4 and discuss it with the LO."

5 Now, do you recall that exchange with Commander Remi?

6 A. Only because it's documented here.

7 JUDGE METTRAUX: And was that your idea to suggest that they
8 could adopt amnesties in relation to those they were holding?

9 A. No, my reference to amnesty provisions would have been as part
10 of a political settlement. That a political settlement would likely
11 include or may include some amnesty provisions.

12 JUDGE METTRAUX: Can we go back to your report, that's
13 Exhibit 1D7, once again.

14 I want to ask you a bit more details about the process of
15 interviewing these individuals. Now, I think you said it, but I
16 would like to hear it once again, is what was the purpose behind your
17 efforts to meet with KLA detainees such as these ones?

18 A. The purpose was to verify that there were detainees and to
19 determine what kind of conditions that they were kept in, who was
20 being detained, and why they were being detained.

21 JUDGE METTRAUX: Was it part of your purpose to try to avoid
22 harm being done to them? In other words, that by visiting them you
23 sought to prevent violence against them?

24 A. Well, certainly that's the large part of any detention facility
25 is you hope to shine a light on it, and by doing so you've set a

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

Page 10922

1 foundation for additional visits, that you could then make
2 comparisons to whether they've improved or worsened, et cetera. And
3 it would have also been to perhaps -- I don't recall, but perhaps we
4 had received specific information from a family member and we may
5 have wanted to report back to the family member.

6 JUDGE METTRAUX: How did you record those meetings? Did you use
7 any recording device or did you just take notes by hand?

8 A. There would have been no recording device. Both Susanne and I
9 would have taken notes.

10 JUDGE METTRAUX: And you would prepare a report about the visit,
11 I suppose, immediately after that visit; correct?

12 A. Yes, we would have done that together.

13 JUDGE METTRAUX: And is that, what we have in front of us, the
14 grand extent of what information you received from the detainees or
15 would there be more information that they gave you?

16 A. I don't think that there would have been any more information
17 that we would have been given except in the two documents.

18 JUDGE METTRAUX: And I think you told us that you met with these
19 individuals individually, in other words, one by one; correct?

20 A. That's right.

21 JUDGE METTRAUX: And how long do you estimate each of these
22 interviews or talks would have lasted?

23 A. 15 to 25 minutes.

24 JUDGE METTRAUX: And what was the process of the next
25 interviewee being brought in so that you could interview him?

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

Page 10923

1 A. The guard would come in and take one of the detainees out, and
2 then we would wait for the next one to be brought into the room where
3 we were sitting.

4 JUDGE METTRAUX: And do you know if those guards were members of
5 the military police?

6 A. I don't.

7 JUDGE METTRAUX: Now, if you look at the individual under 1 one,
8 Idriz Svarqa, it says that he had been in detention for about four
9 months. Do you see that?

10 A. Yes.

11 JUDGE METTRAUX: And that's information, again, you explained to
12 us, that he would have given to you; correct?

13 A. Yes.

14 JUDGE METTRAUX: And I should have shown it to you a moment ago,
15 but on the list of eight names that was drawn up by the military
16 police, it says that he would have been detained since 2 November
17 1998, so that's about four months give or take; correct?

18 A. Yes.

19 JUDGE METTRAUX: And as far as you can recall now, what was the
20 appearance of Mr. Svarqa? Was he frightened, fearful, confident?
21 Any impression you got from meeting him that you can recall today?

22 A. No, sir. My impressions that I have today when I think back on
23 this are impressions of the collective.

24 JUDGE METTRAUX: And what was the impression of the collective?

25 A. That they were frightened, submissive, quite calm. And as I

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

Page 10924

1 indicated, I felt that they had been coached a little bit on how to
2 behave because the behaviour was quite similar. No one was screaming
3 or yelling or crying during these meetings.

4 JUDGE METTRAUX: Still with Mr. Svarqa, your report says that:

5 "He has not had access to a lawyer, [he] did not know for when
6 his trial had been scheduled, and did not know how long he would
7 continue to stay in detention."

8 Do you recall what he was being accused of?

9 A. No.

10 JUDGE METTRAUX: Now, if you look at number 2, Hetem Jashari,
11 you can see that, as we've seen before, he's accused of collaboration
12 with the enemy. Now, do you know of any laws or provision that was
13 making it a criminal offence to collaborate with the enemy? And I'm
14 talking, of course, at that time.

15 A. Not specifically, no.

16 JUDGE METTRAUX: Were you shown any evidence, any documents that
17 suggested he had, in fact, been what is called a collaborator with
18 the enemy?

19 A. I recall that we were shown a stack of files. I recall there
20 were probably eight, one for each of the detainees, about this high.
21 Each file was a hard folder. You opened it up and it was divided
22 into sections like you would see at a police station, a MUP station,
23 that I had seen at them, but it was all in Albanian. And we did not
24 take copies or take custodies of those documents. They were referred
25 to, I think, as dossiers in the translation. And my impression was

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

Page 10925

1 that these were the files related to each of these individuals.

2 JUDGE METTRAUX: But you yourself were not able to assess the
3 content of these for yourself; correct?

4 A. That's correct.

5 JUDGE METTRAUX: And how did these meetings or meeting come to
6 an end?

7 A. With the conclusion of the last detainee being presented.

8 JUDGE METTRAUX: And by that stage, did you feel that the
9 individuals concerned were safe?

10 A. I'm hesitating because of what one thinks of "safe." Yes, they
11 were safe at that moment. Were they safe when we left, I have no
12 idea.

13 JUDGE METTRAUX: Did you feel you should follow up on them; and,
14 if yes, did you?

15 A. Yes, we would have shared this information with ICRC, the
16 Red Cross, who really has the mandate, the global mandate on this
17 issue but was being denied access.

18 JUDGE METTRAUX: And you yourself, did you make any, to use a
19 French word, démarche to try to get access to these individuals
20 later?

21 A. Possibly, sir. I'm just looking at the date. I'm sure we would
22 have tried to follow up, but we would have been quickly overtaken by
23 events.

24 JUDGE METTRAUX: Did you inform the families, the families of
25 these eight individuals, that you had been able to meet with them?

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

Page 10926

1 A. I did not, but this would have been also shared with the
2 regional office responsible for that, and they may have followed up
3 with the families.

4 JUDGE METTRAUX: But you don't know whether that's the case or
5 not; correct?

6 A. I do not.

7 JUDGE METTRAUX: Now, you told us, I think, you left the country
8 around 20 March and came back in the middle of June 1999. I want to
9 look at what happened while you were away.

10 And that's Exhibit P10, please. And the English, please. If
11 that helps, that's SITF00069026. Thank you.

12 Now, if you look at this document. It's named an amnesty. It
13 comes from the Kosovo Liberation Army, Llap operational zone. It has
14 a number. And it's dated 5 April 1999. And it's:

15 "Based on the political memorandums of the General Staff of the
16 KLA, the internal Regulation of the KLA, ... the Regulation of the
17 Civil Administration ..."

18 And it's adopted by the commander of the Llap operational zone
19 for the following persons. And we'll see who that concerns, but can
20 we first go to the next page so that you see the full document. It's
21 signed by the commander of the Llap zone. And, again, it's dated
22 5 April 1999, and we're being told what the reasoning is. And I'll
23 come back to that in a moment. And where it's being sent, to
24 evidence archives and parties.

25 Can we go back to the first page again.

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

Page 10927

1 Can you look at number 2 first, Idriz, father's name, Bajram,
2 Svarqa, from the village of Bellopoje, Podujeva, detained since
3 2 November 1998 at 1600. And under number 7, we have Hetem, father's
4 name Milaim, Jashari, born 1947 in Brece, his address, and he's
5 detained since 1 February 1999, 1400.

6 Does it look like the two of the individuals whom you met on
7 18 February and who you reported about in the document we saw a
8 moment ago?

9 A. Yes.

10 JUDGE METTRAUX: And have you ever seen this document, this
11 so-called amnesty?

12 A. No.

13 JUDGE METTRAUX: And after your meeting with Remi, when you
14 suggested amnesties were a good idea once a political settlement was
15 reached, were you ever told that the KLA had ever started issuing,
16 quote/quote, amnesties for those detained?

17 A. No.

18 JUDGE METTRAUX: Can we go to the next page, please. You see
19 here under the title "Reasoning," it explains that:

20 "The decision as per the enacting clause is brought according to
21 the decision on the Amnesty issued by the Commander of the Llap
22 region, number ... considering that after the measures taken by the
23 investigative military bodies the rehabilitation of these persons has
24 been achieved."

25 And it goes on to say:

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

Page 10928

1 "Also considering the large offensive of the Serb enemy we are
2 not able to assure security conditions for the above mentioned,
3 therefore, they are all issued separated decisions and investigations
4 on them continue."

5 First, were you aware that the eight individuals whom you met or
6 that any of the individuals whom you met on 18 February 1999 were
7 subject to investigations at the time?

8 A. Investigations by the KLA? They may have told us that they were
9 being -- they didn't know why they were being detained, but I wasn't
10 aware of specific investigations, no.

11 JUDGE METTRAUX: And were you aware, were you ever told, or did
12 you ever receive any information that any of these individuals were
13 actually released from KLA custody? And, I mean, in particular, the
14 two we've seen a moment ago?

15 A. No, I have no memory of that.

16 JUDGE METTRAUX: Can the Registry bring up, that's SITF00243091
17 to 00243150. And I'll ask the Registry to go specifically to page
18 SITF00243130.

19 So for context, and for yourself, Ms. Mitchell, this is a
20 document that is part of a larger notebook which we understand was
21 retrieved by Serbian forces in Kosovo.

22 Now, if you have that document in front of you, you will see
23 there's five columns: Number, name, father's name, family name,
24 birthplace, birthday, start of detention, end of detention, and who
25 ordered the detention. Can you see that?

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

Page 10929

1 A. Yes.

2 JUDGE METTRAUX: And if you look at number 3, it's referring to
3 Idriz, father's name, Bajram, Svarqa from Bellopoje. It says that
4 the start of detention was 2 November 1998. It says 1500. I think
5 it was 1600 in the previous document. And then it suggests that end
6 of detention occurred on 5 April 1998. Do you see that?

7 A. Yes.

8 JUDGE METTRAUX: I think it should be 1999, to be logical. But
9 do you agree that this would appear to match what we've seen in the
10 so-called amnesty document a moment ago?

11 A. Yes.

12 JUDGE METTRAUX: And do you know whether Mr. Svarqa was, in
13 fact, ever released from KLA detention?

14 A. No.

15 JUDGE METTRAUX: If we can go to page SITF00243136. And if you
16 look under number 31, there's Hetem, father's name Milaim, Jashari,
17 born in Brece, his address. It says the detention started on
18 1 February 1999, 1400; end of detention, 5 April 1999, 10.00 a.m. So
19 on this record, 30 minutes before the other individual, Mr. Svarqa.

20 The same question. Were you ever told by anyone that
21 Mr. Jashari had, in fact, been released from KLA detention?

22 A. No.

23 JUDGE METTRAUX: And more generally, do you know what happened
24 to either or both of these individuals? Did you make any inquiry
25 with anyone, ICRC, the family, or any third party?

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

Page 10930

1 A. No.

2 JUDGE METTRAUX: Thank you. The document can be taken down.

3 Now, something you said to the parties last week is that you and
4 a number of your colleagues were involved in seeking to ensure the
5 release of a number of KLA detainees; is that correct?

6 A. Yes.

7 JUDGE METTRAUX: And is it fair to suggest that depending on who
8 that detainee or detainees were, the level of authority required
9 would go up or down your chain? In other words, if someone was a
10 more important detainee, some of your colleagues up the chain of
11 command might take over that responsibility; is that fair?

12 A. Yes.

13 JUDGE METTRAUX: Including Ambassador Walker; right?

14 A. I believe so, yes.

15 JUDGE METTRAUX: And today, I know it's been some time, but can
16 you remember such specific cases?

17 A. I can. I can remember KVM, I believe, taking custody of the
18 body or bodies of some Serbian police or VJ at one point. And then I
19 can remember KVM also intervening with other Serbian police. I think
20 it would have been primarily police that may have been captured.

21 JUDGE METTRAUX: And would the level of interlocutors also go up
22 or down on the KLA side depending on who the detainees were?

23 A. Yes.

24 JUDGE METTRAUX: And were there occasions that you can recall
25 where members of the General Staff were involved in the release of

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

Page 10931

1 detainees?

2 A. I don't recall those specifics. But certainly with regards to
3 the release of Serbian police that had been detained, my impression
4 was that would not have been within the authority of an individual.
5 That would have to go up a chain.

6 JUDGE METTRAUX: We've seen on a number of occasions that when
7 high-level detainees would be released, there would be a media
8 presence sort of greeting their release. Are you aware of such
9 cases?

10 A. Not at the site of the release. I remember them -- the releases
11 being extremely tense situations, taking place usually at night, with
12 a lot of KVM planning involved. Very much a quasi-military type
13 operation. Meaning, the military side of the KVM managed it.

14 There may have been some media. But at the actual point of
15 release, I'm not sure.

16 JUDGE METTRAUX: It's okay.

17 A. Yeah.

18 JUDGE METTRAUX: I want to ask you about something else you
19 said, and that's in your 2014 SITF statement. And maybe we'll just
20 bring it up. That will be easier.

21 It's ERN 013312. And I'll ask the Registry to go to page 6,
22 that's ERN 013317. And if we can scroll down to paragraph 14, 1-4.
23 Thank you.

24 Can you please acquaint yourself with the content of that
25 paragraph, Ms. Mitchell.

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

Page 10932

1 A. Yes, sir.

2 JUDGE METTRAUX: Now, what I understand you to say, in
3 particular in the first few sentences of that paragraph, is that your
4 access, and correct me if I'm wrong, but your access to Albanian
5 detainees was a great deal more difficult than your access to Serbian
6 detainees. Would that be fair?

7 A. Yes.

8 JUDGE METTRAUX: And how did that materialise? In what way was
9 it more complicated for you to have access to Albanian detainees?

10 A. The Albanian detainees were often in the areas that the KLA
11 controlled, so they held the territory and they controlled the
12 villagers. And as a result, the Serb authority was not inside
13 administering any type of services, including policing. And the KLA
14 felt that this was their responsibility, and that they were
15 performing this duty.

16 They were much less -- much more reluctant on Kosovo Albanians
17 because they did believe or at least they said that this was their
18 policing function. The Serbian -- when they had Serbian prisoners,
19 there was just a lot more information because we were receiving it
20 from the Serbian authorities.

21 JUDGE METTRAUX: Thank you. And I think you're entitled to a
22 break, Ms. Mitchell. I will be very short after the break.

23 PRESIDING JUDGE SMITH: We will take a half-hour break at this
24 time. You will be escorted from the courtroom. Do not speak to
25 anyone about this case. We'll see you back here at 11.30.

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: We are adjourned until 11.30.

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

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

5 PRESIDING JUDGE SMITH: We have a couple of -- or at least one
6 preliminary matter to discuss.

7 The Panel notes that Prosecution Witness W00498 is scheduled to
8 testify later this week. On Friday, the Witness Protection and
9 Support Office notified the Panel and the parties, in F01992, that it
10 consulted the witness and he identified several potential --

11 [Trial Panel and Court Officer confers]

12 PRESIDING JUDGE SMITH: Please, into private session. Sorry, my
13 mistake, Madam Court Officer.

14 [Private session]

15 [Private session text removed]

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19 [Open session]

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

21 PRESIDING JUDGE SMITH: Thank you.

22 MS. MAYER: My apologies, too. I think I said "tomorrow,
23 Wednesday." Those are not the same thing. Today is Monday. So I
24 meant Wednesday instead of Thursday.

25 PRESIDING JUDGE SMITH: Thank you. That was my understanding.

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

Page 10936

1 MR. KEHOE: [Microphone not activated]

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: All right, Witness. We're ready to
4 continue with the questions from Judge Mettraux.

5 JUDGE METTRAUX: Good morning, Witness.

6 Now, you told us last week that on a number of occasions when
7 you met with KLA commanders, they told you about regulations and
8 procedures they had in place to deal with disciplinary matters. Do
9 you recall telling us that?

10 A. Yes.

11 JUDGE METTRAUX: Do you know or have information that these
12 rules and procedures were ever put in motion to deal with allegations
13 of murder or enforced disappearance that you were reporting to the
14 KLA leadership?

15 A. No.

16 JUDGE METTRAUX: Do you know if they were ever put in motion to
17 deal with allegations of unlawful or arbitrary detention or
18 mistreatment in detention?

19 A. No, only -- I was only ever told that they existed.

20 JUDGE METTRAUX: And when you met KLA leaders, including
21 Mr. Thaci, and were reporting those allegations, did they ever show
22 any interest in obtaining from you the information on which you based
23 those allegations?

24 A. Yes.

25 JUDGE METTRAUX: And did you provide them with that information?

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

Page 10937

1 A. Sometimes.

2 JUDGE METTRAUX: And do you know whether they followed up and
3 acted upon it?

4 A. I don't recall ever anybody circling back and closing a matter
5 with me, that it had been resolved by answering my questions.

6 JUDGE METTRAUX: Well, maybe you've answered my next question,
7 but do you know of any of the cases that you or your organisation
8 reported to them that were solved, in the sense of being investigated
9 and subject to a process?

10 A. Only the release of some of the Serbian combatants, but no,
11 nothing else.

12 JUDGE METTRAUX: Now, you told us last week, and you repeated it
13 to my colleague, Judge Barthe, that you were given a number of
14 responses, if I may put it that way, when you were raising these
15 issues of human rights violations with KLA leaders. And one of them
16 was that this was not KLA members; another one was that subcategory
17 of it, that these were impersonators. And on 5 December, last week,
18 page 10603, you said this in the same general context, and I'll read
19 it back to you. You said he, talking about Mr. Thaci:

20 "He'd also -- the UCK at this point would have been saying that
21 policing is no longer their responsibility. It is the responsibility
22 of KFOR or -- which was the multinational force, or the UNMIK, the UN
23 Mission in Kosovo, which wouldn't have been very many police on the
24 ground at that point in time."

25 Do you recall telling us that and, I think, repeating it this

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

Page 10938

1 morning?

2 A. Yes.

3 JUDGE METTRAUX: Did you accept that explanation that, from that
4 point onwards, the KLA leadership was not anymore responsible for
5 these matters you were bringing to their attention?

6 A. No, I did not.

7 JUDGE METTRAUX: And what about your organisation? Did your
8 organisation accept that suggestion?

9 A. I don't believe so.

10 JUDGE METTRAUX: Did you consider that these individuals you
11 were meeting still bore a responsibility to address these matters?

12 A. Yes.

13 JUDGE METTRAUX: And I think you told us that they, being the
14 KLA, continued to perform police functions, certain police function.
15 Do I understand correctly that this includes the time after the UN
16 had entered Kosovo?

17 A. Yes.

18 JUDGE METTRAUX: And did that include arresting people,
19 including after the UN had entered Kosovo?

20 A. Yes.

21 JUDGE METTRAUX: And to your knowledge, was any of these people
22 who were being arrested by the KLA individuals suspected of
23 committing the crimes which you had reported to them? Are you able
24 to say that?

25 A. I'm not sure.

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

Page 10939

1 JUDGE METTRAUX: Now, you told us you met with Mr. Thaci a
2 number of times, including after the UN had entered Kosovo, and
3 you -- in effect, you and your organisation made demands on him to
4 intervene with the KLA or the KLA members; is that right?

5 A. Yes.

6 JUDGE METTRAUX: Did he ever tell you that he had nothing to do
7 with it anymore now that he was a member of the Provisional
8 Government of Kosovo, or did he respond otherwise to your request?

9 A. I never recall him saying he had nothing to do with the KLA.

10 JUDGE METTRAUX: Thank you. Thank you, ma'am.

11 PRESIDING JUDGE SMITH: Judge Gaynor.

12 JUDGE GAYNOR: Thank you, Judge Smith.

13 Good morning, Ms. Mitchell. I've a couple of questions about
14 the command structure of the KLA.

15 Now, on 7 December - this is at page 12 of the temporary
16 transcript for the other participants in the courtroom - you were
17 asked a question:

18 "The Serb structure was very vertical and it would fair to say
19 that the KLA structure was horizontal from zone to zone; is that
20 right?"

21 Your answer was:

22 "Yes."

23 Later on you were asked a similar question at page 16 of the
24 7th December temporary transcript. You were asked:

25 "The Serb structure was very vertical, and it would be fair to

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

Page 10940

1 say that the KLA structure was horizontal from zone to zone; is that
2 right?

3 "A. Yes."

4 Later on you were asked:

5 "... with regard to the vertical and horizontal chain of
6 command, you would agree with me that the Serbs were vertical,
7 whereas the KLA was, in fact, horizontal?

8 "A. Not quite so simple ..."

9 And then it was put to you later on:

10 "... as you noted previously, that there was no central command
11 within the KLA."

12 Your answer:

13 "They had a General Staff."

14 THE INTERPRETER: Interpreters kindly ask the Judge to slow down
15 when quoting. Thank you very much.

16 JUDGE GAYNOR: Your answer was:

17 "They had a General Staff. I'm not sure if we're using the same
18 language or not.

19 "Q. And I'm just talking to you about what you testified in
20 Milutinovic, that it was not unified in a central coordinated way,
21 that it was not like the Serbs, that you had to go to the local
22 commanders ..."

23 Your answer:

24 "Yes."

25 Do you recall that evidence?

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

Page 10941

1 A. Yes.

2 JUDGE GAYNOR: Now, don't take these questions as a criticism of
3 your work in Kosovo in any way, but would you describe analysis of
4 the KLA command structure as one of your core functions or
5 responsibilities at any stage while you served in Kosovo?

6 A. It was not.

7 JUDGE GAYNOR: Did you have the opportunity to see any internal
8 KLA communications from the brigade level to the zone command level
9 in any of the operational zones?

10 A. No.

11 JUDGE GAYNOR: Did you have the opportunity to review
12 communications between zone commanders of the General Staff or from
13 the General Staff to zone commanders?

14 A. No.

15 JUDGE GAYNOR: Did you review communiqués or political
16 declarations issued by the KLA?

17 A. Not that I remember.

18 JUDGE GAYNOR: And within the military police of the KLA
19 specifically, did you have the opportunity to review communications
20 by, for example, military police commanders at the brigade level or
21 at the zone level or at the General Staff level?

22 A. Not that I recall.

23 JUDGE GAYNOR: Thank you very much. Those are my only
24 questions.

25 PRESIDING JUDGE SMITH: Thank you, Judge Gaynor.

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10942

1 Any questions from the Prosecution on these questions by the
2 Judges -- that came up from the Judges?

3 MS. MAYER: No, Your Honour.

4 PRESIDING JUDGE SMITH: All right.

5 MR. KEHOE: [Microphone not activated]

6 PRESIDING JUDGE SMITH: Oh, I think that she's -- oh, nothing.
7 Okay. Go ahead.

8 MR. KEHOE: [Microphone not activated]

9 PRESIDING JUDGE SMITH: Go ahead.

10 MR. KEHOE: [Microphone not activated]

11 Further Cross-examination by Mr. Kehoe:

12 Q. Ms. Mitchell, I promise this won't be extensive, as I'm sure you
13 shudder as I stand at the podium, so I promise it won't be too long.
14 Just a couple of questions based on what the Judges were asking you
15 this morning.

16 And you noted for us that -- and this is in response to a
17 question by Judge Barthe about the people at meetings from the KLA
18 side were deferring to Mr. Thaci. Do you recall that?

19 A. Yes.

20 Q. Now, Mr. Thaci was -- these were political meetings, right,
21 between you and Dr. Kouchner and other international representatives,
22 weren't they?

23 A. Yes.

24 Q. And you were talking about a variety of political affairs;
25 right?

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10943

1 A. Yes.

2 Q. So you would agree with me that with the political tenor of
3 these meetings, it would be quite natural for the others in the
4 meeting to defer to the person who was essentially the political
5 spokesperson; isn't that right?

6 A. Yes.

7 Q. And that was Mr. Thaci under those circumstances?

8 A. Yes.

9 Q. Now, you are aware of this Joint Implementation Commission that
10 was run by General Jackson and his staff that had KLA commanders and
11 General Ceku there, and I say commanders including zone commanders.
12 Do you recall that?

13 A. Yes, I'm aware of the structure.

14 Q. Yeah. And those meetings, you know --

15 PRESIDING JUDGE SMITH: Was that brought up by the Judges'
16 questions?

17 MR. KEHOE: Well, to the extent that he was talking about
18 deferring to President Thaci, this is a parallel situation where they
19 didn't defer to Thaci. When the KLA leaders are in these joint --

20 PRESIDING JUDGE SMITH: I think we're going to confine this to
21 the questions asked by the Judges.

22 MR. KEHOE: Well, it's just a parallel situation. We are
23 talking about political meetings.

24 PRESIDING JUDGE SMITH: Okay. Then go ahead with that question,
25 but then we'll get --

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10944

1 MR. KEHOE:

2 Q. So the Joint Implementation Commission was a military matter;
3 isn't that right?

4 A. Yes. I did not attend.

5 Q. And under those circumstances, were you aware --

6 PRESIDING JUDGE SMITH: Just a second. She just said she didn't
7 attend.

8 THE WITNESS: I didn't attend the military meetings.

9 MR. KEHOE:

10 Q. I understand. But based on your work there, were you aware that
11 in these military meetings, the zone commanders and military
12 commanders on the KLA side did not defer to Thaci and basically
13 ignored him? Were you aware of that?

14 A. No.

15 Q. Now, the information that you were asked by Judge Barthe about,
16 shadowy elements and the intelligence service, et cetera, it would be
17 fair to say you don't know that of your own personal knowledge. You
18 culled that from your conversations with KFOR leaders; isn't that
19 right?

20 A. Yes.

21 Q. And you talked a bit in response to questions by Judge Barthe
22 about the investigation of crimes by the KLA, and I think you told us
23 that Mr. Thaci said that KFOR and UNMIK were responsible for that;
24 isn't that right?

25 A. Yes.

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10945

1 Q. And that was true, wasn't it, that they were, in fact,
2 responsible for the investigation and prosecution of people involved
3 in crimes after 1244 came into existence; isn't that right?

4 A. Yes.

5 Q. And with regard to, for instance, arrests -- I mean, obviously,
6 we said this during direct. You were asked these questions by
7 Judge Mettraux concerning the KLA and what, in fact, they -- whether
8 or not you accepted their explanations on not being able to do
9 things.

10 In fact, there were no -- I think we established no laws, no
11 judges, no courts, and, in fact, the KLA had no authority to make
12 arrests and prosecute; isn't that right?

13 A. Yes.

14 Q. You were asked some questions by Judge Barthe about Mr. Thaci
15 making statements in public. It is a fact, based on your testimony
16 but also what was introduced into evidence, that Mr. Thaci was
17 condemning violence and asking for the Serbs to come back and asking
18 for a multicultural Kosovo, he was doing that in the international
19 media and the local media, wasn't he?

20 MS. MAYER: Objection. This was all asked and answered on
21 cross-examination. There's nothing new here.

22 MR. KEHOE: No, there was a question asked by Judge Barthe on
23 this.

24 PRESIDING JUDGE SMITH: Overruled.

25 Go ahead.

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10946

1 MR. KEHOE:

2 Q. That was in the international and the local media, wasn't it?

3 A. Yes.

4 Q. Now, Judge Mettraux asked you about the Panda bar and the
5 admission by the Serb authorities that the Serbs had been responsible
6 for the murders in Pec at the Panda bar. Based on your experience,
7 that is the only time that you have ever heard of when the Serbs
8 actually took responsibility for murders that they had previously
9 blamed on the Kosovo Albanians, isn't it? It's the only time you
10 ever heard of such a thing, isn't it?

11 A. Yes.

12 Q. Now, we were talking about collaborators, and you gave some
13 information to Judge Mettraux about collaborators. Were you aware
14 that some of these collaborator lists were made by people in the
15 villages who may have had revenges against some people on the list or
16 were trying to settle some personal scores? Were you aware of that?

17 A. Yes.

18 Q. And I'm jumping around a bit because I'm not covering
19 everything. I'm just going to cover -- and just to clarify this
20 meeting that you had on 18 February in Llapashtice, I'm not sure it's
21 clear after one of the questions that was asked by Judge Mettraux but
22 -- when he asked questions about bringing prisoners in and out. The
23 fact is that you were alone in that room, you and Ms. Ringgaard were
24 alone in the room with the detainee individually, weren't you?

25 A. Most of the time, yes.

1 MR. KEHOE: And, in fact, just -- if we can just put 1D7 up.

2 Q. Just some follow-up on some questions by Judge Mettraux when he
3 asked you the purposes of this meeting.

4 And just taking a look at that, we'll address ourselves to that.
5 In fact, you know, some of these detainees -- and we can look at
6 number 2, Mr. Hetem Jashari. He, in fact, told you that he had had a
7 medical problem, a spinal cord problem, that his health was not good,
8 and that he had in fact received attention from a medical
9 professional; right?

10 A. Yes.

11 Q. So based on the conversation that you had with this particular
12 detainee who told you about a pre-existing injury, he maintained that
13 he received the medical attention that he needed, didn't he?

14 A. Yes.

15 Q. Okay. And if we go to the first person that Judge Mettraux was
16 talking about, Idriz Svarqa, if we can just read that briefly, he
17 was, in fact, visited by the ICRC; right?

18 A. Yes.

19 Q. And just to just refresh us a bit, the problem with the ICRC and
20 their refusal to have some of these meetings with detainees was that
21 they wanted to have the interviews without any people in there and
22 they were refused; right?

23 A. Yes.

24 Q. But in this instance when you did it, it was granted to you.
25 You were allowed to see these detainees with you and just

1 Ms. Ringgaard and the detainees; right?

2 A. Yes.

3 Q. And I think just referring to this -- I mean, obviously, in
4 response to some questions by I believe it was Judge Mettraux,
5 talking about these individuals being frightened, submissive, calm,
6 or coached, again, none of that's in this report that we have on the
7 screen, none of that information, is it?

8 A. No.

9 Q. Now, you talked to us a little bit about -- just now about Thaci
10 saying that he had -- not saying that he had nothing to do with the
11 KLA, et cetera. And you were also asked some questions by
12 Judge Barthe about the -- a variety of situations. Mitrovice, where
13 you testified that President Thaci intervened several times to try to
14 bring calm there; is that right?

15 A. Yes.

16 Q. And Mitrovice was a very, very, very volatile area in the north,
17 wasn't it?

18 A. Yes.

19 Q. And I believe last week you saw the video of him speaking, I
20 believe, in late June 1999, trying to calm the crowd and telling
21 people that the Serbs have a right to live here as well as the Kosovo
22 Albanians; right?

23 A. Yes.

24 Q. And then you also talked to us about the situation with the Roma
25 under the bridge in Peje, as well as getting the, you know,

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10949

1 children -- or enabling the children to go to school safely. Those
2 instances that I believe Judge Barthe referred to. Right?

3 A. Yes.

4 Q. And all of those situations and in the other situations that
5 occurred, President Thaci is trying to calm down the situation, calm
6 down the violence, and allow these people to live in peace, wasn't
7 he?

8 A. Yes.

9 Q. And at the same time, he was doing that while calling on the
10 Serbs to come back and have interethnic resolution of any conflict so
11 that they could have a multicultural society, wasn't he?

12 A. Yes.

13 MR. KEHOE: If I might have one moment, Your Honour.

14 [Specialist Counsel confer]

15 MR. KEHOE:

16 Q. Just one last question raised by my colleague. You answered
17 some questions about the chain of command that Judge Gaynor had asked
18 you, and your impression was that it was a horizontal chain of
19 command. And I take it that you did not review VJ documents or MUP
20 documents for you to come to your conclusion that their command was a
21 vertical chain of command; is that accurate?

22 A. Yes.

23 Q. But your impressions about the differences between the KLA being
24 horizontal and the VJ or MUP being vertical are based on your
25 experiences in the field and your conversations with your LOs who

Witness: Sandra Mitchell (Resumed) (Open Session)
Further Cross-examination by Mr. Kehoe

Page 10950

1 were part of KVM; right?

2 A. Yes.

3 Q. Excuse me?

4 A. Yes.

5 Q. Thank you very much, Ms. Mitchell. I have no further questions.

6 MR. KEHOE: Thank you, Your Honour.

7 PRESIDING JUDGE SMITH: Ms. O'Reilly, do you have any questions?

8 MS. O'REILLY: No, we don't. Thank you.

9 PRESIDING JUDGE SMITH: Mr. Roberts.

10 MR. ROBERTS: Nothing from me, Your Honour. Thank you.

11 PRESIDING JUDGE SMITH: Mr. Ellis.

12 MR. ELLIS: No, thank you, Your Honour.

13 PRESIDING JUDGE SMITH: All right. Witness, you are finished
14 with your testimony. We thank you for being here and for your
15 answers to all the questions to the best of your ability. You may go
16 with the Court attendant now, and enjoy the rest of your day.

17 THE WITNESS: Thank you, sir.

18 [The witness withdrew]

19 PRESIDING JUDGE SMITH: Judge Mettraux asked the floor for a
20 moment.

21 JUDGE METTRAUX: And it's a request to the SPO, Ms. Mayer. I
22 showed the witness a document, that's SITF00069014. And there
23 appears to be a problem with the translation into English. In
24 particular, the reference to the military army.

25 Could you look into that and advise us on this once you've

1 spoken to people who speak the language? Thank you.

2 MS. MAYER: Absolutely, Your Honour.

3 JUDGE METTRAUX: Thank you.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Before we leave the subject of this particular witness who has
6 completed her testimony, I'd like to speak briefly on the subject of
7 the SPO's procedure in connection with this last witness.

8 The SPO filed a request many months ago seeking admission of
9 seven prior statements and transcripts of Mitchell and 19 associated
10 exhibits all under Rule 154. The Defence teams responded in a joint
11 response. The Panel issued its decision on 16 March 2023, which was
12 entitled the "Decision on the admission of evidence of the first 12
13 SPO Witnesses pursuant to Rule 154."

14 11 pages of the decision dealt exclusively with Ms. Mitchell.
15 The Panel decided to allow the use of Rule 154 for this witness for
16 all seven prior statements, and the associated exhibits were
17 discussed in detail in the decision. Most were deemed suitable for
18 admission.

19 Nevertheless, the SPO conducted an extensive direct examination
20 vastly exceeding its own prior estimate, dispensed entirely with
21 Rule 154, and used up valuable Court time showing documents to the
22 witness that the Panel had already assessed in detail and deemed
23 suitable for admission under Rule 154.

24 The SPO's approach to this witness amounts to a misuse of
25 courtroom time. The SPO triggered the use of a lot of SPO, Defence,

1 and Chamber resources in addressing the 154 request.

2 The Panel feels obligated to read all the statements and to
3 examine the associated exhibits before its 154 decision. And
4 needless to say, on this witness it meant all of us devoting many
5 hours to this task, and I'm sure the Defence did as well.

6 Despite the request being granted almost in its entirety, the
7 SPO basically ignored it and used up hours of courtroom time
8 addressing matters already addressed in the witness's prior
9 statements, and then put to the witness in a very perfunctory way
10 several exhibits already discussed at length in her prior statements.

11 We expect this type of misuse of our time does not occur again.
12 We encourage the use of 154 and we also encourage the use of live
13 witnesses. But once you make a decision and commit us to our
14 involvement in it, it makes no sense to abandon that later on in the
15 process.

16 So that being said, we will take a ten-minute break to allow you
17 to reorganise for the next witness, who will be Witness W01763.

18 So we're adjourned for ten minutes.

19 --- Recess taken at 12.03 p.m.

20 --- On resuming at 12.13 p.m.

21 PRESIDING JUDGE SMITH: Could we go into private session,
22 please, for purposes of an oral order.

23 [Private session]

24 [Private session text removed]

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18 [Open session]

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

20 PRESIDING JUDGE SMITH: Thank you.

21 [The witness entered court]

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 I'm sorry. Now can you hear me?

24 THE WITNESS: [Interpretation] Yes.

25 PRESIDING JUDGE SMITH: The Court Usher will now provide you

Witness: Dejan Jeftic (Open Session)
Procedural Matters

Page 10954

1 with the text of a solemn declaration which you are asked to take
2 pursuant to Rule 141(2) of our rules. Please read the document and
3 then recite it out loud.

4 THE WITNESS: [Interpretation] Conscious of the significance of
5 my testimony and my legal responsibility, I solemnly declare that I
6 will tell the truth, the whole truth, and nothing but the truth, and
7 that I shall not withhold anything that has come to my knowledge.

8 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated
9 now.

10 THE WITNESS: [Interpretation] Thank you.

11 WITNESS: DEJAN JEFTIC

12 [The witness answered through interpreter]

13 PRESIDING JUDGE SMITH: Witness, today we will start your
14 testimony, which is expected to last approximately five hours.

15 As you may know, the Prosecution will ask you questions first
16 and then the Defence will. Members of the Panel might also ask
17 questions of you.

18 The Prosecution estimate for your examination is one hour. The
19 Defence estimates that it will need four hours. As regards each
20 estimate, we hope that counsel will be judicious in their use of
21 their time. And the Panel may allow redirect examination if
22 conditions for it are met.

23 Witness, please try to answer the questions clearly and with
24 short sentences. If you don't understand a question, feel free to
25 ask counsel to repeat the question, or tell them that you don't

1 understand and they will clarify.

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

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

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

11 During the next days while you are giving evidence in this
12 Court, you are not allowed to discuss with anyone the content of your
13 testimony outside of this courtroom. If any person asks you
14 questions outside about this court or your testimony, please let us
15 know.

16 Please also note that when talking, if I ask you to stop talking
17 or if I raise my hand, that means to stop talking because I will need
18 to give you an additional instruction.

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

21 We begin with the questions from the Prosecution, who are at
22 your left.

23 Mr. Prosecutor, you have the floor.

24 Examination by Mr. Michalczuk:

25 Q. Good afternoon, Witness.

Witness: Dejan Jeftic (Open Session)

Page 10956

Examination by Mr. Michalczuk

1 A. Good afternoon.

2 THE INTERPRETER: Interpreter's note: We can hardly hear the
3 witness. He has to come closer to the microphone.

4 MR. MICHALCZUK:

5 Q. Good afternoon, Witness. My name is Cezary Michalczuk. I am
6 the counsel for the Prosecution, and I'll be asking you some
7 questions for the next hour or so. Are you ready?

8 A. Yes, of course.

9 Q. Thank you. Could you please state for the record your full name
10 and surname.

11 A. Dejan Jeftic.

12 Q. Could you please state your date of birth, please.

13 A. 7 July 1979.

14 Q. Witness, in the past you gave a statement to the SPO. I will
15 now call it up on the screen.

16 MR. MICHALCZUK: And I would ask Madam Court Officer to pull up
17 the following document in the English and Serbian versions. English
18 would be 078045-TR-ET Part 1 RED 2, and the Serbian document would
19 bear the same number with -ST Part 1 RED.

20 Q. Witness, do you have it in front of you on the screen? Can you
21 see it?

22 A. Yes, I can see it.

23 Q. This is the interview dated 4 September 2020 given to the SPO.
24 Did you give this statement?

25 A. Yes, I remember this statement.

Witness: Dejan Jeftic (Open Session)

Page 10957

Examination by Mr. Michalczuk

1 Q. Witness, during the recent witness preparation meeting that we
2 had on the 5th and 6th December, just last week, were you given an
3 opportunity to review this prior statement?

4 A. Yes.

5 Q. Do you recall that you made some clarifications to this
6 statement during that preparation meeting?

7 A. Yes.

8 Q. Were those clarifications reflected in a note that was read back
9 to you at the end of the preparation meeting?

10 A. Yes.

11 Q. Can you confirm that what was read back to you in the note
12 reflected your clarifications fully and accurately?

13 A. Yes, of course.

14 Q. Subject to the clarifications provided in that note, does your
15 SPO written statement accurately reflect your evidence and what you
16 would say if you were asked again the same questions in court?

17 A. Yes, I would give the same answers.

18 MR. MICHALCZUK: Your Honours, having fulfilled the Rule 154
19 criteria, and in accordance with decision F01976, the SPO hereby
20 tenders the witness's prior statement in English, Albanian, and
21 Serbian versions, and I also tender the preparation note 1 dated
22 6 December 2023, ERN 117752 to 117753.

23 Shall I read the numbers of all these -- all the statements in
24 three languages?

25 PRESIDING JUDGE SMITH: Any objection?

Witness: Dejan Jeftic (Open Session)

Page 10958

Examination by Mr. Michalczuk

1 MR. KEHOE: Other than those previously raised, no objection.

2 PRESIDING JUDGE SMITH: Ms. O'Reilly.

3 MS. O'REILLY: No objection, Your Honour.

4 MR. TULLY: No objection, Your Honour.

5 MR. BAIESU: No objection.

6 PRESIDING JUDGE SMITH: 078045-TR-ET Part 1 RED2 and the same
7 number TR-ST Part 1 RED2, plus the Albanian translation, and the
8 Preparation Note 1, which is ERN -- is it 117752?

9 MR. MICHALCZUK: Your Honours, we've got actually three parts in
10 English, so maybe I will read them. Because we've got three parts in
11 English, three parts in Albanian, three parts also in Serbian. And
12 the Serbian version would be 078045-TR-ST Part 1 to 3.

13 PRESIDING JUDGE SMITH: That's what I said.

14 MR. MICHALCZUK: Oh, yes, yes. If this is the case, Your Honour
15 this is --

16 PRESIDING JUDGE SMITH: So you have an Albanian number also?

17 MR. MICHALCZUK: Yes, yes. So this is 078045-TR-AT Parts 1 to
18 3.

19 PRESIDING JUDGE SMITH: And the prior statement?

20 MR. MICHALCZUK: So this is the prior statement, Your Honour.

21 PRESIDING JUDGE SMITH: All right. Those are all admitted into
22 evidence and will be assigned a number.

23 THE COURT OFFICER: Your Honours, for the record, so Part 1 of
24 the prior statement is 078045. Together it has Serbian and Albanian
25 version of the transcript. That will be assigned Exhibit P756.1.

Witness: Dejan Jeftic (Open Session)

Page 10959

Examination by Mr. Michalczuk

1 Part 2 for the transcript at 078045-TR-ET Part 2 RED2, together
2 with the Serbian and Albanian versions, will be P756.2.

3 And then Part 3 for the prior statement under 078045-TR-ET
4 Part 3 RED, with the Albanian and Serbian versions, will be P756.3.

5 And for the preparation note under 117752 to 117753 will be
6 Exhibit P757.

7 And I note, Your Honours, that they're all classified as
8 confidential. Perhaps that can be clarified.

9 MR. MICHALCZUK: They should remain as such, Your Honours, for
10 now.

11 PRESIDING JUDGE SMITH: I'm sorry?

12 MR. MICHALCZUK: They should remain as confidential as such.

13 PRESIDING JUDGE SMITH: You want them to remain confidential?

14 MR. MICHALCZUK: For now. We can change the classification
15 later.

16 PRESIDING JUDGE SMITH: Okay.

17 MR. MICHALCZUK: Your Honours, I propose to read a short summary
18 of the witness's 154 statement.

19 PRESIDING JUDGE SMITH: Go ahead.

20 MR. MICHALCZUK: On or around 4 July 1998, W01763, a man of Serb
21 ethnicity from Movljane village, municipality of Suva Reka, was
22 arrested together with two relatives close to Movljane by armed
23 Albanians, some wearing black uniforms.

24 The three Serbs were taken to a house in Budakove where they
25 were blindfolded and their hands were tied. Then they were kicked

Witness: Dejan Jeftic (Open Session)

Page 10960

Examination by Mr. Michalczuk

1 and beaten with rifles and chains, and thrown into a bunker located
2 behind the house to be interrogated.

3 W01763 was questioned about the police and army presence in
4 Movljane and was told that his father had been killed. The two other
5 Serbs were also interrogated.

6 All three Serbs were then taken to another house located about
7 2 and a half kilometres away and were locked in the basement where
8 they were beaten. Two Albanians were also detained in the basement.
9 They told W01763 that they were considered traitors working for the
10 Serbian police.

11 W01763 and his Serbian co-detainees were released on 5 July
12 1998. W01763 never came back to his village and learned that his
13 house was demolished after his relatives had left Kosovo in June
14 1999.

15 W01763 required medical treatment for his injuries.

16 And this concludes the summary of this witness's evidence.

17 Your Honours, I will now have a few clarifying questions that
18 I'm going to put to the witness. With your permission, of course.

19 PRESIDING JUDGE SMITH: Go ahead.

20 MR. MICHALCZUK:

21 Q. Mr. Witness, from your SPO statement of 2000, we know that in
22 July 1999 you lived in the village of Movljane, municipality of
23 Suva Reka. Do you know the Albanian name of the village of Movljane?

24 A. Yes, I do. It's Muhlan.

25 MR. MICHALCZUK: Madam Court Officer, let's pull up document on

Witness: Dejan Jeftic (Open Session)

Page 10961

Examination by Mr. Michalczuk

1 the screen, and it would be SPOE00301693 to 00301693. And this can
2 be shown to the public. Could we zoom in and focus on the region of
3 Suhareke, if possible. Maybe 200 per cent would do. A bit more.
4 Maybe a little bit more. Yes.

5 Q. Witness, can you see the map in front of you?

6 A. Yes.

7 MR. MICHALCZUK: I would like the witness to mark a few
8 locations, if I may.

9 Q. Mr. Witness, could you first circle the location where you lived
10 at that time?

11 A. Yes, I can.

12 Q. Could you put also number 1 just for us to understand where we
13 are as we go with this map.

14 A. Yes.

15 Q. Could you also tell us where Krsta Jeftic lived at that time?

16 A. In the same village, Movljane.

17 Q. Could you also put number 2 close to number 1?

18 A. Yes, of course.

19 Q. Stanko Stankovic, where did he live at that time?

20 A. He lived in Recane village.

21 Q. Could you also on this map circle the location of Recane and put
22 number 3 next to it?

23 A. I can't see it, Recane village.

24 Q. Yes. If you cannot see it, that is also fine. We can move on.

25 No problem about it.

Witness: Dejan Jeftic (Open Session)

Page 10962

Examination by Mr. Michalczuk

1 A. Oh, I can see it. I can see it now. I can see it now. It's
2 okay.

3 Q. And put number 3.

4 A. [Marks]

5 Q. Thank you very much. Can you please mark the location, or at
6 least the approximate location, where you were abducted in 1998?

7 A. Yes, certainly. 95.

8 Q. Could you please put also number 4 close it to?

9 A. [Marks]

10 Q. Could you also circle the location where you were detained in
11 1998?

12 A. Yes, certainly.

13 Q. Could you put number 5 next to it?

14 A. Yes.

15 Q. Witness, how far was the village of Movljane, your village, from
16 Budakove?

17 A. Not more than 5 kilometres.

18 Q. 5 kilometres as the crow flies or by the road?

19 A. By the road.

20 Q. Witness, how old were you in July 1998?

21 A. Four days later, I turned 19.

22 Q. What was your employment situation at that time?

23 A. At the time, I did not work and I was not employed.

24 Q. What was the employment at that time of Krsta Jeftic?

25 A. Yes, he did. He worked in the Balkan Belt in Suva Reka.

Witness: Dejan Jeftic (Open Session)

Page 10963

Examination by Mr. Michalczuk

1 Q. What did that company do?

2 A. It was a factory that produced rubber and had some chemical
3 products as well.

4 Q. What was the employment situation of Stanko Stankovic at that
5 time?

6 A. Stanko Stankovic was not employed.

7 Q. Was any of you a member of Serbian military or police at the
8 time of your abduction?

9 A. No, none of us had anything to do with the police or the army,
10 nor did we have any responsibilities that we had to fulfil on their
11 behalf.

12 Q. I understand.

13 MR. MICHALCZUK: Let's keep for a moment still the map on the
14 screen. I might ask the witness also to mark some other locations.

15 Q. Witness, in your SPO statement -- and that would be 078045-TR-ET
16 Part 1 RED2, pages 14, 15, and others. In that statement, you
17 mentioned two Albanians who arrested you in July 1997. You mentioned
18 Shukri Gashi and Sokol Kabashi.

19 Where did Shukri Gashi live at that time?

20 A. At that time, Shukri Gashi also lived in Movljane village like
21 myself, and Kabashi lived in Gornja Krusica village.

22 Q. Movljane, I believe we have already on the map already, but
23 maybe you could circle for us this place of Kabashi. You mentioned
24 Gornja Krusica. Could you also circle that location and put number 6
25 close to it.

Witness: Dejan Jeftic (Open Session)

Page 10964

Examination by Mr. Michalczuk

1 A. Yes, certainly.

2 MR. MICHALCZUK: Your Honours, I misspoke. I mentioned 1997.

3 Of course, it's 1998, my apologies.

4 Q. Could you also circle that location for us, Gornja Krusica.

5 A. Yes, Gornja Krusica. Could I perhaps ask a question from the
6 Prosecutor, because Gornja and Donja Krusica do not seem both visible
7 on this map. Mr. Prosecutor, I made an error. Instead of Gornja
8 Krusica, I put number 6 next to Donja Krusica, I'm afraid.

9 Q. Is it far away, this location of Donja Krusica from Gornja
10 Krusica?

11 A. No, it's just a road from Recane to Movljane that divides the
12 two, and that is why I find the map somewhat unclear. The map that
13 shows the road and the area.

14 Q. Okay. But you put number 6 more or less in this location of
15 Gornja Krusica; correct?

16 A. Well, this is the area towards Budakove, along the road leading
17 from Movljane.

18 Q. Okay. Thank you very much. So let me ask you a question or two
19 about Shukri Gashi first. Did Shukri Gashi know that you,
20 Krsta Jeftic, and Stanko Stankovic were not members of Serbian
21 military and police at that time?

22 A. Yes, Shukri Gashi and all the other neighbours in the village
23 knew that.

24 Q. How do you know that?

25 A. For the simple reason that we cooperated closely, and everyone

Witness: Dejan Jeftic (Open Session)

Page 10965

Examination by Mr. Michalczuk

1 knew at every given moment where the others were and what they were
2 doing and where they were employed.

3 Q. Did Shukri Gashi live close to your house in Movljane or far
4 away?

5 A. Well, he was not the next-door neighbour so to speak, but we
6 passed in front of his house every day, and one house was at about
7 150 metres from the other.

8 Q. How long have you known him for?

9 A. Since the first day when I started to walk around the village.

10 Q. Did you perhaps visit each other in your respective homes?

11 A. Yes, of course. His eldest brother was a hunter who cooperated
12 with my father. They went hunting together. He came by for coffee.
13 We socialised together, and we would visit each other when we
14 celebrated our respective religious holidays.

15 Q. The same question relates to Sokol Kabashi. Did Sokol Kabashi
16 know that you, Krsta Jeftic, and Stanko Stankovic were not members of
17 the Serbian military at that time in 1998, July?

18 A. Yes, of course. He knew it too. Just as Shukri Gashi did.

19 Q. He lived in the place called Gornja Krusica. How far was it
20 from your village of Movljane?

21 A. Well, that's along the Movljane-Budakove road. Perhaps 1700
22 metres away. Not more than that.

23 Q. How long have you known Sokol Kabashi?

24 A. Quite a long time. Since we were children. And our fields were
25 also next to each other, so whenever we were working in the fields,

Witness: Dejan Jeftic (Open Session)

Page 10966

Examination by Mr. Michalczuk

1 we would see each other.

2 Q. Did it happen that he was coming to your village of Movljane?

3 A. Yes, he used to visit because there was no shop in their
4 village, so they would come to our village for supplies. And that
5 was in the same shop where we would get our supplies.

6 Q. Have you met Shukri Gashi or Sokol Kabashi close to the day of
7 your abduction in July 1998?

8 A. I met Shukri Gashi in 1998 three days before he abducted us.

9 Q. In your SPO statement - and I gave the reference number before,
10 it's Part 1 RED2, page 17 - you also mentioned another Albanian, Agim
11 Kabashi. Where did Agim Kabashi live at that time?

12 A. This is Agim Kabashi who is mentioned in my statement in
13 relation to the vehicle of Golf make. He used to live in
14 Gornja Krusica.

15 Q. I believe we have Gornja Krusica marked with 6 on the map, so no
16 need to do it.

17 The same question that I asked you before in relation to Agim
18 Kabashi. Did he know that you, Krsta Jeftic, and Stanko Stankovic
19 were not members of Serbian military and police at that time?

20 A. Yes, of course. Everybody knew. We had no secrets. And
21 everybody knew where somebody else worked, for which organisation,
22 whether they worked for police, and so on.

23 Q. From what you have said, is it fair to sum it up that the local
24 communities of Serbs and Albanians constituted a closely knit local
25 community?

Witness: Dejan Jeftic (Open Session)

Page 10967

Examination by Mr. Michalczuk

1 MR. KEHOE: Objection. Leading, Judge.

2 PRESIDING JUDGE SMITH: Overruled. Overruled.

3 You may answer.

4 THE WITNESS: [Interpretation] Yes, of course. That's exactly
5 how it was.

6 MR. MICHALCZUK:

7 Q. The last name I would like to ask you about for now is
8 Mr. Bajram Morina, and you mentioned Bajram Morina in the context of
9 your detention in Budakove.

10 MR. MICHALCZUK: It is the same statement of the SPO, Part 1
11 RED2, pages 37 to 38, also in Part 2, page 14.

12 Q. Where did Mr. Bajram Morina live at that time?

13 A. Bajram Morina, at the time, lived in Stara Vucina, or
14 Staravucine in Albanian.

15 Q. Could you please also circle this location on the map.

16 A. Yes, of course.

17 Q. Could you please mark it with number 7.

18 A. [Marks]

19 Q. Did Bajram Morina know that the three of you, the three abducted
20 Serbs, were not members of Serbian military and police at that time?

21 A. Yes, of course he knew because he knew the father of Krsta
22 Jeftic whose name was Vojislav Jeftic.

23 Q. How did he know his father?

24 A. Well, in the 1990s, maybe even prior to that, he worked in the
25 co-op, agricultural co-op, and this is where they cooperated together

Witness: Dejan Jeftic (Open Session)

Page 10968

Examination by Mr. Michalczuk

1 selling agricultural products.

2 Q. I've got one specific question about Stanko Stankovic. How did
3 all these people that I have mentioned, all those Albanians, how did
4 they specifically know about Stanko Stankovic, apart from the reason
5 that you have mentioned already?

6 A. They knew Stanko Stankovic for one reason, because his son,
7 Ranko Stankovic, used to work as a postman.

8 MR. MICHALCZUK: Your Honours, I would like to tender this map
9 with all the markings into evidence.

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 MR. KEHOE: No objection, Judge.

12 PRESIDING JUDGE SMITH: No objection is seen.

13 Do you have a number for this?

14 MR. MICHALCZUK: The number for the map is SPOE00301693 to
15 00301693.

16 PRESIDING JUDGE SMITH: That exhibit is admitted and will be
17 assigned a number.

18 THE COURT OFFICER: Your Honours, the marked map will receive
19 Exhibit P758.

20 MR. MICHALCZUK:

21 Q. Witness, did you, Krsta Jeftic or Stanko Stankovic resist the
22 arrest?

23 A. No, not for a single moment did we resist. I simply asked my
24 neighbour Shukri Gashi, "What is going on? What's this?" And at
25 that moment, he told me that he was not competent to answer that

Witness: Dejan Jeftic (Open Session)

Page 10969

Examination by Mr. Michalczuk

1 question, that it was the commander who would decide what to do with
2 us, whether they would keep us or release us.

3 Q. You have just mentioned the commander. Did Shukri Gashi mention
4 that they acted on his order or orders or nothing to that effect?

5 A. Well, it was understood that he was working based on the orders
6 of a commander whom I didn't know.

7 Q. From your SPO statement we know that you were held in two
8 locations, and I would like to ask you first about the first
9 location. Do you believe that you could leave that first location,
10 and that was the location of Mr. Palushi, do you believe you could
11 leave that location any time you wanted?

12 A. No, we were not able to leave because our hands were tied and we
13 were also blindfolded. Additionally, there were a lot of soldiers
14 around us.

15 Q. The same question about the second location, the house of
16 Kokollari. Do you believe that you could leave that second location
17 whenever you wanted to?

18 A. No, we could not leave either. In my statement I said that on
19 the other side of that cellar, there were snipers. They were based
20 in a house across.

21 Q. Apart from the snipers, were there any other reason for which
22 you believed you could not leave that building, that location?

23 A. I have also stated, it's in my statement where I say that after
24 all the mistreatment and all the beatings, we were trying to figure
25 out whether we could escape through the chimney, but [REDACTED]
Pursuant to Post Session Redaction Order F2055.

Witness: Dejan Jeftic (Open Session)

Page 10970

Examination by Mr. Michalczuk

1 who was locked there with us, told us that it was impossible to flee
2 because the snipers were in the house across the road.

3 Q. In that second location, the location at the place of Kokollari,
4 were you guarded?

5 A. Yes, there were two guards. One was on the road just in front
6 of the house, and the second was right in front of the door where we
7 were kept.

8 Q. Was the door to that location locked or not? Do you know that?

9 A. It was a wooden door made from planks, and it had a chain and a
10 lock, and at that moment we were locked in.

11 Q. Witness, while in detention in Budakove, were you given any food
12 or water?

13 A. No, not for a single moment. In my statement, I said that when
14 the Albanian TV came to report on the event, I mentioned that they
15 gave us a bottle of juice, but the cap was on and we couldn't drink
16 it.

17 Q. Do you remember, in that second location where you were held,
18 whether you at that location drank any water? Do you remember
19 anything like this?

20 A. In that other location in the cellar, [REDACTED] Pursuant to Post
Session Redaction Order F2055., who was

21 with us in that so-called prison, he had found a bottle of water in
22 that cellar and he gave it to us, and we all had a gulp or two.

23 Q. Witness, what was the temperature in that location?

24 A. Given that it was a mountainous region, 7 to 800 metres above
25 sea level, the nights tend to be cold. And it was quite a cold night

Witness: Dejan Jeftic (Open Session)

Page 10971

Examination by Mr. Michalczuk

1 even though it was July.

2 Q. Were there any other reasons why you felt cold in that location?

3 A. Well, there was a stream nearby. Water, a stream running
4 nearby, and that could have had an effect as well. That could have
5 contributed to the cold.

6 Q. So you're talking about your subjective impression that it was
7 cold. Did also other detainees express the feeling of being cold in
8 that location?

9 A. Yes, of course, because the T-shirts we had on were turned into
10 blindfolds on our eyes, so we were basically -- the upper parts of
11 our bodies were bare.

12 Q. Were you or other detainees in Budakove able to wash yourselves
13 or use the toilet during your detention time?

14 A. No, unfortunately not at all. It was just a dirt floor and
15 there was a lot of dust everywhere.

16 Q. Were you or other detainees in Budakove provided with medical
17 attention?

18 A. No, we received nothing except for beatings.

19 Q. Did any of you have any access to your families while there?

20 A. No, not at all. Other than the soldier telling me that my
21 father had been killed and that he would allow me to attend the
22 funeral.

23 Q. While in detention, did you receive any visit from the outside?

24 A. No, nobody except the soldiers who guarded us there, the guards.

25 Q. In your statement given to the SPO - and it's 078045-TR-ET

Witness: Dejan Jeftic (Open Session)

Page 10972

Examination by Mr. Michalczuk

1 Part 2, page 5, lines 9 to 13 - you stated the following, please
2 listen:

3 "At that moment, there were only three of us there, but then a
4 bit later according to my assessment ... it may have been 9.00 or
5 9.30 in the evening. This party arrived there, and those were
6 actually my neighbours, the neighbours from my village, who were
7 soliciting them to release us."

8 Do you remember that occasion, that visit?

9 A. Yes, of course. I remember that visit. And those were the
10 brother of Shukri Gashi, Fadil Gashi, and Jetish Kabashi. I did not
11 see them because I was locked inside. But I heard and recognised
12 their voices because they used to be teachers in the elementary
13 school I attended.

14 Q. You didn't --

15 MR. KEHOE: Excuse me, counsel, I think that just for the record
16 we should probably be using the P756 number as it is a document in
17 evidence in referring to the transcript. 756.1, 756.2, or .3, just
18 for clarity's sake.

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 MR. MICHALCZUK: Of course, Your Honours. Of course. So I
21 stand corrected. It was P756.2.

22 Q. So you didn't see them. You heard their voices. Were you
23 allowed to talk to them, I don't know, maybe through the door,
24 through the wall?

25 A. No, not at all. I just heard them asking that we be released.

Witness: Dejan Jeftic (Open Session)

Page 10973

Examination by Mr. Michalczuk

1 Whereas the guards told them to go back where they had come from as
2 soon as possible so that -- so as not to get locked up together with
3 us in the same basement.

4 Q. How did you feel yourselves psychologically during all those
5 days in detention in Budakove?

6 A. We were all -- we felt tortured, and we only were thinking of
7 whether we would survive.

8 MR. KEHOE: Excuse me, counsel.

9 I note the time, Judge.

10 PRESIDING JUDGE SMITH: Is this an appropriate time for you to
11 stop?

12 MR. MICHALCZUK: Yes, I was about to start another --

13 PRESIDING JUDGE SMITH: All right.

14 MR. MICHALCZUK: -- short but another topic.

15 PRESIDING JUDGE SMITH: Witness, we will take a lunch break now.
16 We will be back here at 2.30. Please don't speak to anyone about
17 your testimony that you are giving in the courtroom. If anyone tries
18 to approach you about your testimony, please report that to us.

19 You may go with the Court Officer now to leave the room.

20 THE WITNESS: [Interpretation] All right.

21 [The witness stands down]

22 PRESIDING JUDGE SMITH: We will reassemble at 2.30. Thank you.

23 --- Luncheon recess taken at 1.02 p.m.

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

25 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness

Witness: Dejan Jeftic (Private Session)

Page 10974

Examination by Mr. Michalczuk

1 back to the courtroom.

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: All right. Witness, we will continue
4 with your testimony, and the Prosecution still has the floor.

5 Go ahead.

6 MR. MICHALCZUK: Thank you, Your Honour.

7 Your Honours, I've got a few questions and to ask them I'd
8 prefer to go into private session.

9 PRESIDING JUDGE SMITH: Please, into private session.

10 [Private session]

11 [Private session text removed]

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 10975

Examination by Mr. Michalczuk

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 10976

Examination by Mr. Michalczuk

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 10977

Examination by Mr. Michalczuk

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 10978

Examination by Mr. Michalczuk

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16 [Open session]

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

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. MICHALCZUK:

20 Q. Witness, were you or other people detained together with you
21 provided with any reasons for your arrest and detention by the KLA
22 soldiers?

23 A. No. None of us knew the reason. We did not have the
24 explanation. We were not told why we were there, based on what law,
25 what article. Nobody had any sort of information.

Witness: Dejan Jeftic (Open Session)

Page 10979

Examination by Mr. Michalczuk

1 Q. Were any of you given any decision upon which your arrest or
2 detention was based?

3 A. No, never. We never received any document.

4 Q. Were you given perhaps any release document?

5 A. No, we never received any documents or anything of the sort.
6 They just let us go and told us not to turn around. And should we
7 turn around, they would shoot at us.

8 Q. Were you perhaps given any chance to challenge your arrest?

9 A. No, not at all.

10 Q. Were you or other detainees put before any judge, any prosecutor
11 during your detention in Budakove?

12 A. No, not before anyone except for the commander who is noted
13 wearing a red beret during the first part of our time, who was in the
14 yard in a bunker, and he questioned us. He had a notebook in his
15 hands, and then when they threw me into the bunker I could see it
16 because my blindfold got loose and fell away from my eyes.

17 Q. Were you or any of your co-detainees charged with any crime?

18 A. No, no one charged us for anything nor showed us anything nor
19 proved anything. Nothing at all.

20 Q. That was about to be my next question, whether anyone presented
21 any evidence against you or your co-detainees.

22 A. No, really not because there was no basis at all whatsoever.
23 There was nothing to prove with any evidence.

24 Q. Witness, do you know whether the KLA ever punished or
25 disciplined any of those who arrested, detained, or mistreated you?

Witness: Dejan Jeftic (Open Session)

Page 10980

Examination by Mr. Michalczuk

1 A. I don't have this information. I never learned anything to that
2 effect, that there was any proceedings or any disciplinary measures
3 taken against them or that they were considered responsible in any
4 way. Nothing of the sort.

5 Q. Witness, were you examined by the doctor shortly upon your
6 release from Budakove?

7 A. When we were released from Budakove, we first reached Recane
8 village, and the Serbian police arrived there and took us over, took
9 us to the police station, and we waited there to give a statement.
10 The investigating judge from Prizren was supposed to come there. He
11 was called Skender or Skenderi. I'm not sure about his first and
12 last name.

13 While we were waiting at the police station, the commander asked
14 us, "What are you waiting for?" And they said that we were waiting
15 for the judge. And then after we had given the statements,
16 Dr. Boban Vuksanovic did a checkup of us in a private apartment, and
17 he noted that we had some injuries that we had complained about.

18 Q. This examination of yours, where did that take place? In which
19 location precisely?

20 A. The examination was carried out in a privately owned apartment
21 in Suva Reka.

22 Q. How was that examination conducted? Could you tell the Court?

23 A. Yes, certainly. There were no proper conditions. He did not
24 have a scanner, but he arrived with a bag in which he had the blood
25 pressure monitoring device, a stethoscope, and he noted that, like

Witness: Dejan Jeftic (Open Session)

Page 10981

Examination by Mr. Michalczuk

1 with Krsta, I had my head injured, I complained about injuries on the
2 left and right side. And he felt with his hands and he said that my
3 fifth and sixth ribs were broken, and that those were my injuries.

4 But this is all unimportant. What is important is that we had
5 all remained alive. We also had hematoma and bruises and so on.

6 Q. I understand. You mentioned this equipment that was used. You
7 mentioned a device for measuring pressure. What else was there? A
8 stethoscope you said?

9 A. Yes, a stethoscope with which he was trying to listen. I don't
10 know how precisely to call that. Just like any doctor who would use
11 it. They have those stethoscopes, and then they carry out the
12 examination. They measure your heartbeat and listen to it. The
13 doctor says, "Breathe in, breathe out," and so on.

14 Q. Can you say it was a simple external examination of your body?
15 Can we say that? Is it fair to say that?

16 A. Yes, so to speak, the simplest figurative examination and
17 nothing more than that.

18 Q. Witness, I would like to show you one document.

19 MR. MICHALCZUK: And I would kindly ask Madam Court Officer to
20 put it on the screen, but this is not for public display. This is
21 the document dated 5 July 1998, ERN 0188-3935-0188-3937-ET Revised,
22 and I would like to show the witness just one page with ends with
23 3936. This would be English.

24 And the same would be on the Serbian document, but the ERN is
25 slightly different. The Serbian ERN would be 0188-3918-0188-3944.

Witness: Dejan Jeftic (Open Session)

Page 10982

Examination by Mr. Michalczuk

1 The page remains the same, 3936.

2 Yes, that's the document. Thank you.

3 Q. Witness, can you see two documents in front of you? On the
4 left-hand side, you have got the Serbian document. Can you see that?
5 Have you ever seen this document before?

6 A. No, never. This document was not typed before me. Never. And
7 my father is not Borivoje. My father's name is Zlatibor.

8 Q. We had a preparation session, you remember that, last week and
9 we showed you this document. Do you remember that?

10 A. Yes, of course. But except on that day when you showed it to
11 me, I had never seen this document.

12 Q. Understood. Does this document relate to your medical
13 examination we spoke about just a few minutes ago?

14 A. Probably that was the same doctor, Boban Vuksanovic. And as for
15 the document, I really could not claim anything right now. I find it
16 quite unclear.

17 MR. MICHALCZUK: Your Honours, I would tender this document into
18 evidence.

19 MR. KEHOE: No objection, Judge.

20 MR. TULLY: None from us.

21 MR. BAIESU: No objection.

22 PRESIDING JUDGE SMITH: No objections having been heard, ERN
23 0188-3935-0188-3937 and the Serbian ERN 0188-3918-0188-3944 are both
24 admitted -- or will be admitted.

25 THE COURT OFFICER: Your Honours, just to clarify, are we

Witness: Dejan Jeftic (Open Session)

Page 10983

Examination by Mr. Michalczuk

1 admitting the full document or the single page shown?

2 MR. MICHALCZUK: For now, we can admit just the single page,
3 Your Honours.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. MICHALCZUK: Just the first -- just this page that we have
6 in front of us on the screens.

7 THE COURT OFFICER: Your Honours, that page will be assigned
8 Exhibit P759.

9 MR. MICHALCZUK:

10 Q. Witness, was Krsta Jeftic also examined on that day -- medically
11 examined on that day?

12 A. Yes, of course. We were both in the same apartment, and that's
13 where the doctor examined us. Whereas Stanko Stankovic stayed at
14 home and he never reported to a doctor.

15 Q. Did you see Krsta Jeftic being examined?

16 A. Yes, of course. The doctor noted that Krsta Jeftic had an
17 injury on the right side of his head, as far as I can remember. This
18 is what the doctor noted.

19 Q. Witness, in your SPO statement - and that would be P756.2,
20 page 20, lines from 18 to 22 - you indicated the following about
21 Stanko Stankovic. Please listen. You said:

22 "He had several knife cuts on his back. Those knife cuts were
23 not, I think, life threatening, but psychologically he was very bad.
24 He was really in a bad psychological condition, and then he also took
25 lots of alcohol, and he never stopped using alcohol until he died."

Witness: Dejan Jeftic (Open Session)

Page 10984

Examination by Mr. Michalczuk

1 Let's talk about these cuts. Did you actually see those cuts on
2 his body?

3 A. Yes, I did. He had two or three cuts in the upper part of his
4 back. When they released us, on that morning, Stanko had a spasm in
5 his both legs. And for about 1 kilometre, we dragged him along, and
6 then I had the occasion to see that, because we did not put on the
7 T-shirts that were used as blindfolds. And that was the occasion
8 when I had a chance to see those injuries on his back, which were not
9 life threatening.

10 Q. And I have one last question for you. In this part that I have
11 just read back to you, you also mention him being in a very bad
12 psychological condition and you mentioned also the alcohol abuse.
13 And my question is did Stanko Stankovic tell you the reason for his
14 bad psychological condition and alcohol abuse?

15 A. Yes, he did. Stanko Stankovic repeated until his death that he
16 felt much guilt and responsibility for driving us to Movljane that
17 day, and he really felt guilty because he was inexperienced in war
18 and he said that we could have all lost our lives, being young
19 people. And that was the cause for his depression and torment and he
20 never stopped drinking.

21 Q. Maybe really my last question. You mentioned that Stanko
22 Stankovic was unable to walk. Do you know the reason why he was
23 unable to walk once the three of you were released from detention?

24 A. He complained of having spasms in the lower legs below his
25 knees, perhaps due to poor circulation because he had to sit for a

Witness: Dejan Jeftic (Open Session)

Page 10985

Cross-examination by Mr. Kehoe

1 long while with hands tied on his back. I really couldn't define and
2 explain it any better. But after a while, he started getting to his
3 feet, and he managed to move slowly until one moment after perhaps an
4 hour or 45 minutes. Whether then his circulation stopped or whatever
5 it may have been, I really could not explain to you now.

6 Q. I understand.

7 MR. MICHALCZUK: Your Honours, I don't have any further
8 questions for this witness.

9 Q. Thank you, Mr. Witness.

10 PRESIDING JUDGE SMITH: Mr. Kehoe.

11 Cross-examination by Mr. Kehoe:

12 Q. Good afternoon, Witness. My name is Gregory Kehoe. I represent
13 President Thaci, and I just want to ask you a few questions. As
14 Judge Smith told you at the outset, if you don't understand any of
15 the questions that I'm asking you, please just let me know and I will
16 repeat it.

17 And if I happen to interrupt you at some point when you're
18 giving an answer, I apologise ahead of time. We want all your
19 answers. Just let me know and tell me you haven't finished. Okay?

20 A. Thank you.

21 Q. So, Witness, let's go back to the events of July 3rd. And you
22 were out with your uncle Krsta walking around, I take it, near your
23 village. And there was fighting taking place between the Serb forces
24 and the KLA; isn't that right?

25 A. No, we were not walking. Krsta and I, on 3 July, were minding

1 cows not far from Movljane village. And in the afternoon, when it
2 happened that there was an attack or, rather, an incident between a
3 patrol of the Serbian police and the KLA troops, we were outside the
4 village. And from that moment on, we could not get to the village
5 and enter it. But walking through the woods, we rather went to the
6 neighbouring village of Recane.

7 Q. And you -- when you were tending to these cows, as you say, and,
8 allegedly, there was fighting going on between the Serb forces and
9 the KLA, wasn't there?

10 A. Yes, right.

11 Q. This is extremely close by to you, wasn't it?

12 A. Yes. As the village is a mountainous one, we were to the north
13 of the village and the attack happened to the south of the village.
14 The Serbian police patrol moved from Suva Reka to Movljane village to
15 see how the Serbian population living in the village was doing.

16 Q. So when the Serb military or the MUP moved from Suva Reka down
17 to your village, Movljane, that is when the fighting ensued; right?
18 That's when it started?

19 A. That's when the fighting started in Donja Krusica.

20 Q. And when you say "fighting," you heard machine-gun fire and you
21 heard automatic rifle fire, didn't you?

22 A. Yes, a few detonations were heard as well that were somewhat
23 stronger.

24 Q. And did these come from artillery or from rocket-propelled
25 grenades? Where did they come from?

1 A. Well, really, really, I wouldn't be able to formulate that now
2 because I didn't have any context that would tell me what weapons
3 those were, but those were really powerful explosions.

4 Q. And the really powerful explosions were coming from the Serb
5 military and the Serb police, weren't they?

6 A. I really couldn't tell you because, as I say, we were on a hill
7 and we could not see the fighting. We could just hear the
8 detonations, short bursts of fire, and what was going on.

9 Q. Well, let me read what you said in your testimony to the
10 Prosecution concerning the result of this fighting by the Serbs and
11 the KLA.

12 MR. KEHOE: This is 756.1, page 8, line 8 to 15.

13 Q. You noted:

14 "In the forest. However, when we reached the forest, there was
15 this big influx, a large number of Albanian women and children coming
16 to the forest at the same time ..."

17 Now, what happened as a result of this fighting, the civilian --
18 the women and children were driven out of the village and were going
19 into the forest, weren't they?

20 A. No. Our village was divided into the upper and the lower part.
21 The lower part were mostly Serbs, and the upper part populated by
22 Albanians. That's about what the forest was mentioned. When the
23 shooting started, women and children began to leave their houses and
24 to move towards the forest where we were as well, and we met them
25 there.

Witness: Dejan Jeftic (Open Session)

Page 10988

Cross-examination by Mr. Kehoe

1 Q. Well, Witness, the women and children that you met were coming
2 from your village of Movljane because of the clash between the MUP,
3 the Serb police, and the KLA; right?

4 A. Yes. That's 300 metres from the village, this forest, which is
5 located in the direction of Vrsevci village.

6 Q. All I'm getting to you, sir, is that as a result of the Serb
7 police and military going into your village, and the women and
8 children leaving, they were leaving as a result of the Serb forces
9 coming into the village and attacking; right?

10 A. As soon as the shooting started, for security reasons, they
11 began to come out of their homes immediately and began to leave the
12 village. So even before the army or anybody else entered. But as
13 far as I remember, there was no army at all. There were just the
14 police as far as I remember and as far as I know. And when they
15 entered the village, the whole village had already evacuated and
16 there was nobody left in it.

17 Q. Let me read to you an item.

18 MR. KEHOE: This is SPOE00226697 to 00226716. Unfortunately,
19 there is no Serb translation, so I'll just read the pages. It's
20 page 2 and 3.

21 Q. And this is talking about the fighting at the time on the 3rd.
22 And it noted that:

23 "On the seventh day the enemy," the enemy in this instance is
24 the Serbs, "launched an attack with the Serbian military and police
25 forces supported by three armoured vehicles, two Pinzgauers, one

1 Kombi bus ... and a vehicle coming from Suhareke in the direction of
2 Krushice and Mohlan. As they approached Mohlan," which of course is
3 your village, "our reconnaissance team opened fire with their
4 150 /mm/ rocket-propelled grenade, machine-gun and automatic [fire].
5 The first battle took place whilst we were at reconnaissance stage.
6 The fighting continued for about three hours. Commander Kumanova
7 came to assist us with a squad from the 121st Brigade. The battle
8 ended at around 21:00 hours."

9 Now, to your knowledge, on the 3rd, Witness, was this an
10 accurate assessment as to what transpired in your village with the
11 attack by the Serbs?

12 A. I don't remember the attack nor am I aware of it.

13 Q. You just heard it; is that right? I mean, you at least heard
14 the attack. You heard the firing and the artillery and the
15 machine-guns and the automatic weapons, didn't you?

16 A. Except for 3 July when what I described happens, I'm not aware
17 of any other incident, nor have I heard, nor do I remember it.

18 Q. Well, let's move ahead with your story. And your story is as
19 you were heading towards the forest or in the forest, you ran into
20 some KLA soldiers and someone -- but you told the SPO his name is
21 Bajram Morina; is that right?

22 A. That's right. When we started fleeing because we could not
23 enter our own village, Movljane. So going through the forest, we
24 came up above Stara Vucina village, or Staravucine in Albanian, and
25 that was where we came across a group of KLA soldiers. And that was

1 when Bajram Morina, when he saw us coming along, he said, "What
2 happened?" And at that moment I told him in Albanian, "We have to
3 save women and children who are down there," because it was the
4 hay-gathering season.

5 And so what essentially happened, whether he recognised us or
6 realised who we were, then they started shooting, but we were really
7 350 or 400 metres away. There was a stream as well where we got to.
8 We wanted to skip the main road leaving from Recane to Stara Vucina.
9 And bullets were whizzing all around us, in front of us, behind us,
10 and at one point I had a feeling as if a bullet grazed me, the right
11 side of my head. Perhaps it only seemed so to me because of fear or
12 perhaps it really happened. I really could not assert that now nor
13 could I formulate it more precisely.

14 Q. You said "grazed." Do you have a scar you can show us? Do you
15 have a scar where you were grazed by a bullet?

16 A. No, no, of course not. This is precisely why I say maybe it
17 just seemed like that to me at the moment. But I seemed to have a
18 sensation of that sort.

19 Q. And you ran into these KLA members, and you described them at
20 756, page 10 -- 756.1, page 10, 19 to 24. You describe these
21 soldiers that you ran into with Bajram Morina as terrorists; right?

22 A. Well, not in the sense of terrorists. Now, I don't know what
23 exactly you would imply by the concept of terrorist. A couple of
24 them wore uniforms. Others were in civilian clothes but armed with
25 weapons.

Witness: Dejan Jeftic (Open Session)

Page 10991

Cross-examination by Mr. Kehoe

1 Q. Well, I mean, at 756, page 10, line 19 to 24, you were asked by
2 the SPO:

3 "And how were they dressed, those KLA members?"

4 And you answered:

5 "Or the terrorists, should I call them."

6 That was you saying -- calling them terrorists; right? You told
7 the SPO that they were terrorists, didn't you?

8 A. Perhaps I said it accidentally. Not in the sense that I wanted
9 to insult anyone, but I may have even subconsciously put it that way.
10 Terrorists.

11 Q. Well, let me talk to you about another portion of your
12 testimony.

13 MR. KEHOE: And this is again 756.1 at line 10 and 11. I'm
14 sorry, page 14, line 10 and 11.

15 Q. And you said:

16 "... we then continued, and some 3 to 500 [sic] metres before
17 entering Movljane village, we encountered a group of terrorists
18 wearing black uniforms."

19 And then you were asked on page 24 of 756.1 at line 1 to 5:

20 "Was the house guarded?"

21 "Yes. There were uniformed people here ... we arrived there, my
22 estimate is that some 12 to 13.000 terrorists were there."

23 So, in fact, sir, you were describing the KLA continuously as
24 terrorists; right?

25 A. Perhaps it's possible that I said so. But subconsciously.

Witness: Dejan Jeftic (Open Session)

Page 10992

Cross-examination by Mr. Kehoe

1 Certainly not in the hope that I would insult anyone by saying that.

2 Q. Ah. So in calling them terrorists, you were, from your
3 testimony -- oh, I'll just let it stand. We'll let your testimony
4 stand.

5 And these individuals that you saw in the village with Bajram
6 Morina, they were wearing -- some had uniforms and some had civilian
7 clothing; right?

8 A. Yes.

9 Q. And, by the way, you are just shy of your 19th birthday when
10 this takes place on 3 July 1998; right?

11 A. That's right. On 7 July 1998, I turned 19.

12 Q. And your cousin [sic] Krsta was also about 19, wasn't he?

13 A. In October, on 5 October he was about to turn 19.

14 Q. And by the way, when you were 19, that was the -- when you were
15 19 years of age, you join the VJ, didn't you, the Serb army?

16 A. No.

17 Q. Well, you joined the VJ in March 1999. How old were you? How
18 old were you when you joined the VJ in March 1999? How old?

19 A. No, we didn't join the army. We went to serve the mandatory
20 service. When we turned 19, we were called up for this mandatory
21 service, and that was in mid-March. Whereas, on 24 March, the
22 bombing of the then Federal Republic of Yugoslavia started.

23 Q. So when you were called up and you answer the call in March 1999
24 you were 19 years of age, weren't you?

25 A. Yes, of course.

Witness: Dejan Jeftic (Open Session)

Page 10993

Cross-examination by Mr. Kehoe

1 Q. So when these events happened in July 1999, you and your cousin
2 were of -- your cousin Krsta -- or your uncle, I should say, were of
3 fighting age. You were just shy of 19 years of age; isn't that
4 right?

5 A. Yes. But we had no military or police duties back in 1998.

6 Q. Well, we'll get to that. That's what you say, but we'll get to
7 that. So you come into the forest, you see Bajram Morina, you tell
8 him this story about: We're here to protect the women and children
9 who are in the forest; isn't that right?

10 A. I apologise, sir, but you obviously misunderstood me. The women
11 and children were not in the forest. I told you that they were in
12 the valley gathering hay. Women and children of Albanian ethnicity
13 had left the village that same night.

14 Q. But you are telling Bajram Morina that you and your uncle Krsta,
15 who is the same age, are trying to help these people, aren't you?
16 That's what you told him.

17 A. No. We said our women and children were down there and we were
18 going to save them. You misunderstood me.

19 Q. Well, when Bajram Morina found out why you were there, he waved
20 you through, didn't he? He said, "Come on, they're okay," didn't he?

21 A. No, he said, "Hurry up," to get to them as quickly as possible,
22 and we continued on.

23 Q. But what you did -- and, meanwhile, when you're having this
24 conversation with Bajram Morina, there is -- the battle is going on
25 between the Serb forces and the KLA; right?

Witness: Dejan Jeftic (Open Session)

Page 10994

Cross-examination by Mr. Kehoe

1 A. At that point in time, we were quite far away from that point
2 and I can't claim that I was still hearing shooting. I just saw a
3 group of people going from Stara Vucina to Movljane probably to
4 provide support to the others participating in the fighting.

5 Q. Sir, listen to my question. When you ran into Bajram Morina and
6 you told him what you were doing and he told you to move on, the
7 fighting was still going on between the Serbs and the KLA, wasn't it?
8 Yes or no?

9 A. Most probably yes.

10 Q. And when after Bajram Morina let you go with your uncle, you and
11 Krsta ran into the forest, didn't you?

12 A. It's an area where our properties are. The villagers of Stara
13 Vucina and Movljane had their properties there. And that area led to
14 a stream, and it went downhill for some 200 metres. And it was only
15 then that we started running, and at that point they realised that we
16 were Serbs.

17 Q. So Bajram Morina knew you and knew you were a Serb when he
18 stopped you and talked to you, didn't he? They knew you were Serbs
19 there, or he didn't know? Your -- your testimony is that they
20 didn't --

21 A. No, no, they didn't.

22 Q. Okay.

23 A. At that moment -- excuse me, at that moment, as it was happening
24 quickly, he did not realise that we were Serbs.

25 Q. Fair enough. So you are --

Witness: Dejan Jeftic (Open Session)

Page 10995

Cross-examination by Mr. Kehoe

1 A. Because he hadn't recognised us.

2 Q. Oh. I mean, you knew Bajram Morina, didn't you?

3 A. I knew him because he used to work with the father of Krsta
4 Jeftic, my uncle.

5 Q. And you told the SPO that you knew Bajram Morina from before the
6 war; right?

7 A. Yes, correct. All those neighbouring villages populated by
8 Albanians, I knew 99 per cent of the villagers. I knew their first
9 name, their last name. They knew me, they knew my father, my family.

10 Q. Yes. And, as a matter of fact, you told the SPO on direct
11 examination this morning that everybody knew everybody because it
12 was -- you're all part of the same community; right?

13 A. Well, actually, there were some 200 to 220 Serbs living in that
14 entire region in around the village of Movljane. And we felt free.
15 We socialised. We went hunting together. We had various activities,
16 sports activities. We all went to the same school. It's just that
17 one side was populated mostly by Albanians and the other side was
18 populated by the Serbs.

19 We never had any problems. We never argued. We never had
20 fights at school.

21 Q. So just going back to my question. When Bajram Morina ran into
22 you on the afternoon of 3 July, he knew exactly who you were, didn't
23 he?

24 A. I think that at that given moment, he did not recognise us. And
25 it was only when he saw us running away that he realised who we were.

Witness: Dejan Jeftic (Open Session)

Page 10996

Cross-examination by Mr. Kehoe

1 Q. So you run into Bajram Morina, he waves you through, and you're
2 two almost 19-year-old young men of fighting age, when you get the
3 chance, you start to run away; right?

4 A. Well, yes, because we realised that we'd be in trouble if we ran
5 into them once again. Because prior to that incident, there had been
6 many cases of kidnapping. Three of our relatives from Recane were
7 kidnapped. And just thinking about those incidents, one was well
8 aware of the security problems. And we wanted to avoid something
9 like that happening again.

10 Q. And then what you do is you run towards your uncle's house,
11 Stanko Stankovic in Recane; right?

12 A. Yes, around 7.00 p.m. on 3 July we arrived to the house of
13 Stanko Stankovic. We spent the night there. And then in the
14 morning, around 7.00 a.m. or quarter to 7.00, Stanko Stankovic
15 suggested to take us in -- to take us in a motorised cultivator back
16 to our home.

17 Q. So you go with Stanko Stankovic with your uncle Krsta and you to
18 head back to your village and when there is a -- on the day after a
19 battle takes place and before it starts again. And you have guns,
20 rifle and pistols, don't you?

21 A. No, that morning, when we started out to the Movljane village,
22 the hunting rifle of Stanko Stankovic and the pistol -- and I did not
23 know that that pistol existed. It was simply found in the motorised
24 cultivator in front of Movljane that morning at about 7.30.

25 Q. Let me stop you there. You were asked this question when you

Witness: Dejan Jeftic (Open Session)

Page 10997

Cross-examination by Mr. Kehoe

1 were stopped by Shukri Gashi. And this is at 756.1, page 16, line 24
2 to page 17, line 5:

3 "And then Shukrije Gashi approached you, and you had that
4 exchange you told us about. What happened then?

5 "A. And Sokol Kabashi also approached us. [He] searched us,
6 and they confiscated our rifle," our rifle, "and our pistol. Sokol
7 took the pistol from the tiller, and the hunting rifle, they actually
8 handed over to one of the group, of those 15. I don't remember who
9 approached and took the rifle."

10 Well, you told the SPO when you were interviewed back in 2020
11 that:

12 "They searched us, and they confiscated our rifle and our
13 pistol."

14 Is that right?

15 A. Not in the sense -- or, rather, I used the term "ours" because
16 it was there on that vehicle. But I had no knowledge of those
17 weapons being on the vehicle.

18 Q. Did you ever tell the SPO in your interview that you had, that
19 came into evidence as Exhibit 756, P756, or when you had a chance to
20 talk this over again with the Prosecutor a few days ago, when you had
21 a prep note, which is P757, did you ever tell the SPO that you had no
22 knowledge that those weapons were there? Did you ever say that once?

23 A. No, nobody asked me that type of question. I answered every
24 question put to me by the Prosecution.

25 Q. Well, when you read the portion of your statement that said:

Witness: Dejan Jeftic (Open Session)

Page 10998

Cross-examination by Mr. Kehoe

1 "They searched us, and they confiscated our rifle and our
2 pistol."

3 You, in fact, made some changes to that, but you didn't make any
4 change about the sentence that says:

5 "They searched us, and they confiscated our rifle and our
6 pistol."

7 Did you? You never made that change?

8 A. Well, I don't know how it is being interpreted, ours, yours. I
9 couldn't say mine or yours. I did not have any weapons at that point
10 in time, so I don't know how that sentence can be interpreted. You
11 are interpreting it in a certain way.

12 Q. I put to you this, Witness, that you, at that time, you are an
13 armed combatant. You are -- go to your uncle's house, you get
14 weapons, you knowingly get weapons because you don't say anything
15 that these weapons are not yours. And then with your uncle Krsta and
16 your uncle Stankovic, Stanko Stankovic, drive back into a combat area
17 armed, armed with weapons, didn't you?

18 A. No.

19 Q. No. Now, you were aware during this period of time that the
20 Serb authorities were arming Serb civilians, weren't you?

21 A. I wasn't aware of that. Maybe there were such cases. But I
22 never saw anybody arming anyone else.

23 Q. Did you learn when you were in your village during 1998 that the
24 Serb authorities, the MUP and the VJ, either one, or the
25 paramilitaries, that they were arming the Serb population; yes or no?

Witness: Dejan Jeftic (Open Session)

Page 10999

Cross-examination by Mr. Kehoe

1 Did you know that or did you learn that; yes or no?

2 A. No, truly not. No.

3 Q. So your testimony as you stand before these Judges is that you
4 never heard from anybody at any time in any place in Kosovo that the
5 Serb authorities were arming civilians? Is that your testimony?

6 A. Yes, of course. Even if there were such cases, the elders never
7 told us about them. Maybe it was done secretly, but I have no
8 information to that effect.

9 Q. So let me get where we are here that -- and take me -- correct
10 me if I'm wrong, because after you're on your way back on the 4th --
11 and, again, there's fighting going on the 4th, isn't there, 4 July,
12 the date of your abduction?

13 A. Yes, that was in the afternoon. The fighting started again
14 because the police had learned that morning that we had been
15 abducted. So since the previous night there was a lull in the
16 fighting, and then the fighting erupted again on 4 July in the
17 afternoon while we were kept detained up in the village.

18 Q. So is it your testimony that the fighting erupted in the
19 afternoon of the 4th because you and Stanko Stankovic and your uncle
20 were -- had taken into custody? That's why it took place? That's
21 why the Serbs attacked, I should say?

22 A. No, there was no attack. The radio wasn't functioning, so they
23 could not learn that we had arrived in the village of Movljane. This
24 is why the police came to inquire about us, and they found out that
25 we disappeared while travelling to the village. And this is when the

Witness: Dejan Jeftic (Open Session)

Page 11000

Cross-examination by Mr. Kehoe

1 fighting erupted again. I can't tell you who attacked first, whether
2 it was the Serbian police or the KLA. I did not see it because I was
3 up there detained.

4 Q. But the attack took place in the afternoon, and the Serbs
5 attacked in the direction of Budakove, didn't they?

6 A. It wasn't really an attack in the direction of Budakove. It was
7 an attack on the Serbian police travelling on the road from Suva Reka
8 to Recane towards Movljane, between the Donja and Gornja Krusica. It
9 was mostly there that the attacks took place but -- because it was a
10 convenient spot for attacks.

11 Q. So you do have information about these attacks coming in on the
12 4th; right? You just told us about -- you had information about this
13 attack. So you do know about the attack on the 4th; right?

14 A. I learned that some three to five years later, three to five
15 years after the events, because I met up with friends who perhaps
16 experienced the same fate. So we exchanged this information. I
17 learned about what was taking place, when and where. I did not know
18 about it on that day. I did not know about it contemporaneously. I
19 knew nothing about that incident, about the war, about that case.
20 Call it whatever you want. But I did not have any information on
21 that at the time nor did Krsta or any of us three who were kidnapped
22 on that day.

23 Q. Let me read you something from SPOE00226697 to 00226716. And
24 this is at page 3. And I'll just read it because there's no Serbian
25 translation. And we're talking about 4 July 1998. Said:

Witness: Dejan Jeftic (Open Session)

Page 11001

Cross-examination by Mr. Kehoe

1 "... it was precisely at 14:00 hours when the enemy forces,"
2 Serb forces, "launched their attack in Krushice in the direction of
3 Budakove."

4 Did that happen?

5 A. I truly don't remember that nor do I have such information about
6 the exact time. When that incident happened, one of the KLA soldiers
7 came to the yard while we were in the yard of Lumni Palusha and told
8 me, "Tomorrow we will let you go to bury your father because we have
9 just killed him." And later I learned that my father was nowhere
10 near on that day.

11 Q. Well, after you were, in fact, taken into custody with the rifle
12 and the pistols, you ran into Bajram Morina and he was very upset
13 because he had let you go the day before; isn't that right?

14 A. Yes, he also showed up there in Budakove. And I think it says
15 in my statement that he was repairing a vehicle, Lada Niva, the car
16 in which we were driven from the house of Lumni Palusha to the house
17 of Jahir Kokollari where we were kept in the basement. And then on
18 the same day when they released us, the KLA soldiers used that same
19 Lada vehicle to drive us to a spot where they let us go in the
20 direction of Gornja Krusica.

21 Q. And Bajram Morina -- and this is on your -- 756.1, page 28, line
22 12 to 16. And I'll just read it. You said:

23 "Bajram Morina, he said, and I quote him, like, 'I fuck your
24 mother, your mother's cunt, because yesterday -- you were carrying
25 your rifle until yesterday, and then you tell me that you're saving

Witness: Dejan Jeftic (Open Session)

Page 11002

Cross-examination by Mr. Kehoe

1 those women and children.' He was taking his revenge from me, having
2 escaped from him the day earlier."

3 Did you tell the SPO that?

4 A. So you see, we come back to that same issue that we discussed
5 earlier, when I told him that we were in the forest saving women and
6 children. Bajram Morina came and said precisely the words that I had
7 told you earlier, and that's precisely how it happened. He took his
8 revenge.

9 Q. And all of these -- all of these neighbours that you were
10 telling the SPO about, how they know that you're not involved with
11 military or involved with guns or involved with anything, they were,
12 in fact, shocked - shocked - to find out that you were travelling in
13 a combat area with weapons, weren't they?

14 A. No, not for a moment. There was no shock whatsoever.
15 Otherwise, Fadil Gashi, the brother of Shukri, and the other one, the
16 teachers in the elementary school in Movljane, would never have come
17 asking that we be released, knowing full well that we had nothing to
18 do either with the military or the police and that we never took part
19 in any attacks, either then or previously.

20 All of them knew about the activities that we were involved in,
21 and they knew about our lives just as we knew about theirs. We
22 always helped each other in all sorts of activities whenever the help
23 was needed.

24 Q. Well, let's just summarise your conduct on the 3rd and the 4th.
25 You're outside of Movljane, close by to a violent conflict between

1 Serb forces and KLA forces. When you're stopped by the KLA and they
2 let you go through, you run away. You then go to your uncle's house.
3 You spend the night at your uncle's house with your other uncle Krsta
4 Jeftic. And when you leave the next morning, the three of you are
5 armed, driving back toward a combat area, aren't you? That's all
6 accurate, isn't it?

7 A. I truly can't claim what you are saying. I can't share your
8 opinion. This is your conclusion as a defence lawyer. I do not
9 consider that I went there with the intention to get armed and then
10 go back with the intention of attacking anyone or carrying out an
11 attack on 4 July.

12 Q. Witness, you say you didn't go there with the intention to get
13 arms, but you did, didn't you? You got arms and then drove back into
14 a conflict area, didn't you?

15 A. I keep repeating and saying to you that I had nothing to do with
16 those weapons. I personally had no weapons.

17 Q. Now, let's talk a little bit -- before we go into what happened
18 to you, let's talk a little bit about *[REDACTED] Pursuant to In-Court
Redaction Order F2001RED*. But one last question
19 in this area that -- when you were driving in there with these
20 weapons into a combat area, the KLA had to detain you to determine
21 what your intentions were, didn't they?

22 A. Well, before we were stopped there, we ran into a former
23 neighbour, Desku Kabashi, who on that morning greeted us as usual in
24 Donja Krusica, on the road. If it was true, and if we really had
25 gone up there to get weapons, he would have been the first one to

Witness: Dejan Jeftic (Open Session)

Page 11004

Cross-examination by Mr. Kehoe

1 report on meeting the three of us.

2 Q. Well, let me ask you a question: Do you have any evidence that
3 Desku Kabashi knew that when he ran into you that you were armed?
4 Did you tell him that you were armed, that you had pistols and a
5 rifle? Did you tell him that?

6 A. No one mentioned any weapons. We simply greeted each other as
7 neighbours.

8 Q. So Desku -- so he -- this individual that you ran into at Donja
9 Krusica, Desku Kabashi, he had no idea that you -- your two uncles
10 were armed, did he? He had no idea you had guns with you?

11 A. Yes. But you keep accusing me of having weapons. I did not
12 have any weapons on me on that day.

13 Q. I put to you that you had weapons on you, and you never -- if
14 you didn't have weapons, you never told the SPO in all of their
15 interviews that you didn't have weapons. You said that they were
16 "our weapons," didn't you?

17 A. Well, if you think that that formulation should be interpreted
18 in that way. Everybody is entitled to their own interpretation.

19 Q. Now, let me just talk --

20 A. I have no -- nothing -- no reply to give to you.

21 Q. Let me say this to you with regard to the [REDACTED] Pursuant to
22 *In-Court Redaction Order F2001RED*. You told

23 us that [REDACTED] Pursuant to *In-Court Redaction Order F2001RED*. was in
24 the prison when you got to the Kokollari house;

25 is that right?

26 A. Well, I don't precisely remember that part. Whether they were
27 there or they brought us and then they got there, I somehow don't

Witness: Dejan Jeftic (Private Session)

Page 11005

Cross-examination by Mr. Kehoe

1 remember that well. So I really could not assert that now. But what
2 I do assert is that while they beat us, [REDACTED] Pursuant to In-Court
Redaction Order F2001RED. and the other
3 boy from Recane who is mentioned were there together with us in the
4 cellar. And I cannot exactly say who arrived there first, whether it
5 was me, that is to say us, or it was them.

6 MR. MICHALCZUK: Your Honours, if we're about to continue this
7 line of questioning, could we go into private session?

8 MR. KEHOE: My apologies. We are, and we should go into private
9 session.

10 MR. MICHALCZUK: We should have gone already. Yes. We'll be
11 sending the request.

12 PRESIDING JUDGE SMITH: Please, into private session.

13 MR. KEHOE: My apologies.

14 [Private session]

15 [Private session text removed]

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11006

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11007

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11008

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11009

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11010

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11011

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11012

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Dejan Jeftic (Private Session)

Page 11013

Cross-examination by Mr. Kehoe

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24 [Open session]

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

1 PRESIDING JUDGE SMITH: All right. Now we're adjourned until
2 9.00.

3 --- Whereupon the hearing adjourned at 4.02 p.m.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25