

1 Monday, 18 March 2024
2 [Open session]
3 [The accused entered the courtroom]
4 [The Accused Thaci and Krasniqi appeared
5 via videolink]
6 --- Upon commencing at 9.01 a.m.

7 PRESIDING JUDGE SMITH: Madam Court Officer, you may call the
8 case.

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

12 PRESIDING JUDGE SMITH: Thank you.

13 Now, for the record, I note that Messrs. Thaci and Krasniqi are
14 attending today's hearing via videolink. Messrs. Veseli and Selimi
15 are present in court.

16 Before we start hearing the testimony of Prosecution
17 Witness 811, we have a few preliminary matters to address.

18 First, with respect to the calendar, I would like to reiterate
19 for the sake of clarity that the hearings on March 21 and 22 August
20 of this year have been cancelled because of a conflict.

21 Second, last Friday, the Defence teams communicated their
22 revised time estimates for cross-examination of seven witnesses
23 pursuant to the Panel's oral order of 26 February 2024. The Defence
24 teams have reduced their estimates by a total of almost 30 hours.
25 This should contribute to the effort of all to reduce the time of

1 these proceedings. I would like to thank the Defence and acknowledge
2 the efforts made in this regard.

3 Next, the Panel wishes to deal with some corrections to exhibits
4 P00962 and P0966, which were admitted into evidence during W04325's
5 testimony.

6 On 30 January 2024, the Panel ordered that 118987 to 118991,
7 minus the last sentence of paragraph 20, be admitted into evidence.
8 The item which is admitted into evidence contains the last sentence
9 of paragraph 20. The Panel therefore orders that P00962 be replaced
10 with a new version where the last sentence of paragraph 20 is
11 redacted.

12 This concludes the first oral order.

13 On the same day, the Panel also admitted into evidence 043783 to
14 043793 as P00966. Later the same day, following a request by the
15 Defence, the SPO disclosed a lesser redacted version of this item.
16 This version was not admitted into evidence. The SPO has now
17 requested that the lesser redacted version of 043783 to 043793 be
18 admitted into evidence.

19 Any objections to this from the Thaci Defence?

20 MR. MISETIC: No objection, Your Honour.

21 PRESIDING JUDGE SMITH: Veseli Defence?

22 MS. ROWAN: No, thank you.

23 PRESIDING JUDGE SMITH: Selimi?

24 MR. TULLY: No, Your Honour.

25 PRESIDING JUDGE SMITH: And Krasniqi Defence?

1 MR. ELLIS: No, Your Honour.

2 PRESIDING JUDGE SMITH: Thank you.

3 The Panel orders that the lesser redacted version of 043783 and
4 043793 -- I'm sorry, to 043793 replace the current version of P00966.

5 This concludes the second oral order.

6 I understand the Thaci Defence wishes to be heard.

7 MR. MISETIC: Your Honour, if I may first, as a housekeeping
8 matter, introduce new co-counsel for the Thaci Defence,
9 Ms. Nina Tavakoli, who will handle the first witness.

10 PRESIDING JUDGE SMITH: All right.

11 MS. TAVAKOLI: Thank you, Your Honours.

12 Yes. On Friday we got an issue related to the admissibility of
13 part of the evidence -- oh. Sorry, Your Honour. Please can we have
14 private session.

15 PRESIDING JUDGE SMITH: Oh, certainly.

16 Please take us into private session, Madam Court Officer.

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Procedural Matters

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7 [Open session]

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

9 MS. HACKLER:

10 Q. Witness, you've given statements in the past, including to the
11 SPO, and you were allowed to review those statements in preparation
12 for your testimony. Today we will seek to tender three of your prior
13 statements into evidence, and they will not be broadcast to the
14 public. You will need to follow along on the screen beside you.

15 MS. HACKLER: Could we please call up SPOE00122527 through
16 00122543 RED2 and show the first page on the screen.

17 Q. Witness, I won't describe the statement since we're in public
18 session, but are you able to see it on the screen?

19 A. Yes.

20 Q. Without saying what the document is, do you recognise this
21 statement?

22 A. Yes.

23 Q. Do you recall making this statement?

24 A. Pardon?

25 Q. Do you recall making this statement?

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1 A. Yes.

2 Q. Do you recognise the signature at the bottom of the first page?

3 A. Yes.

4 Q. Whose signature is that?

5 A. It's mine.

6 Q. Do you remember reviewing this statement last week in
7 preparation for your testimony?

8 A. Yes.

9 Q. I'll now move on to the second statement.

10 MS. HACKLER: Could the Court Officer please bring up on the
11 screens SPOE00119512 through 00119533 RED2 and show page
12 SPOE00119524.

13 THE INTERPRETER: The interpreter's note: We kindly ask the
14 speakers to make a pause between question and answer. Thank you.

15 MS. HACKLER: Thank you for that reminder. I'll try harder.

16 Q. Witness, without saying what this is, do you recognise this
17 statement?

18 A. Yes.

19 Q. Do you recall making this statement?

20 A. Yes.

21 Q. Were you given a chance to review this statement last week in
22 preparation for your testimony today?

23 A. Yes.

24 PRESIDING JUDGE SMITH: Witness, please pause just a bit longer
25 after the question and before you answer.

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1 THE WITNESS: Oh, okay. Sorry.

2 MS. HACKLER: Thank you. We can remove that from the screen.

3 Q. Witness, do you remember being interviewed by the SPO?

4 A. Yes.

5 MS. HACKLER: Would the Court Officer please call up
6 092712-TR-ET Part 1 RED3, first page.

7 And while the Court Officer is doing that, for the record, and
8 as noted in the preparation session e-mail that was sent on Friday,
9 that is the lesser redacted version of the version that was
10 provisionally admitted in decision F01901.

11 Q. Witness, can you now see the document on your screen?

12 A. Yes.

13 Q. And do you see the date at the top of the page?

14 A. Yes.

15 Q. Do you see your name at the end of line 8 on the transcript?
16 And I only need a "yes" or "no" answer.

17 A. Let me just find my name first. Yes.

18 Q. Is this the statement you made to the SPO?

19 A. Yes.

20 Q. And did you review the full transcript of this interview last
21 week in your preparation session?

22 A. Yes.

23 Q. In that preparation session, were you given the opportunity to
24 make corrections and give clarifications to the three statements we
25 just saw on the screens?

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1 A. Yes.

2 Q. Do you recall that those changes and clarifications were
3 reflected in a written note that was read back to you at the end of
4 the preparation session on Friday, 15 March?

5 A. Yes.

6 MS. HACKLER: Could the Court Officer please call up preparation
7 note 1, which is ERN 120113 to 120122.

8 Q. Witness, do you see that note on your screen?

9 A. Yes.

10 Q. Can you confirm that what is recorded in the note on the screen
11 reflects your corrections and clarifications fully and accurately?

12 A. Yes.

13 Q. Subject to the changes that are set out in this note, do the
14 three statements that were shown earlier on the screen accurately
15 reflect what you said and what you would say if asked the same
16 questions in court today?

17 A. Yes.

18 MS. HACKLER: Your Honours, having satisfied the Rule 154
19 criteria set out in decision F1700, the SPO seeks admission into
20 evidence of all language versions of the proposed Rule 154
21 statements, the two associated exhibits, and Preparation Note 1.
22 These should all be classified as confidential.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 I'm sorry. Any objection from the Thaci Defence?

25 MS. TAVAKOLI: No, thank you.

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1 PRESIDING JUDGE SMITH: Veseli.

2 MS. ROWAN: No, thank you.

3 MR. TULLY: No, Your Honour.

4 PRESIDING JUDGE SMITH: All right.

5 MS. ALAGENDRA: No, Your Honour.

6 PRESIDING JUDGE SMITH: All right.

7 SPOE00122527 to 00122543 RED2 and SPOE00119512 to 00119533 RED2
8 and 092712-TR-ET Part 1 RED3 plus the Preparation Note 1 and
9 associated exhibits are all admitted.

10 You may assign numbers, Madam Court Officer.

11 THE COURT OFFICER: Thank you, Your Honours. And if you don't
12 mind, I'll also repeat the numbers for the record.

13 So the first statement, SPOE00122527 to SPOE00122543, and as far
14 as I understand from the decision on Rule 154, it's pages to be
15 admitted SPOE00122527 to SPOE00122542, those will be assigned
16 Exhibit P1040.

17 For the second statement with ERN SPOE00119512 to SPOE00119533
18 RED2, pages therein SPOE00119524 to SPOE00119533 RED2, together with
19 the corresponding translation, will be assigned Exhibit P1041.

20 The third statement, 092712-TR-ET Part 1 RED3, together with the
21 Albanian version, will be assigned P1042.

22 And then the associated exhibits SPOE00122527 to SPOE00122543,
23 and within that range page SPOE00122543, together with English and
24 Albanian version, will be Exhibit P1043.

25 The second associated exhibit, SITF00240114 to SITF00240120,

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1 with the corresponding English version, will be Exhibit P1044.

2 And, lastly, Your Honours, the preparation note with ERN 120113
3 to 120122 will be Exhibit P1045.

4 Thank you.

5 PRESIDING JUDGE SMITH: Thank you. You may proceed.

6 MS. HACKLER: Thank you, Your Honour.

7 Just to clarify. On the second statement, I'm not sure that I
8 heard that the first page would be included in the exhibit. Is that
9 part of the admission? It's a cover page with the witness's name
10 listed there. It's P1041 and the page number is SPOE00119512. And
11 that's just the cover page.

12 THE COURT OFFICER: That page will be included.

13 MS. HACKLER: Thank you.

14 On Friday, 15 March, the SPO sent a brief summary of the
15 witness's evidence that was just admitted under Rule 154. With
16 Your Honours' leave, I will now read it for the benefit of the
17 public.

18 PRESIDING JUDGE SMITH: Yes, go ahead.

19 MS. HACKLER: The evidence of W04811 is related to a charged
20 murder victim who was killed after being taken and detained by the
21 KLA in the Llap zone.

22 The witness's evidence describes the circumstances surrounding
23 those events, what her family was told, and the impact the events had
24 on them.

25 Q. Witness, your prior statements and exhibits have now been

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1 admitted into evidence. Since they cover the relevant events in
2 great detail, I only have a few additional questions for you.

3 MS. HACKLER: Your Honours, the questions are of an identifying
4 nature, so I ask that we please move into private session for the
5 protection of the witness.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Private session, please, to protect the witness.

8 [Private session]

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19 [Open session]

20 THE COURT OFFICER: Your Honours, we're in public session. And
21 all rise, please.

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

23 --- On resuming at 10.11 a.m.

24 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
25 back into the room.

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1 And we can continue in private session, Madam Court Officer.

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13191

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13192

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13193

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13194

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13195

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13196

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13197

Questioned by Victims' Counsel

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Witness: W04811 (Private Session)

Page 13198

Questioned by Victims' Counsel

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21 [Open session]

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

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

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

25 --- On resuming at 11.31 a.m.

Witness: W04811 (Open Session)
Cross-examination by Ms. Tavakoli

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1 PRESIDING JUDGE SMITH: You may bring the witness in.

2 [Trial Panel and Court Officer confers]

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: Before continuing with the examination
5 of this witness, we have an oral order on the briefing schedule that
6 was mentioned this morning. The Panel will issue an oral order on
7 the briefing schedule pertaining to F02178, which is the SPO's motion
8 of 14 March 2024 for the admission of Llap zone documents.

9 The Veseli Defence indicated this morning that the parties had
10 reached an agreement that the Defence file a joint response by
11 15 April 2024. The Panel considers that there is good cause for such
12 extension in light of the large number of documents contained in the
13 SPO's motion.

14 Therefore, the Panel hereby grants, pursuant to Rule 9(5), the
15 extension of time as per the parties' agreement. Accordingly, the
16 joint Defence response to F02178 is due on 15 April 2024. A reply,
17 if any, shall be filed by 25 April 2024.

18 This concludes the Panel's order.

19 Witness, we now proceed with cross-examination. Ms. Tavakoli
20 will begin for the Thaci Defence.

21 You have the floor.

22 MS. TAVAKOLI: Thank you, Your Honour.

23 Cross-examination by Ms. Tavakoli:

24 Q. Madam Witness, my name is Nina Tavakoli and I represent
25 Mr. Thaci. Now, it's right, isn't it, that a --

Witness: W04811 (Private Session)

Page 13200

Cross-examination by Ms. Tavakoli

1 MS. TAVAKOLI: Oh, sorry. Can I have private session?

2 PRESIDING JUDGE SMITH: We will go into private session for the
3 protection of the witness. Sorry, that was my error --

4 MS. TAVAKOLI: Sorry.

5 PRESIDING JUDGE SMITH: -- not yours.

6 [Private session]

7 [Private session text removed]

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Witness: W04811 (Private Session)

Page 13201

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13202

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13203

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13204

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13205

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13206

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13207

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13208

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13209

Cross-examination by Ms. Tavakoli

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Witness: W04811 (Private Session)

Page 13210

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13211

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13212

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13213

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13214

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13215

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13216

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13217

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13218

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13219

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13220

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13221

Cross-examination by Ms. Rowan

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Witness: W04811 (Private Session)

Page 13222

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13223

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13224

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13225

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13226

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13227

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13228

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13229

Cross-examination by Mr. Tully

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Witness: W04811 (Private Session)

Page 13230

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13231

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13232

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13233

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13234

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13235

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13236

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13237

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13238

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13239

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13240

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13241

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13242

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13243

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13244

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13245

Questioned by the Trial Panel

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Witness: W04811 (Private Session)

Page 13246

Questioned by the Trial Panel

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1 [Private session text removed]

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12 [Open session]

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

14 PRESIDING JUDGE SMITH: Thank you. We will break for lunch at
15 this time. We'll start with the next witness at 2.30. We will be
16 proceeding from 2.30 until 4.30 as I mentioned last time we met, so
17 we will have a two-hour session with this witness.

18 We're adjourned until 2.30.

19 --- Luncheon recess taken at 12.48 p.m.

20 --- On resuming at 2.29 p.m.

21 PRESIDING JUDGE SMITH: Mr. Misetic.

22 MR. MISETIC: Yes, Judge. I know you always love these
23 objections, but there's one issue that was -- that came up during
24 Judges' questioning, and there was a document used by the Panel that
25 had not been disclosed to the Defence under Rule 102(1)(b) but had

1 only been disclosed under Rule 102(3).

2 We believe that, especially in light of the Appeals Panel's
3 ruling earlier on Judges' question, that there was a caveat that it
4 had to be consistent with the rights of the accused. 102(3) material
5 is not notified to the Defence as material that might be used against
6 the accused by the Prosecution, and for that reason the Prosecution
7 would be precluded from using it at trial. And we don't -- we think
8 for the same reason the Bench, without adequate notice to the
9 Defence, can't use 102(3) material without any notice to the Defence.
10 As you can imagine, we were scrambling a little bit during
11 questioning and during lunch trying to trace where the document came
12 from.

13 And so I just wanted to note for the record the Defence's
14 position that material that has not been disclosed under
15 Rule 102(1) (b) or otherwise provided notice of before questioning, we
16 would have an objection to. Thank you.

17 PRESIDING JUDGE SMITH: Thank you. We'll consider that and make
18 a ruling on it.

19 Any questions about it? Anybody want to raise anything at this
20 point? Thank you.

21 So we continue now with Witness W02475. You may bring the
22 witness into the courtroom.

23 [The witness entered court]

24 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear
25 okay?

Witness: Claude Cahn (Open Session)
Procedural Matters

Page 13249

1 THE WITNESS: I hear. Thank you, Your Honour.

2 PRESIDING JUDGE SMITH: The Court Usher will now provide you
3 with the text of a solemn declaration which you are asked to take
4 pursuant to our Rule 141(2). Read it aloud, please.

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

9 WITNESS: CLAUDE CAHN

10 PRESIDING JUDGE SMITH: Thank you. You may be seated.

11 Witness, today we will start your testimony, which is expected
12 to last approximately one day. As you may know, the Prosecution will
13 ask you questions first. Victims' Counsel will not be asking you
14 questions. And, therefore, once the Prosecution is finished, the
15 Defence has the right to ask you questions. Members of the Panel
16 might also have questions for you.

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

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

Witness: Claude Cahn (Open Session)

Page 13251

Examination by Ms. Shahabuddin

1 Tazneen Shahabuddin. I'm a Prosecutor with the Specialist
2 Prosecutor's Office. I will be asking you some questions for about
3 the next hour or very possibly shorter.

4 Before I begin, I will note that, as explained during your
5 preparation session, rather than asking you questions about every
6 relevant issue you may have information about, it may be possible to
7 admit your prior statement containing such information into evidence.
8 In order to do so, there are a number of procedural steps to follow,
9 which I will now engage in.

10 First, I will establish your identity. What is your name?

11 A. My name is Claude Cahn.

12 Q. What is your date of birth?

13 A. I was born on April 7th, 1968.

14 Q. And where were you born?

15 A. I was born in New Haven, Connecticut, in the United States.

16 Q. What is your nationality?

17 A. I hold dual nationality of the United States and the Federal
18 Republic of Germany.

19 Q. And what is your occupation?

20 A. I am currently employed by the Office of the High Commissioner
21 for Human Rights of the United Nations, and I am a human rights
22 officer for the office.

23 Q. Where did you work in or about July 1999?

24 A. In July 1999, I was working -- I was in a period of a tenure for
25 the European Roma Rights Centre, which lasted from 1996 to 2007. I

Witness: Claude Cahn (Open Session)

Page 13252

Examination by Ms. Shahabuddin

1 had a number of different capacities with the centre. The European
2 Roma Rights Centre is, and was at the time, an international
3 non-governmental organisation doing strategic legal work and human
4 rights documentation on the situation of Roma and other communities
5 treated as gypsies in Europe.

6 Q. You mentioned that you worked in different capacities at the
7 European Roma Rights Centre. What were those job titles?

8 A. I was hired as research and publications coordinator. I was
9 then staff writer. I later became a research coordinator, and then
10 was eventually, in 2003, promoted to research director. Between the
11 period 2003 and 2007, I was research and publications director, but
12 I -- for six months in that period, I was also *ad interim* executive
13 director of the organisation as a whole.

14 Through all of that time, we would undertake first-hand research
15 and documentation. So in the capacity that we are here today, it was
16 as a human rights researcher into fact-based matters, human rights
17 matters.

18 Q. Did you provide a statement to the Special Investigative Task
19 Force in the past?

20 A. I did.

21 Q. I'm now going to call up an item.

22 MS. SHAHABUDDIN: I'm going to ask that it not be broadcast to
23 the public. I'd like to show the witness 034032 to 034057 RED3, and
24 just page 1 of that document. Okay.

25 Q. Witness, you should be able to see on your screen a document

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1 side by side in its original English and then Albanian. This
2 document refers to a meeting with the Special Investigative Task
3 Force in February 2016. Do you recall that meeting?

4 A. Yes, I do recall that meeting.

5 Q. Did you provide a statement at that meeting?

6 A. I did, yes.

7 Q. Okay. I'll direct your attention to the bottom of the page that
8 you see in English. Do you recognise your signature at the bottom of
9 the first page?

10 A. Yes, those -- that is my signature.

11 Q. Okay. Were you recently provided with an opportunity to provide
12 clarifications and corrections in relation to the statement?

13 A. I did, yes. I was, yeah.

14 Q. And do you recall that you made a number of clarifications and
15 corrections to this statement?

16 A. That is correct.

17 Q. Do you recall these clarifications and corrections being
18 included in a note which was read back to you?

19 A. Yes, I do.

20 Q. Subject to the clarifications and corrections set out in that
21 note, is the information provided in the statement that you see on
22 your screen today and that I've referred you to today accurate and
23 truthful to the best of your knowledge and belief?

24 A. It is, yes.

25 Q. Subject to the clarifications and corrections set out in the

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1 note, does the statement I referred you to today accurately reflect
2 what you would say if you were examined about the events recorded
3 therein?

4 A. That is correct.

5 MS. SHAHABUDDIN: Your Honours, I would seek admission of the
6 prior statement along with Preparation Note 1 and the witness's
7 associated exhibits at this time. And I'd be happy to read the ERN
8 numbers of those documents into the record.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MS. SHAHABUDDIN: Thank you.

11 The first is 034032 to 034057 RED3 as well as 034032 to
12 034057-AT RED3. And 120035 to 120038. SITF00265720 to 00265827
13 RED3, SITF00265828 to 00265846. The four items I've just listed
14 should be classified as confidential.

15 I will go on to list the remaining items, which I will state now
16 may be classified as public.

17 Those items are 024835 to 024843, 024844 to 024865, 023821 to
18 023822, 023815 to 023820, 023795 to 023808.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MS. TAVAKOLI: No, Your Honour.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MS. O'REILLY: None aside from those made in our written
23 submissions, Your Honour.

24 MR. TULLY: None, Mr. President.

25 MR. ELLIS: No, Your Honour.

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1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 034023 to 034057 RED3 plus the enumerated associated exhibits
3 and Prep Note 1 -- I'm sorry, did you tender Prep Note 1 as well?

4 MS. SHAHABUDDIN: Yes, Your Honour. That was the second item I
5 read --

6 PRESIDING JUDGE SMITH: Okay.

7 MS. SHAHABUDDIN: -- which is 120035 to 38.

8 PRESIDING JUDGE SMITH: Prep Note 1 and all the associated
9 exhibits as enumerated are admitted and will be assigned exhibit
10 numbers. The first four will be classified as confidential of the
11 associated exhibits. The balance will be public.

12 THE COURT OFFICER: Thank you, Your Honours. So for the
13 statement 034032 to 034057 RED3 and the Albanian translation, that
14 will be Exhibit P1047 and will be classified as confidential.

15 The prep note with ERN 120035 to 120038 will be Exhibit P1048
16 also classified as confidential.

17 Associated Exhibit SITF00265720 to 00265827 RED3 will be
18 Exhibit P1049, also classified as confidential.

19 SITF00265828 to 00265846 will be Exhibit P1050 and will be
20 classified as confidential.

21 The next item, 024835 to 024843 will be Exhibit P1051, and this
22 will be classified as public.

23 For the next item, 024844 to 024865, it will also be classified
24 as public and will be assigned Exhibit P1052.

25 Then 023821 to 023822 will be classified as public and assigned

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1 Exhibit P1053.

2 023815 to 023820 will be assigned Exhibit P1054 and will be
3 classified as public.

4 And, lastly, Your Honours, 023795 to 023808 will be
5 Exhibit P1055 and likewise classified as public.

6 Thank you, Your Honours.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 Thank you.

9 You may proceed.

10 MS. SHAHABUDDIN: Your Honour, on 14 March 2024, the SPO
11 submitted a proposed summary of this witness's now admitted Rule 154
12 statement to the Panel and the Defence and Victims. We have not
13 received any objection to the proposed summary and procedure, and
14 with your leave I will now read that summary in open session.

15 PRESIDING JUDGE SMITH: You may proceed.

16 MS. SHAHABUDDIN: In July 1999, Claude Cahn worked for the
17 European Roma Rights Centre, ERRC. In the course of his work, Cahn
18 documented human rights abuses of Roma in Kosovo. He went to
19 southern Kosovo from 2 to 7 July 1999, where he interviewed Roma
20 victims of crimes, including multiple Roma who had been detained by
21 KLA members. Cahn learned from interviewees who had been detained
22 that KLA members had taken them to certain locations in and around
23 Prizren where detainees were interrogated, beaten, threatened, and
24 accused of being Serbian collaborators.

25 Q. I now have just a very few number of questions for you. Just to

1 orient you, in your SPO statement, you said that you "interviewed
2 many Roma in the Prizren area" and that "it was not difficult to find
3 people to interview. In the Terzi Mahala area, everybody knew
4 everybody, so we just walked into the neighbourhood and asked to
5 speak to people about any abuses they had suffered. Various victims
6 would then be brought to us."

7 MS. SHAHABUDDIN: And for the record, that is from P1047 at
8 paragraph 26.

9 Q. You later "recalled that many interviewees told us about their
10 detention, interrogation, and beatings by the KLA."

11 MS. SHAHABUDDIN: And for the record, that is from P1047 at
12 paragraph 39.

13 Q. I'd like you to focus on those interviewees, the Roma men who
14 were detained by members of the KLA, as well as other Roma people you
15 spoke to connected to them such as family members, friends, and
16 neighbours.

17 Can you describe the impact of these detentions and the abuse
18 suffered by these men on the people that you spoke to?

19 A. The people themselves seemed in shock and stunned, in various
20 states of trauma. The -- I mean, many of them still had physical
21 injuries, so it wasn't difficult to -- to see why they were in states
22 of distress.

23 I think the -- what -- what we -- the Terzi Mahala interviews
24 were in the first days of the mission. I think it was the first
25 place that we were conducting interviews, or among the first. The

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1 community, because we could meet and see members of the community
2 around, seemed very agitated due to what was obviously a quite new
3 situation around, and so it was a -- it was a distressed place.

4 We later learned in the course of the same mission that that
5 particular neighbourhood was among the safest places, and so people
6 were fleeing to it, to Terzi Mahala, from rural areas around. So --
7 and there were two KFOR soldiers who were visibly stationed at -- in
8 Terzi Mahala. It was the only place we saw KFOR. And so that was a
9 relatively safer space apparently, but it was an agitated community.

10 Q. You mentioned finding people in various states of trauma. How
11 would you describe the mental states of various people that you
12 encountered in this setting?

13 A. Stunned, in shock, distressed. Those people who weren't
14 directly affected were trying to, you know, run around and help bring
15 us to other people. There were people who had family members
16 elsewhere, and they were, you know, insane with fear and sort of
17 grief at how -- at the -- you know, at what they -- for their family
18 members. So it -- I mean, it was a raw and shocking kind of shocked
19 set of people that we met.

20 Q. Taking a step back from the specific individuals that you had
21 occasion to talk to, can you just describe the atmosphere in the Roma
22 community?

23 A. In Terzi Mahala in particular or in the other ...

24 Q. Any community where you spoke to an individual who had been
25 detained by KLA members.

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1 A. I mean, we were in places where houses had burned down during
2 the night. We were in places where people had been kidnapped from
3 out of their houses. We met one family that we met in one place, we
4 then met again two days later in another place because in the
5 intervening period they had fled.

6 I think everyone was in preparation to flee and trying to figure
7 out if and how they could flee. It was a -- it was a very anarchic
8 atmosphere everywhere and it was violent. You could see trucks of
9 men with -- you know, armed men driving around. When we met KFOR,
10 they were open about their inability to provide protection. It was a
11 very -- yeah, it was a -- there was a new power which everybody was
12 aware of, so people were trying to adjust to a new power.

13 It just felt like a place that had lost all order, all
14 civilisation, all structure, and was -- and there was violence very
15 present particularly during the night. You know, houses would be
16 attacked during the night.

17 Q. I don't have any other questions for the witness.

18 Cross-examination by Ms. Tavakoli:

19 Q. Thank you. I'd like to go through your reports in quite some
20 detail, if that's okay with you. So in your report, "Justice for
21 Kosovo," you note that, in 1989, Serbia suspended Kosovo's autonomous
22 status within the former Yugoslavia. And in the context of that, you
23 say that ethnic Albanians were purged from the Kosovo administration.
24 Now, that purge included dismissals of Kosovo Albanians from
25 positions in political and economic institutions, state-owned

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1 enterprises, and the civil service, including the police, the
2 prosecution service, the judiciary, the media, health, and education.
3 That's right, isn't it?

4 A. I mean, I'm not a historian. The source of my knowledge is
5 third-hand literature available in the languages that I speak,
6 especially sort of historians such as -- or contemporary historians
7 like Tim Judah and other sort of credible academics. So the source
8 of my knowledge for the most part on those things is third-hand
9 literature. Although, I do know a number of the Romani intellectual
10 elite of the place, and so I've also heard their accounts of things.

11 Q. In your article, you use the word "purge," so that's why I'm
12 asking. So are these the sort of things you were thinking about when
13 you wrote that word?

14 A. I think yes, because I think on the former Yugoslavia at the
15 time there was a lot of efforts to explain in -- to the public, you
16 know, in sort of competent public journals what was going on. And
17 for many Yugoslavs and for a lot of the explainers, you know, the
18 sort of leading political scientists and historians who were
19 publishing on it, the start of the events is a series of speeches and
20 moves made by the -- by Slobodan Milosevic and the Yugoslav
21 authorities that began in 1987 and 1989. I know that from various
22 different expert accounts that I read.

23 Q. Thank you. And you go on in your article to say -- maybe it's
24 easier if I just read it out. This is the whole section, perhaps.

25 So once the purge had occurred, ethnic Albanians were replaced

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1 by those who were loyal to the regime who were Serbs and Roma.

2 That's correct? And then you note that throughout the 1990s, so
3 after this, the Roma came vocally to support the Milosevic regime in
4 a series of demonstrations in Belgrade and elsewhere.

5 A. May I respond or --

6 Q. Yes, this is just --

7 A. -- was that a question?

8 Q. -- quoting from your article.

9 A. Right. I -- okay. I wouldn't use the definite article "the"
10 for Roma. I think some Romani intellectuals were.

11 Q. Sorry, right. Now, so it's right, isn't it, that as far as the
12 ordinary Kosovan Albanian is concerned, after 1989, the Roma and
13 Serbs have taken their jobs and they are publicly supporting the
14 regime that's effected that change. Just from the man on the street,
15 that's what they'll be thinking; is that right?

16 A. I wouldn't say so, no. I mean, I would -- I think I would
17 nuance that somewhat by there were a series of -- a handful, a number
18 of visible, at least in the Romani case, people who were in that
19 situation who had, you know, as you say, taken their jobs and were
20 replacements after the series of moves of the late 1980s against
21 Kosovo autonomy.

22 But there were also Roma who were Albanian oriented, and I think
23 most people's -- I mean, for anyone outside an urban area, their
24 probable -- probable direct contact with the Romani community was
25 local people who had no political affiliation whatsoever and were

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1 trying to orient their lives between a struggle between the two
2 dominant communities.

3 Q. I understand. It's just I was just quoting. Maybe it might be
4 easier to bring it up on the screen.

5 MS. TAVAKOLI: So that's Exhibit P01054, and it's page 023816.

6 Q. So if we can just look at that first paragraph.

7 A. Mm-hm.

8 Q. I'm just quoting from what you've written, that the ethnic
9 Albanians are purged and they are replaced with those who are regime
10 loyal, and that as a result of that, the Roma came to endure -- incur
11 the enduring animosity of the nationalist cause. That was the root
12 of that.

13 A. Is that a question?

14 Q. Yes. Do you agree with what you've written there is the
15 question?

16 A. I mean, you're showing on the screen part of a longer text.

17 Q. I've read the -- yeah, I've read the whole text.

18 A. Right, okay. So this part of it was the part of the text that
19 explains elements of the animosity in the politics of the 1990s. If
20 you're asking me what the source of hostility to Roma and gypsies and
21 others, you know, Ashkalis, Egyptians, I think the source is probably
22 a much deeper racism and exclusion that was maybe ignited when people
23 who are considered pariah in a society are elevated to a public
24 position. And, again, I think it was a, you know, handful of people.
25 So I wouldn't -- I mean, I think this one paragraph, I stand by it,

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1 but it's part of a wider description.

2 If I can just say one more thing, and that is the description
3 used most often by Roma for that time is between two fires, meaning a
4 constant attempt to try to mediate a life between two communities
5 that were putting them under increasing pressure to choose a side or
6 to give up efforts at neutrality.

7 Q. Thank you. And so following this purge of the Kosovan
8 Albanians, it's right, isn't it, that they suffered throughout the
9 1990s under a system that discriminated against them, and this
10 exacerbated the animosity that they felt forwards those Roma that
11 were now in their jobs?

12 A. You're asking me beyond the purview of what I know.

13 Q. Okay.

14 A. I ...

15 Q. That's fine. And is it also right that any animosity towards
16 Roma at this time would have been exacerbated by historic
17 discrimination against the Roma in Kosovo and in that region? I
18 don't know if you can help us with that at all, but ...

19 A. Can you say the question again?

20 Q. The question really is getting at historic discrimination over
21 decades, so any discrimination -- any animosity towards Roma in this
22 period would -- would it have been exacerbated by historic
23 discrimination against the Roma?

24 A. Yes. Yes, I agree with that statement. And if I can just add
25 that I think many Roma, and here not only intellectuals, perceived

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1 Yugoslavia, the multinational Yugoslavia, as a home where there was
2 fear and mistrust of any of the individual nationalisms. And so the
3 extent to which Belgrade was -- there was a loyalty to Belgrade which
4 was associated with Yugoslavia less than it was associated with
5 Serbian nationalism because Yugoslavia had started really over -- you
6 know, from the 1960s promoting Romani media, promoting Romani
7 newspapers, and trying to -- you know, and -- and beginning for the
8 first time in the history of the lives of Roma to elevate them to
9 some position of relative political equality in that. So there was,
10 I think, a fierce loyalty from the side of the Romani community to
11 the Yugoslav idea.

12 Q. Thank you. Now, in your report, "Justice for Kosovo," you
13 mention Milosevic's implementation of Operation Horseshoe which began
14 in early 1999. And just simply as background, it's right, isn't it,
15 that that is widely seen as a campaign of ethnic cleansing, it's
16 large-scale violence against the ethnic Albanians by the Serb forces
17 which drove them out of Kosovo. That's widely agreed, isn't it?

18 A. Is that a question?

19 Q. Yes.

20 A. I mean --

21 Q. I'm trying to set -- just to explain --

22 A. Great.

23 Q. I'm just trying to set the background. In order to ask
24 questions, there's rules about --

25 A. Yeah, okay.

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1 Q. -- the steps I have to go through.

2 A. I followed the events in the media, as did everyone else --

3 Q. Yeah.

4 A. -- and there were hundreds of thousands of people who were
5 displaced into Macedonia and Albania. So I think it's pretty
6 publicly established that that was what was going on.

7 Q. Yeah. Sorry, just to be clear, I don't think these things
8 aren't --

9 A. Okay.

10 Q. -- but in order to ask my questions, there's just ways that I
11 have to do that.

12 A. Right, right.

13 Q. So would you agree, then, with the statistics, OSCE's statistics
14 at the time, which I think are UNHCR statistics, that in total it was
15 863.000 Kosovan Albanians that were displaced at that time, and that
16 UNHCR estimated that an additional 59.000 people were internally
17 displaced within Albania? Would you agree with that?

18 A. I do agree with those statistics, but I would add one caveat,
19 which is that -- which is that, at the time, UNHCR nor the OSCE were
20 tracking the ethnicity of the people displaced. So it was later
21 acknowledged by the OSCE and UNHCR that within those communities were
22 quite a few Roma who were holding passports and were within the wider
23 ethnic Albanian displacement but are not counted as such in the data
24 that you cited.

25 Q. Okay, thank you. I didn't -- sorry. That's good to know. I

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1 didn't know that. It's 590.000. Sorry, I just misspoke for the
2 record.

3 A. Okay. Right. The UNHCR issued clarifications in the course of
4 -- especially as people began returning from Germany, and began
5 trying to track who was ethnic Albanian and who was Romani, Ashkali,
6 or Egyptian, but that took place much later. The first count was
7 just an Albanian wave that, in fact, probably included, you know,
8 quite a range of different ethnic communities.

9 Q. And I think you described Operation Hornet as massive violence.

10 A. Horseshoe.

11 Q. Yeah, Horseshoe, sorry. And that, I think it's widely
12 documented, included Serb forces burning and looting property,
13 executing people, there are stories of rapes, and so on, carried out
14 against the ethnic Albanian population, driving them out. That's
15 right, isn't it?

16 A. That's beyond my documentary sphere. I've read the OSCE
17 reports. The OSCE is a highly credible organisation, so I assume
18 that that is correct, yeah.

19 Q. Thank you. Now, you've also said in your report, "Justice for
20 Kosovo," that in Operation Hornet -- Horseshoe, "Roma and others
21 regarded as 'Gypsies' in Kosovo played a role. The facts are not
22 disputed: Roma assisted the Serbian police in plundering shops to
23 supply the military action, and they assisted the police in burying
24 the Albanian dead."

25 Do you still agree with that?

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1 A. I think that was one of the most striking features of the
2 documentation both during the time and afterward was the extent to
3 which the facts matched up but the interpretation was different. So
4 Roma would say the Serbian police came into the Mahala, to the Roma
5 neighbourhood, rounded everybody up, and said -- you know, at
6 gunpoint, and said, "Now you're going to carry boxes out of" -- you
7 know, "come with us," would take them to shops and would order them
8 to carry things away. Or they would round up Romani men and have
9 them bury bodies. So those were the facts sort of as reported from
10 the Romani side of things.

11 And when one heard what Albanians were saying about Romas, they
12 did the dirty work of the Serbs. So in a sense there was almost a
13 perfect harmony between what Roma was saying about what was going on
14 during that period of time, especially February to June, but the
15 interpretation was completely different.

16 So in the -- you know, the account you would hear from Albanians
17 was that, you know, they -- they took the other side, whereas what
18 the Roma were saying was that they were rounded -- rounded up at
19 gunpoint and then forced into forced labour.

20 The second step of that was then later when you had people
21 displaced, for example, in Macedonia, who increasingly couldn't go
22 home because the fact that they were out of the country was giving
23 rise to a suspicion that they must have done something bad during the
24 events. So -- so they would be -- the fact of having fled meant a
25 sort of -- you know, from the point of view of their neighbours,

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1 their ethnic Albanian neighbours, that they were implicitly guilty of
2 something during -- during Operation Horseshoe. Yeah.

3 So but on -- on what was going on during that period, the facts
4 were very -- you know, they didn't -- there wasn't a lot of air
5 between the statements of fact. There was just a very large
6 difference of interpretation between them.

7 Q. Yeah. So why they had done it is up for dispute -- is up for --
8 there's different interpretations. But the net result, I think, as
9 you say in your report, is that ordinary Albanians regarded all of
10 this, the factors you've just said, as evidence that the Roma had
11 allied themselves to who -- to who they saw as their oppressors.
12 You've said here "the enemies of the Albanian nation."

13 A. Betrayed the Albanian nation.

14 Q. Betrayed.

15 A. I'm not sure about allied. I never heard anybody say they were
16 loyally on the side. They just -- they were -- they -- yeah.

17 Q. They betrayed. It's my word, sorry. Yeah, betrayed the
18 Albanian nation. So as a result of that, it's fair to say, is it,
19 that ordinary Albanians didn't look favourably on the Roma by this
20 time?

21 A. That is absolutely correct, yeah.

22 Q. And I think we can see that in your interview with the SITF
23 where you talk about one of the victims goes to the hospital, the
24 Roma victims, and you say that the Albanian doctors seem to have
25 little understanding or sympathy for the fears of the Roma. You say

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1 that the doctors seemed annoyed or impatient about the fears of the
2 Roma.

3 And then in another report, you say that the doctors of one
4 victim let him know what they thought of him. If he had gotten a
5 beating, he must have deserved it.

6 So it's right, isn't it, that anti-Roma feeling, you saw it for
7 yourself, it was just extremely widespread in Albanian society in
8 Kosovo at this time?

9 A. Yes, I agree with that in full. But if I can add, it was also
10 the case that -- yeah, that the public was also doing -- appearing to
11 do a lot of work to keep us away from Roma, to keep Roma separated
12 from, so also were acting in a -- in a mob manner.

13 Q. So this anti-Roma feeling, it's not limited to those people
14 who'd been in the KLA. It was throughout the whole society. That's
15 right, isn't it? You didn't have to be in the KLA to have those
16 feelings about the Roma, put it that way.

17 A. It's beyond my sphere of knowledge to know the link between how
18 antipathy what might have been transmitted from the KLA to the -- to
19 the community, but it certainly was the case that lots of people were
20 doing bad things in a mobilised way on an ethnic basis.

21 Q. Thank you. Then on 10th June, if we can fast-forward, 1999, UN
22 Security Council Resolution 1244 is adopted by the Security Council,
23 and this establishes UNMIK, which is the Interim International
24 Civilian Administration for Kosovo. And their duties included
25 maintaining civilian law and order, including establishment of local

1 police forces, and deploying international police personnel to serve
2 in Kosovo. I'm just reading from the Security Council resolution.
3 Protecting and promoting human rights, and assuring the safe and
4 unimpeded return of all refugees and displaced persons to their
5 homes.

6 MS. TAVAKOLI: And for the record that is Exhibit 1D.

7 Q. And then there was also an UNMIK regulation, which is
8 Exhibit 1D0079, which provided that all legislative and executive
9 authority with respect to Kosovo, including the administration of the
10 judiciary as vested in UNMIK and as exercised by the Special
11 Representative of the Secretary-General - again, I'm just setting the
12 scene for my questions that follow - and UN Security Council
13 Resolution 1244 provided for the creation of KFOR. And their duties
14 included ensuring public safety and order until the international
15 civil presence could take over responsibility for that task.

16 Now, when you were there from the 2nd, I think, to 7th July
17 1999, neither UNMIK nor KFOR had the manpower or resources to provide
18 security and assert authority on the ground, did they?

19 A. I can only answer that question from the point of view of what
20 was going on in Prizren, Djakovica, and Veliki [Overlapping speakers]
21 ...

22 Q. That's fine. We can keep it to that.

23 A. But I do have the views of the other team that went to
24 Prishtine --

25 Q. No, I think --

1 A. -- Orahovac, and other places.

2 Q. I think it's best just to keep it to what you know. That would
3 be easier.

4 A. I mean, I do know that on an expert basis from my colleague. I
5 think our impression, clearly stated from the German command, was
6 that he did not have the resources or human power to provide
7 protection. That was stated directly to me from the -- from the --
8 from him. We never met the Italian command in Djakovica. The
9 rumours going around was that they were very close to the KLA, that
10 they were making less of an effort. I never met them, and those were
11 just perceptive rumours.

12 From my colleagues who had been in the French and UK areas, it
13 was more a sense that they had the resources but had orders not to
14 stop the looting. There was a sense in particular that the UK,
15 having experience in Northern Ireland, were more skilled at that kind
16 of policing involved but were told to let the Albanians loot. And
17 that was the -- that was what my colleagues saw when they went to
18 Prishtine.

19 Q. And I think -- yeah, you've detailed that in your report. I've
20 read it. I think this German KFOR officer -- I won't try and
21 pronounce his name, but he said -- he told you that they were too
22 understaffed --

23 A. Yes.

24 Q. -- to provide protection to all or even most of the city, and
25 that they were effectively powerless to stop night-time looting,

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1 arson, and other violence. And you wrote, didn't you, to Kofi Annan,
2 the Secretary-General of the UN at that time. There's a copy of that
3 letter in your article, Roma who testify, which is now
4 Exhibit P01062. And I think your phrase is civilian police units
5 were "understaffed to the point of ineffectiveness."

6 A. Is that a question?

7 Q. No.

8 A. Okay.

9 Q. It's just to get you -- do you still stand by -- yeah, this --
10 I'm just trying to paint a picture of what exactly it was like. And
11 did --

12 A. I mean, that was what the commanding officer of the German KFOR
13 told us. And also because he did his best and delegated a team to go
14 and rescue a woman with us, we saw that the German military were --
15 you know, these were 18-year-old kids. They were very inexperienced.
16 And he didn't have enough of them. And they -- you know, they had --
17 I think it -- if I'm not mistaken, it's Germany's first post World
18 War II military engagement anywhere. So, yeah, it was a very --
19 clearly a very understaffed and underresourced set of personnel.

20 Q. And did you know that this -- were you aware at the time that
21 this resource issue was also raised by the SRSG of UNMIK himself?

22 MS. TAVAKOLI: If we could just pull up the document 1D00081,
23 and that's a memo from Bernard Kouchner about UNMIK police matters.
24 And it's the second page at the top. That's it.

25 Q. And so were you aware that he'd also raised this? He notes here

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1 that:

2 "The current authorised strength of UNMIK civilian police is
3 1,800 which yields a ratio of one police officer per 909 citizens
4 ..."

5 And then it goes on to describe what the typical European ratios
6 are. And:

7 "A ration of one per 909 is fundamentally inadequate for the
8 maintenance of law and order ..."

9 So were you aware that Bernard Kouchner agreed with you?

10 A. I may have read as much, but it was 25 years ago. I don't have
11 any recollection of having known that officially.

12 Q. So in the summer of 1999, the Serbs have left, UNMIK is a bit
13 slow to get started, and KFOR doesn't have the resources. So would
14 you agree with me that the result is effectively a law enforcement
15 vacuum?

16 A. Many Serbs have left. So I'm not sure all Serbs have left.
17 There was an effort to provide protection to a number of
18 individuals --

19 Q. I meant the Serb -- like the government, the police. They've
20 gone.

21 A. I mean, yeah, with the exception of Mitrovice, yeah, I suppose
22 that's true. One had the feeling of anarchy, but also we saw KLA
23 exercising what appeared to be authority, sort of military authority,
24 power authority, which in particular we saw on one occasion when the
25 people we were staying with went and apparently checked with the KLA

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1 to see if it was okay that we stay. And they were apparently told
2 that it was okay, but they came over to visit and see the house. And
3 so we saw on one occasion, you know, the visible presence of KLA
4 as -- as authority.

5 I also think on one occasion I was sitting at a terrace and
6 witnessed somebody interviewing a uniformed KLA officer, you know, in
7 a sort of journalistic interview. So there were signs that there was
8 sort of KLA presence as -- as authority.

9 Q. But you know though that legally from 10 June the authority in
10 Kosovo had transferred to the international community; that's right,
11 isn't --

12 A. Yes.

13 Q. -- it? And also in terms of who is KLA, in your work, in your
14 notebooks, there's evidence that you took testimonies from Roma
15 victims of crime and some of them described perpetrators who were
16 Albanians dressed in civilian clothing. That's right, isn't it?

17 A. That is correct.

18 Q. I've got a couple of examples. I think you interviewed one
19 person, yeah, who said Albanians not in uniform who were doing that.
20 Another one said not in uniform, and one was wearing a Nike cap. And
21 then you have some people who are dressed in KLA uniforms.

22 Now, in your handwritten notes of an interview with one victim,
23 you say, and this is now P0149, and it's at page 46, that victim
24 said:

25 "Now Albanians are dressing up as UCK for 30 Deutschmarks. Now

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1 everyone is UCK."

2 You wrote that, didn't you? And --

3 PRESIDING JUDGE SMITH: You have to say "yes" or "no."

4 THE WITNESS: Oh, sorry.

5 MS. TAVAKOLI: Sorry.

6 THE WITNESS: I believe the honourable counsel is citing a quote
7 that is in one of my notebooks.

8 MS. TAVAKOLI: [Overlapping speakers] ...

9 THE WITNESS: So I wrote it in the sense of I wrote it down when
10 someone said it, yes.

11 MS. TAVAKOLI:

12 Q. And were you aware at the time that this observation about the
13 ability to buy KLA uniforms was echoed by the UN High Commissioner
14 for Human Rights in September who said that they were available for
15 50 Deutschmarks?

16 MS. TAVAKOLI: If we could please pull up Exhibit 1D00085. And
17 it's paragraph 102.

18 Q. It's just the last sentence. Had you seen that, that the UN
19 High Commissioner had discovered what you discovered, which was that
20 KLA uniforms were available for sale?

21 A. I cannot recall having seen this report, but it's plausible that
22 I might have.

23 Q. So it follows from that, doesn't it, that -- actually, no, scrap
24 that. Now I'll go back, sorry.

25 So the time that you're there, we've established that there's

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1 many Albanians that have left the country by the summer. And then --

2 A. Albanians who have left by the summer?

3 Q. Sorry, the refugee flows, 863.000 Kosovans have left. And

4 then --

5 A. I think the consensus is that most of them came back very

6 quickly and that they came back too quickly for UNHCR.

7 Q. Exactly.

8 A. So I'm not --

9 Q. That's -- that's my point. Sorry. So then they come back,
10 don't they? And in Prizren, OSCE -- I don't know if you -- this
11 reflects what you saw, OSCE reported that in Prizren around this time
12 early figures indicated that between 15.000 and 18.000 refugees
13 returned each day after the conflict?

14 A. I didn't. It's not something we were monitoring.

15 Q. But there was lots -- there was lots of people -- you observed
16 -- did you observe lots of people coming back?

17 A. I was told by internationals that more people were coming back
18 faster than could be handled. I don't -- I don't think it's the kind
19 of thing that I saw or would -- was taking notice of. It wasn't what
20 we were looking for.

21 Q. I think you spoke to someone from UNHCR to speak about Roma
22 returns, but she said she's preoccupied by ethnic Albanian returns.
23 So you perhaps got a snapshot of it when you spoke to her. Would
24 that be right?

25 A. I think that would be the main source of my information would be

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1 a conversation with UNHCR.

2 Q. And it may be that it's not in your expertise, but many of these
3 Albanian refugees who are flooding back into Kosovo, they returned to
4 find that their homes were burned, their possessions were stolen, and
5 their family and friends were murdered, and all this happened at a
6 time when there's no local or international police. That's right,
7 isn't it? Did you see that?

8 A. I -- I don't have -- I don't have a source for direct knowledge
9 of that other than having read accounts in the OSCE after the fact.
10 What I do have is -- was through a remarkable -- I mean, the
11 dismantling and building over of the Romani housing in, for example,
12 Prishtine, which no longer has Romani settlements in the centre as a
13 result of people literally just sort of taking those to pieces in the
14 summer of 1999 and then very quickly building -- kind of wild
15 building over them.

16 We didn't do any documentation of the situation of ethnic
17 Albanians, and I don't -- we didn't visit any places that had been
18 burned, so I don't -- I don't have a source for that.

19 Q. It's right, isn't it, that once these refugees came back over
20 the border, there was a wave of violence in Kosovo as they were
21 coming over. It was anarchy. You described it as anarchy. And I
22 think you'd spoken to a German KFOR officer who said he told you
23 unofficially that there had been over 250 killings in the German
24 sector since the entry of KFOR, and they had -- any day they had
25 between 130 to 150 people detained in the military police prison.

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1 So there was just a lot of criminality going on at this time,
2 isn't there?

3 A. I think there was a lot of revenge going on, a lot of violence
4 going on. Criminality is -- makes it sound like sort of -- I
5 don't -- I don't know if that's the right word. The -- yeah, I
6 just -- yeah, I don't have a source for the overview other than
7 having third -- read third-hand accounts.

8 I can tell you how we learned what we learned over the -- from
9 the February forward if that would be helpful.

10 Q. I think it's fine. But so you talk about revenge. So there's
11 lots of revenge crimes happening. You observed those, did you? And
12 I think you said to the Prosecutor last week when you went through
13 your evidence with them that the order had entirely broken down and a
14 mobilised and evil public was at large.

15 A. I mean, can I -- can I characterise what I'm -- what the word
16 "revenge" -- is that -- I mean, when we were going to Djakovica, we
17 were driving down the road, and there was a house burning next to it.
18 So we stopped, and there were three, you know, teenagers who were
19 burning the house down. And when we arrived, they looked really
20 happy and just started saying, "Good Serb, good Serb."

21 So, I mean, I don't know if they personally would have had a
22 motive for revenge in the sense of doing something back to someone
23 who's done something to you. It was more of a -- when I say
24 "revenge," it was a -- like a public wave of violence against certain
25 communities. Yeah. So -- yeah. The strict word of you do something

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1 to me and therefore I do something by revenge back is not what I
2 mean.

3 Q. No. So instead perhaps chaos or the word anarchy you used
4 before are the better words. There's just lots of crimes being
5 committed all over the place. Is that --

6 A. Yes, I think that's right.

7 Q. And I think it follows -- and it's right, isn't it, that you
8 documented, we've established already -- and this is done by the
9 ordinary public, isn't it? The ordinary Kosovan Albanians.

10 A. That's who we saw. We made no effort and were under
11 instructions not to go and seek out the KLA. So we were not going to
12 talk to what were in some blend of perpetrators, military authority,
13 irregular army authority. We were not going to ask or look for them.
14 We did not go to the school building where we were told they were
15 detaining people. We were not going to do that form of, you know,
16 dangerous tourism, if you like. We were just going to document what
17 we were seeing and to take the witness testimony of people who had
18 apparently been abused.

19 So I don't -- I can't tell you a lot about -- I can tell you
20 what we saw, which was members of the public burning down a house
21 or -- you know, but I can't -- I can't give you too much of a
22 generalisation as to who exactly these people were. We certainly saw
23 members of the public behaving what, in my view, was very strange.

24 There's a -- there was another Romani settlement that we had to
25 get to by taxi on the margins of Prizren, and we went twice by taxi

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1 to it, and both times we could not get rid of the taxi driver. He
2 would stand around commenting on the -- you know, on what we were
3 being told by -- by Roma we were trying to interview. Like, you can
4 go away now. But he was just, you know, unmovable.

5 I couldn't tell you if he was a member of the KLA or not. I
6 don't know. I don't know anything about who he was. But you could
7 see the public behaving badly. I mean, for sure. And chaos,
8 anarchy, those are good words to describe the presence or not
9 presence of any serious order or force that we could see.

10 Q. And I guess part of the reason why you couldn't say if they were
11 KLA or not, firstly, because you didn't speak to the KLA, but also,
12 as you've stated already, that you could buy KLA uniforms on the
13 market or wherever it was, so it's quite difficult to tell who was
14 doing what. That's right, isn't it?

15 A. Yes. Although, I mean, in the one instance in which I think I
16 really saw a KLA person, it was pretty clear that the people we had
17 stayed with had gone to what they understood to be KLA headquarters,
18 met with a person who they knew or were pretty sure was KLA, and he
19 had come home with them. So at least we -- we were not -- we did not
20 know or clearly understand who were KLA outside that one particular
21 circumstance, but I think the public probably did.

22 Q. And were you aware when you were there that Hashim Thaci
23 repeatedly and publicly called for an end to the violence, including
24 against the Roma, and spoke out in favour of a multi-ethnic Kosovo?

25 A. I am not aware of that and didn't have an aware of that at the

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1 time.

2 Q. Perhaps I could just show you then two articles where he did
3 that.

4 MS. TAVAKOLI: The first one is Exhibit 1D00094. And if you
5 scroll down the page, please.

6 Q. And you see that he says:

7 "It is unacceptable that the houses of other people are being
8 burned. There must be security for all."

9 A. What is the date of this?

10 Q. That was on 21 July 1999, so maybe it was after you went.

11 A. It was very hard to find Kosovar voices who were saying this
12 kind of thing. I wasn't aware -- I wasn't aware at the time of this
13 statement. I was aware of -- I've forgotten his name. I'm sorry.
14 There was a publicist who is a leading ethnic Albanian dissident who
15 made statements -- a journalist who made statements to that effect
16 that we were aware of, but I wasn't aware of these statements.

17 Q. And if I could just show you one more, please.

18 MS. TAVAKOLI: That is document 020799 to 020800. This is a
19 Reuters article. And that's in September 1999.

20 Q. And here, Mr. Thaci says:

21 "'There can be no acts of revenge against Serbs or the Roma
22 (Gypsy) people,'" and he said that "after talks with the German
23 foreign minister Joschka Fischer."

24 A. I certainly think they were -- you know, there was diplomatic
25 engagement to try to get the senior leadership of the KLA to stop

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1 what was going on, so it seems very plausible. I wasn't aware of it
2 at the time. I don't -- I mean, it was -- and I understand this
3 beyond the scope of this tribunal, but I think it was only really in
4 the later stages of 2020 that things really began to become more
5 stable. But probably by about this time there was the end of that
6 first very strong wave of violence. Yeah.

7 Q. Thank you. I have no further questions.

8 MS. TAVAKOLI: Sorry, please can I tender that article.

9 PRESIDING JUDGE SMITH: One article.

10 MS. TAVAKOLI: The Reuters one. The other one is in evidence
11 already.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MS. SHAHABUDDIN: No objection, Your Honour.

14 PRESIDING JUDGE SMITH: The article, which has disappeared, is
15 admitted. You can assign a number to it.

16 MS. TAVAKOLI: Thank you. No further questions.

17 THE COURT OFFICER: Your Honours, 020799 to 020800 will be
18 assigned Exhibit 1D114, and it will be classified as public.

19 PRESIDING JUDGE SMITH: All right, Ms. O'Reilly. Your
20 questions.

21 MS. O'REILLY: Yes, thank you, Your Honour.

22 Cross-examination by Ms. O'Reilly:

23 Q. Witness, I only have a few questions for you, so this shouldn't
24 take long. It's right, isn't it, that while you had done research in
25 other countries prior to arriving in Kosovo, you never had actually

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1 been in Kosovo itself, had you?

2 A. That's correct.

3 Q. And you'd never been in a situation that was in the immediate
4 aftermath of an armed conflict?

5 A. The immediate aftermath? That's correct.

6 Q. And the time that you did spend there was between 2nd and 7th
7 July 1999?

8 A. That is correct. According to my notebooks, which I believe are
9 accurate.

10 Q. Indeed. So that's four full days and then two travel days?

11 A. Five or six, yeah.

12 Q. Okay. Thank you. Now, the brevity of your trip, as I
13 understand it, is because you were under orders to be in and out as
14 quickly as possible; is that right?

15 A. Well, I would nuance that. We --

16 Q. Sorry to interrupt you, Witness. You do say in your statement:
17 "Our orders were to be in and out as quickly as possible ..."

18 A. Yes, in the sense of don't put yourself in harm's way, so it
19 wasn't do a speedy job. It was a leave if and when it seems like it
20 might be dangerous. And because we had to spend the last night
21 elsewhere from where we had been staying the previous nights and we
22 had apparently put someone else in danger, and we felt as if we had
23 documented and seen a sufficient amount to try and do our job, which
24 was to publicly advocate that some pressure be put on whoever was in
25 a position to stop the violence, we left at that particular time.

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1 Q. Yes, I understand that, Witness. And the rest of that statement
2 actually reads:

3 "... but to try to establish as comprehensive a picture of the
4 situation in Kosovo as possible."

5 A. That's correct.

6 Q. So that's --

7 A. Yeah.

8 Q. -- what you're saying again now.

9 A. That's correct.

10 Q. And it was dangerous situation because it was immediately post
11 conflict; isn't that right?

12 A. It was a -- I couldn't tell you why it was a dangerous situation
13 other than, having been there, it was clearly a very dangerous
14 situation I think because of the presence of --

15 Q. Lots of guns --

16 A. -- violence and post violence.

17 Q. -- perhaps?

18 A. What's that?

19 Q. Lots of guns?

20 A. There were many guns, yes.

21 Q. A breakdown in law and order?

22 A. Yes.

23 Q. And the influx of hundreds of thousands of refugees from Albania
24 and Montenegro, amongst other factors?

25 A. As I was told by UNHCR. Again, I wasn't -- we were not

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1 documenting the influx of many hundreds of thousands of refugees.

2 Q. That's fine, Witness. But during those four to five days, you
3 yourself limited yourself to a small region: Prizren and Gjakove; is
4 that right?

5 A. And villages around Prizren, yeah.

6 Q. Indeed, where there were Romani encampments. Okay.

7 THE INTERPRETER: The speakers are kindly requested to pause
8 between question and answer for the purposes of interpretation.
9 Thank you.

10 MS. O'REILLY: Thank you for that reminder from the
11 interpreters. I will do my very best.

12 Q. So during those four or five days, you are limited to two areas
13 to the south and west of Kosovo. And in Gjakove, which is that
14 western town I've just referred to, you actually only spent half a
15 day; is that correct? That's what your statement says.

16 A. We -- that's right. We left Prizren in the morning. We went to
17 Djakovica, Gjakove, undertook documentation there, and returned to
18 Prizren the same day and slept both evenings in Prizren.

19 Q. Okay. Now, we've established that you were there for four to
20 five working days, 2 to 7 July altogether. But you say during that
21 time you conducted 30 interviews?

22 A. I think actually it's six days, which goes July 2nd to July 7th.
23 And that was when we were there doing work. So I think it's more on
24 that it's not very -- it's not a far drive to and from Macedonia,
25 which is where we were coming from.

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1 Q. To be clear, Witness, I'm not trying to mislead you, but as I'm
2 counting it, 3, 4, 5, 6, those were the full working days.

3 A. 2, 3, 4, 5, 6, 7. There's no full --

4 Q. Exactly.

5 A. There's no full travel day on --

6 Q. This is just --

7 A. -- either end of it.

8 Q. -- sort of a difference without a distinction, I would submit.

9 PRESIDING JUDGE SMITH: You're cutting each other off when
10 you're speaking.

11 MS. O'REILLY: Apologies, Your Honour.

12 Q. In any case, 30 interviews from where I'm standing sounds like
13 rather a lot of interviews. Would you agree with that?

14 A. No, it's an average amount of interviews for a day of
15 documentation.

16 Q. For a human rights researcher?

17 A. Yes.

18 Q. Okay. Now, you say that in terms of your methodology -- just
19 give me one moment. I can't find the passage right now, but
20 essentially the point was that when you were describing your
21 methodology, you spoke about securing the area and taking measures to
22 ensure that witnesses weren't contaminating each other, interviewing
23 them separately, and so on. Do you recall saying that?

24 A. That is our standard methodology, yeah.

25 Q. But you also stated that you recalled going into these

1 encampments or enclaves and finding it really quite easy to get
2 people to speak to you because all you had to do was ask to hear
3 about violations and people would come up ready to talk.

4 A. In many, if not most, of the circumstances where we did
5 documentation in Kosovo, we did not have conditions to do individual
6 interviews without the presence of people whom we would otherwise not
7 have had in the room. Our methodology also was to continue if one
8 couldn't establish conditions.

9 In Terzi Mahala, we definitely did not have conditions. In some
10 of the other Prizren interviews we did and managed to get them,
11 similarly Djakovica, but there were definitely contexts in which we
12 had interviews with people in the room whom we otherwise would not
13 have wanted to have simply because there was no private space to be
14 had for an interview.

15 Q. Thank you, Witness. That's very helpful. Those are my
16 questions.

17 PRESIDING JUDGE SMITH: Thank you.

18 Mr. Tully.

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

20 Cross-examination by Mr. Tully:

21 Q. Good afternoon, Witness. My name is Eric Tully, and I represent
22 Mr. Selimi. I just have some brief questions for you.

23 You covered some of this with my learned friend Ms. Tavakoli,
24 but I wanted to discuss very briefly the information you gathered or,
25 rather, didn't gather about the KLA. Now, you've been very clear

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1 that you didn't interview any of the KLA and that you didn't go to
2 Kosovo with the intention of interviewing anyone there, and that's
3 well understood.

4 Do I understand also that you wouldn't have spoken to KFOR with
5 regard the structure of the KLA or the command structure of the KLA
6 at that time? That also would not have been part of your --

7 A. That's correct.

8 Q. Okay. And you did also mention the fact of the potential
9 that -- the quote was: "Albanians were dressing up as UCK for 30
10 Deutschmarks. Now everybody is UCK."

11 So it is the case that it could have been impossible for a
12 witness to determine whether perpetrators of crimes that they
13 experienced were, indeed, KLA or if they were simply people
14 pretending to be KLA or resembling KLA in a uniform?

15 A. I have the impression that it's a mixed set of things. I have
16 the impression that people understood who was KLA locally. So in
17 some cases, they certainly would have recognised who was KLA, and
18 that in other cases it would have -- you know, there was wild looting
19 and they either wouldn't have known if -- so I think it's difficult
20 to establish they would or would not have based on simply --
21 simply -- and we weren't probing too much in detail how did you know
22 who you were talking to, other than to establish the physical, that
23 it was a civilian uniform, it was a uniform, uniform. Yeah.

24 Q. So you reported what you were told by people, that these were
25 KLA, without making a determinative point on that yourself or

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1 determination yourself? Without probing the basis for that?

2 A. Except where the -- I mean, in cases where the person had been
3 taken to a place, detained, and beaten up and interrogated about
4 things like, "Where is Luan Koka?" We understood that interviews of
5 that kind were from people who --

6 Q. Okay.

7 A. -- had a KLA-type interest, if you like.

8 Q. Let me just finish off the point then. You recorded an incident
9 with a person who -- who you interviewed told you that he was
10 assaulted by certain individuals who claimed they were from the
11 general headquarters in Prishtine, but he recognised them as being
12 local people posing as KLA. You recall that incident, do you?

13 A. I -- he recalled them as local people.

14 Q. Sure.

15 A. I don't think that it was they're posing as KLA. He -- I don't
16 think he was saying anything other than that was what -- he was
17 recounting "I know them." So --

18 Q. Well --

19 A. -- so, yeah. I don't think there was any -- well, I'm not sure.
20 But I don't think he was imparting, and I don't recall entirely, but
21 I don't think he was saying they were posing as KLA. He was saying
22 he was taken to KLA headquarters, and he recognised the people who
23 took him there.

24 Q. Let me read out the quote that I have here. And this is P1052,
25 and it's in Albanian -- excuse me, from the notes it's P1050, and

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1 this is the quote directly:

2 "They also bound my hands. One of them said they were from the
3 general headquarters of the KLA in Prishtine, and one of them said he
4 was from Albania but I don't think this is true. They are bandits
5 from around here. They are all locals."

6 A. Oh, "I don't think it's true" is what's written there? Okay.
7 In that case, maybe he didn't think it was true. I'm doing this with
8 25 years of echo, so a lot of what I learned was going back through
9 my notebooks last week. In the main -- yeah, if that's what that
10 says there, then -- if he said, "I don't think they were who they say
11 they were," then that's an accurate statement.

12 Q. Okay. And then finally, then, if this person didn't happen to
13 have that knowledge that these were locals, that they were bandits,
14 as you said, "They are bandits from around here. They're all
15 locals," he would otherwise have been under the impression that the
16 people who took him were indeed KLA?

17 A. Can you say again? I'm not sure I understood.

18 Q. So this person possessed the specific knowledge. And, I'm
19 sorry, I'll slow down for the interpreters. This person possessed
20 the actual knowledge that these were local bandits, in his words, but
21 without knowing that, he would have seen a person in a KLA uniform
22 and heard the words that they are from the headquarters of the KLA in
23 Prishtine and accepted them as true, if he didn't know that the
24 opposite was true?

25 A. I really am not sure I understand the question. But the phrase

1 "but I don't think that's true" renders it that they said one thing
2 to him, and he recognised them and thought they're local criminals.

3 Q. Okay.

4 A. I assume that that's what that means.

5 Q. Okay. That's fine. I'll move on. I just want to talk to you
6 then about the methodology issues that were posed to you and your
7 team with the statement taking. And I think you've been frank about
8 that in your preparation note, but I want to discuss something that
9 the director of the ERRC said at the time. And this was not
10 something that I was aware of, not being overly familiar with Roma
11 culture. So she said this, and it's from 021774-021780, and it's at
12 page 021775, and I'll just read out the full quote:

13 "[She] highlighted that it would be very difficult to be
14 discreet when visiting Roma communities and crowds would always
15 gather.

16 "[She] stated that ERRC would always try to take individual
17 statements from Roma victims/witnesses but that it would often be
18 difficult as the elders in the community would not allow it and they
19 would then be forced to conduct a 'collective interview' with more
20 than one individual describing the same incident."

21 And she said, to her credit, that they would try to take
22 individual statements, but it wouldn't always be possible. Now, you
23 in your preparation session, and this at page 120038, and this is
24 just a direct quote so we're on the same page, clarified -- you
25 clarified:

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 "It is possible that some of the information included in the
2 published report might reflect relevant information provided by the
3 other speakers and confirmed by the individual it concerns."

4 So she uses more of an extensive explanation, but am I right in
5 thinking that you're both describing the same phenomenon here?

6 A. No. I think -- I mean, she was describing a general research
7 problem, I think. We usually succeeded in most cases in going -- you
8 know, you speak to someone with authority, explain what you're doing
9 there. In some cases they're not -- you know, a community leader or
10 representative would be hostile and wouldn't help you, but in most
11 cases they would be helpful and interested in -- in enabling the
12 work. And they would then take us to -- and I'm speaking generally,
13 not only -- not for Kosovo, just generally in the course of work.

14 So then you might have a group of people, a crowd, you try to
15 figure out is there some place we can speak where we're not going to
16 have things -- that might be in a café, in a corner. More likely --
17 I mean, much better would be sort of a room in a house where you can
18 talk to someone individually. And I think in 80, 85 per cent of
19 cases, not in the Kosovo situation, we were able to get those
20 conditions.

21 Q. Okay.

22 A. So she was describing a general pattern.

23 In the Kosovo situation, I mean, the first place we went was
24 Terzi Mahala, but we couldn't get -- we couldn't get -- find rooms
25 where we could get any -- you know, we couldn't get privacy,

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 basically.

2 So in answer to your specific question about this documentation,
3 when I was reviewing my notebooks, there are passages where I'm
4 taking testimony, and then next to it there's a mark that says --
5 it's a woman sign, you know. And that's me noting to myself in --
6 who I think is the mother in the given context, a woman has --
7 there's a transition of speaker, and now someone else is speaking,
8 and then it says below, it says "dad." So there were clearly the
9 person beaten up, a woman, and dad in the room. And if I took it
10 down, it was because dad took over speaking or mom took over
11 speaking, or whoever the woman is, and the person being interviewed
12 was nodding affirmation to what was being said. So I took it as
13 affirmed by the person who was, I think, beaten up and not capable of
14 speaking too clearly.

15 Q. Okay.

16 A. So we -- in Terzi Mahala in particular, and possibly in several
17 other cases, Dushanove and other cases, we may not have had
18 conditions. But we mostly, outside of Terzi Mahala, managed to say,
19 "Is there a room where we can speak with you in private," and then
20 took testimony in that way.

21 Q. Okay. Can I move to something else that she also highlighted
22 from Roma culture. And again this is from 021774 to 021780 and it's
23 at page 021775, and she said:

24 "... [she] highlighted that in Roma culture there is a tradition
25 to collectively imagine and communicate a story which they would then

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 act out like a play in the theatre with limited consideration to
2 establishing what actually happened in a given situation. It can
3 also be difficult to pinpoint the exact time and date of an
4 incident."

5 And, again, this is something I'm unfamiliar with, which is why
6 I'm asking you about it. Could you describe if this is something
7 that you would agree with and is something that --

8 A. That's a statement of another person, and I wouldn't agree with
9 it.

10 Q. Okay. So --

11 A. There are certainly -- there are certainly cases like we've had
12 people who have had no documents get documents by figuring out when
13 they were born, and there are people who don't know their own
14 birthday because they were born outside a hospital, there wasn't a
15 birth certificate, and mom didn't remember whether it was May, April,
16 or June. But the whole -- this idea of a collective performance
17 stuff, I don't -- I've never -- don't -- I mean, I have -- especially
18 in Kosovo, there was immediate violence going on right there and
19 during the period. Our documentation was pretty -- you know, it was
20 pretty -- we had the usual problem of finding some speakers who were
21 able to speak linearly and in order and chronologically, which is
22 really what we wanted, to try to get someone who could say: This
23 happened to me, then this happened to me, then this happened, and
24 could get down to the level of eyewitness. And other people who
25 would speak more chaotically.

1 And they were speaking -- I mean, these were traumatised people,
2 so everyone was in a bit more of -- you know, difficult relating the
3 experiences. There was also, I mean, a lot of shame at what had
4 happened. So people were -- in many -- I suspect, again, that's 25
5 years of history, but that mom and dad being present I suspect had a
6 lot to do with the fact that the person wasn't able to speak yet
7 about what had happened. But we had very little difficulty
8 establishing just, you know, fact after fact after fact. Yeah. And
9 any nuances weren't cultural. They were individual to the way the --
10 you know, to the person. Not to the -- not for any -- how Roma
11 culture is.

12 Q. Okay. Well, you'll appreciate the fact we've had to piece
13 together potential methodology issues with how these were recorded.

14 A. Right.

15 Q. As they were -- as in any of these reports. And I note, and I'm
16 speaking specifically, I'm going to ask questions about it, but the
17 "Roma from Kosovo testify" report, but in many of the other reports,
18 that there isn't a methodology section which sets out these
19 difficulties you faced. And why wasn't there?

20 A. We used the Helsinki manual, which was done -- there was the
21 series of Helsinki Committees set up after communism, and they set
22 out the methodology that we used. So sometimes we would just say we
23 used the Helsinki methodology of -- I mean, there we set out a
24 hierarchy of what would be good documentation. You know, a film or
25 video -- this was pre-AI and all that stuff. Film or video or hard

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 documentation is best. We almost never get hard documentation of
2 that kind, and so we rely on testimony.

3 Q. Sorry.

4 A. And then the testimony documentation is a -- is a methodology of
5 taking testimony.

6 Q. If I can just stop you there. What I mean more is the
7 context-specific issues you had with perhaps taking reports that you
8 tell us in the preparation session when you come here that
9 sometimes -- and this was the quote, is that "it is possible some of
10 the information included in the published report might reflect
11 relevant information provided by the other speakers and confirmed by
12 the individual it concerns."

13 I mean, it's a question of the integrity of the information as
14 recorded in the report. Is that not something you should have
15 recorded in the report, difficulties in taking those individual
16 statements? And --

17 A. I think -- I think that kind of documentation is -- it's a
18 challenge of human rights documentation.

19 Q. Okay.

20 A. I suppose we could have written all of the methodological
21 challenges we had, but ...

22 Q. Sure. So then to the translations, you say, so you always
23 preferred using a translator when you were speaking to witnesses even
24 after you spoke -- learned to speak Romani. Did you speak Romani at
25 the time of your mission to Kosovo?

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 A. I would have spoken worse Romani but some at the time that I
2 went.

3 Q. Okay. And I noted that you -- were most of the interviews you
4 conducted there in the Romani language? If you can put a general
5 ballpark. It doesn't have to be exact.

6 A. The person I was travelling with, who is Romani from Macedonia
7 and speaks excellent Romani in dialects that are very similar to the
8 ones that are in Kosovo, we went as a team that was sort of -- I was
9 definitely team leader, he was part researcher, but mostly in an
10 interview situation I would ask questions and he would translate.

11 He speaks not Albanian but he speaks Serbian, Macedonian, and
12 Romani. So some of the interviews would have been in Serbian, some
13 of the interviews would -- I mean, I would have asked the questions
14 in English and he would have translated either into Romani or into
15 Serbian, and then -- and sometimes in combinations thereof, depending
16 upon who we were interviewing.

17 And in one circumstances, we interviewed someone who was -- this
18 was in the village, who spoke only Albanian, and in that circumstance
19 we had to go -- I asked the questions, my partner asked mom to
20 translate from Serbian into Albanian, mom asked the questions to the
21 person, and then it came back up the chain that way.

22 Q. The person who you refer to as your translator, he was
23 Macedonian. From the information we've seen, he didn't spend any
24 significant time in Kosovo before your trip. Now, this is from a
25 LinkedIn profile here. I gather it's not ironclad -- an information

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Tully

1 source all time. But do you know if he spent any significant time in
2 Kosovo?

3 A. No, he did not -- he did not spend any time in Kosovo. I went
4 to where he lives, I picked him up, and we went to Kosovo and
5 departed together.

6 Q. And I think you touched upon it, but the Romani language, my
7 basic understanding of it is that it varies, it can vary quite
8 significantly, speaking of dialects, from region to region; would
9 that be right?

10 A. That is a generally correct statement, but in the south Balkans,
11 no one will have any difficulty communicating with anybody else. I
12 mean --

13 Q. But you couldn't rule out that your translator, perhaps through
14 no fault of his own, having no experience of being in Kosovo himself
15 around that dialect, that he might have missed contextual information
16 or nuance that in the circumstances you wouldn't have noted not
17 speaking perfect Romani yourself?

18 A. I have to say that the facts we were documenting weren't
19 terribly nuanced facts. You know, it was numbers, length of time,
20 places.

21 Q. Sure.

22 A. So had maybe. Maybe. But this was not the kind of
23 documentation that is long and nuanced. It was really, you know: I
24 was picked up on Tuesday, held until Thursday, and in between the
25 following series of things happened. So those were details that

1 were, yeah, I don't imagine that hard to translate. And he never
2 communicated to me that he was having difficulty understanding except
3 for that one interview where we really -- we had a person who spoke
4 only Albanian.

5 Q. Okay. I want to just go to some examples then of
6 inconsistencies in witness accounts between what's recorded in your
7 report and statements we have from individuals that were given to
8 authorities subsequently.

9 A. Okay.

10 Q. I'm going to show you the report on the screen, and I'll give
11 you a summarisation and the direct quote. I'll speak it to you
12 afterwards.

13 A. Okay.

14 MR. TULLY: So if I can have on screen P947, please -- sorry,
15 P1052. And can we go to page 024848. Thank you. And it's towards
16 the top of the screen.

17 It says -- well, Your Honours, if I can pause here for a moment.
18 I'm worried I might divulge something that might affect the witness's
19 safety. Perhaps in an abundance of caution it might be better to go
20 to private session.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 Into private session, please, to protect the witness.

23 [Private session]

24 [Private session text removed]

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Witness: Claude Cahn (Private Session)

Page 13300

Cross-examination by Mr. Tully

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Witness: Claude Cahn (Private Session)

Page 13301

Cross-examination by Mr. Ellis

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Witness: Claude Cahn (Private Session)

Page 13302

Cross-examination by Mr. Ellis

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19 [Open session]

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

21 PRESIDING JUDGE SMITH: Thank you.

22 You may go ahead.

23 MR. ELLIS: Thank you, Your Honour.

24 Q. So:

25 "The incident began when an ... Albanian said he saw a piece of

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Ellis

1 jewelry that had belonged to his mother hanging from the neck of the
2 Gypsy family's 17-year-old son. The Albanian that announced the
3 Gypsies had killed his father and then robbed his mother. A crowd
4 then attacked the family."

5 And then it continues. Witness, is that the story that you
6 recalled reading about at the time?

7 A. No. So we were based in Budapest where there were many refugees
8 from -- mostly from Serbia during the events. And so we were
9 following the events, you know, by the media, but also there was word
10 of mouth, things coming up from Yugoslavia. There was very little
11 coming from Kosovo proper. There were a number of Romani
12 intellectuals and others just in Budapest -- from former Yugoslavia
13 in Budapest. And there would be sort of major public statements by
14 the US government or others or -- you know, as to what was going on
15 the ground.

16 Because of the organisation that we were, we would get phone
17 calls from the media saying, you know, can you confirm that this or
18 that is going on, and we were in no circumstance to be able to
19 confirm anything that was going on in Kosovo. And then the media
20 reported, I believe it's June 5th, or reported a day or two
21 afterwards, that UNHCR had -- there were none of these details, but
22 they reported that a group of Albanians in a refugee camp in Skopje
23 had made a serious effort to kill a number of Romani families in the
24 refugee camp in Skopje.

25 That was some of the first sort of fact-based information that

Witness: Claude Cahn (Open Session)

Page 13304

Cross-examination by Mr. Ellis

1 we had coming out, and it was the first indication that we had that
2 there was going to -- potentially going to be serious issues going on
3 from the side of the Albanian displaced community or ethnic Albanians
4 broadly and Roma. So it was from that moment -- I think that was
5 some of the first sort of fact-based information that we received
6 from what was going on between February and June, and it was as a
7 result of that sort of flag that we thought we'd better -- we'd
8 better start figuring out how to go and go down and do documentation
9 as soon as the conflict ends.

10 But I've -- I've either never seen the details of this before or
11 if I have I've forgotten. What we received was a very short media
12 article about a UNHCR statement as to what was going on in the
13 refugee camp.

14 Q. I see. Let me see if I've followed that. So at this point, of
15 course, you're outside Kosovo and Macedonia. You're in Budapest
16 following what you can on the media and from what other human rights
17 organisations pass to you; correct?

18 A. And what people, refugees, are telling us as a result of
19 communication with family, but this is -- there's no mobile phones,
20 so it's very sketchy information.

21 Q. Yes. And so what you had heard was simply that there was an
22 incident in a refugee camp. You wouldn't know if the details are the
23 same as this article or not the same as this article.

24 A. That is correct.

25 Q. But what this article appears to be describing is an incident,

Witness: Claude Cahn (Open Session)

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Cross-examination by Mr. Ellis

1 first of all, where the perpetrators are civilian refugees. That's
2 right, isn't it?

3 A. Yes.

4 Q. And is that consistent with the incident that you remember
5 hearing about?

6 A. Yes.

7 Q. And what this article says -- seems to say happened is that
8 there was an accusation that a particular member of the Romani
9 community had been involved in crimes against an ethnic Albanian, and
10 that spiralled into an attack on the family in the refugee camp. Is
11 that consistent with what you heard?

12 A. I -- I don't know anything about the details of this article.
13 What we understood was that a very large group of Albanians had made
14 a determined effort to kill several Romani families, and that the
15 Romani families required protection in the camp. That was what we
16 knew. I don't know these details, and I don't know where they come
17 from.

18 Q. Very well.

19 MR. ELLIS: That can come down. Thank you.

20 Q. Now, have I understood correctly that one of the places you
21 visited whilst you were in Kosovo was Velika Krusa or Krushe e Madhe?

22 A. Yes, although I can't tell you for certain that there's only one
23 place called that. We visited a village up 15 or 20 minutes from
24 Prizren that is called, like, Velika Krusa, Velika Krusa.

25 Q. And that village was one in which houses in the village were

Witness: Claude Cahn (Open Session)

Page 13306

Re-examination by Ms. Shahabuddin

1 burnt by the time you got there; correct?

2 A. I cannot recall. I do not recall seeing houses burnt in the
3 village. I recall very great difficulties in getting through the
4 village because of cars blocking the road, but we were in an armoured
5 vehicle, and I didn't -- I can't recall with 25 years of hindsight.
6 If I've written that down and it's published or you found it, then I
7 assume it's correct. But I don't recall sitting in this chair.

8 Q. Do you recall hearing that there had been a massacre in that
9 village?

10 A. No.

11 Q. Thank you.

12 MR. ELLIS: Just a moment, Your Honour. Thank you, Your Honour.
13 That's my questions.

14 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

15 Redirect?

16 MS. SHAHABUDDIN: Yes. And I can be very brief, Your Honour.

17 Re-examination by Ms. Shahabuddin:

18 Q. Witness, I'd like to focus you on your interviews with Roma
19 individuals who are taken to detention sites by persons in KLA
20 uniform.

21 Reflecting on those accounts together, were there any common
22 features to the victims' accounts?

23 A. To the extent I remember, the physical abuse and not -- not
24 nuanced physical abuse like -- to the best of my recollection there
25 was no, like, sophisticated torture instrument like electrocution or

Witness: Claude Cahn (Open Session)

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Re-examination by Ms. Shahabuddin

1 anything like that. It was physical violence, people being hit by
2 sticks, punched, kicked, et cetera. Questioning about "what did you
3 steal," that sort of thing, or they would ask particular names of the
4 senior Romani leadership, especially people who had been at
5 Rambouillet, sort of where were they. That -- that seemed like the
6 sort of general -- or sometimes they were left just not being
7 communicated with at all but just held for a long period of time,
8 occasionally beaten, and then released.

9 I guess common features were -- well, there -- I mean, that --
10 those were the commonalities. Then there were sort differential
11 periods of time of detention, differential places of detention,
12 although there were a few common buildings that were named. That's
13 what I recall. It was a fairly uniform set of allegations. They
14 didn't diverge very wildly from each other in terms of the kinds of
15 material that came up. Someone had been picked up, they'd been taken
16 to a place, they'd been held for a number of days, beaten, physically
17 abused, questioned, and then released.

18 Q. Let me focus you on common features amongst the abusers. Can
19 you recall whether or not the interviewees described any common
20 features about those individuals?

21 A. I don't think we heard about anyone female. Maybe that's it. I
22 remember, mainly as a result of looking at my notebooks recently,
23 that there was a -- some people were in uniform, some people were not
24 in uniforms. Yeah. But I -- I don't -- I don't think we heard
25 allegations about any women. I think it was mostly men. I would

Witness: Claude Cahn (Private Session)

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Re-examination by Ms. Shahabuddin

1 hesitate to generalise beyond that, though.

2 Q. Did you hear any reports that the individuals you were
3 interviewing recognised those who had detained them from their local
4 community?

5 A. I'm reminded of that from the previous questioning. I cannot
6 recall otherwise, but I really don't remember the details. I don't
7 remember the details. I don't remember the details of the -- of --
8 yeah.

9 Q. Okay.

10 MS. SHAHABUDDIN: I have one remaining question, and I think it
11 would be best if I asked it in private session.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 Into private session for protection of the witness.

14 [Private session]

15 [Private session text removed]

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Witness: Claude Cahn (Private Session)

Page 13309

Questioned by the Trial Panel

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Witness: Claude Cahn (Private Session)

Page 13310

Questioned by the Trial Panel

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Witness: Claude Cahn (Private Session)

Page 13311

Questioned by the Trial Panel

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Witness: Claude Cahn (Private Session)

Page 13312

Further cross-examination by Mr. Ellis

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7 [Open session]

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

9 PRESIDING JUDGE SMITH: Unless there is something else. Nothing
10 to be seen.

11 MS. TAVAKOLI: No, thank you.

12 PRESIDING JUDGE SMITH: Okay. We are adjourned until tomorrow
13 morning at 9.00.

14 --- Whereupon the hearing adjourned at 4.34 p.m.

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