

1 Monday, 19 August 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

6 PRESIDING JUDGE SMITH: Madam Court Officer, please call the  
7 case.

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

11 PRESIDING JUDGE SMITH: Before we start -- well, first of all,  
12 good morning, everyone, and welcome back to the courtroom.

13 Before we start with hearing the evidence of Prosecution  
14 Witness W04868, the Panel has four oral orders and some introductions  
15 and instructions to put on the record.

16 Additionally, the Panel will give the parties an opportunity to  
17 be heard as requested by the Veseli Defence.

18 Regarding the first final order, the Panel -- these are mostly  
19 technical, by the way, in nature.

20 Regarding the first oral order, the Panel recalls that  
21 Exhibit P01444 was admitted through W04501. The same photograph was  
22 also assigned MFI P01283. Court Management recommends that the  
23 latter exhibit number be replaced with the MFI number previously  
24 assigned to the photograph. The comment field in the Legal Workflow  
25 will be updated to reflect the procedural history, and P01444 will be

1 vacated.

2 Is there any objection to that proposal?

3 MR. MISETIC: No objection.

4 PRESIDING JUDGE SMITH: All right.

5 MS. ROWAN: No, thank you.

6 PRESIDING JUDGE SMITH: None by anybody? Thank you.

7 So none is heard. The Panel therefore orders the Court Officer  
8 to reassign P01283 to SPOE00117408-00117408 and update the document's  
9 comment field with the relevant information. In addition, please  
10 vacate P01444.

11 This concludes the first oral order.

12 Regarding the second oral order, the SPO requested to replace  
13 document admitted as Exhibit 1D00006-ET with its revised version.  
14 The SPO submits the revised version, which was disclosed in  
15 disclosure package 997, contains minor revisions.

16 Let me just go over it briefly.

17 Section 2 of the document says:

18 "The keys must be handed within one day. Otherwise, the offices  
19 will be demolished and the persons responsible would have to give  
20 explanations to the army."

21 That was the original translation.

22 The revised SPO translation reads:

23 "The deadline to hand over the keys is within one day.

24 Otherwise, the premises will be demolished and the people responsible  
25 for them will be held accountable in front of the military bodies."

1 Is there any objection to that substitution?

2 MR. MISETIC: Mr. President, if I -- I'm sorry to do this, but  
3 if I could just have until the first break.

4 PRESIDING JUDGE SMITH: Sure. Certainly.

5 MR. MISETIC: I recall being given some comments on that.

6 PRESIDING JUDGE SMITH: We'll just wait on that then, and  
7 everyone please --

8 MR. MISETIC: Thank you.

9 PRESIDING JUDGE SMITH: -- take a look at that and read it.

10 Regarding the third order, the Panel recalls that on 5 June 2024  
11 the SPO disclosed redacted versions of documents admitted as  
12 exhibits. Unless there are any objections, the redacted versions  
13 will be linked to the existing exhibit numbers.

14 Any objection to that proposal?

15 MR. MISETIC: No objection.

16 PRESIDING JUDGE SMITH: No objections. The Panel therefore  
17 orders the Court Officer to link 5014328-5014329 RED and  
18 5007784-5007793 RED to the Exhibits 1D00156 and 1D00157,  
19 respectively.

20 I'm getting feedback from somewhere. From myself, I think.

21 Madam Court Officer, we'll have to fix that before we go any  
22 further.

23 [Trial Panel and Court Officer confers]

24 PRESIDING JUDGE SMITH: Mr. Krasniqi, are you ready to proceed?

25 THE ACCUSED KRASNIQI: [via videolink] Yes. Having no translate.

1 [Interpretation] There's no translation in Albanian.

2 PRESIDING JUDGE SMITH: Understood. You'll have to perhaps say  
3 something in Albanian for translation. Are you getting a translation  
4 now, Mr. Krasniqi?

5 THE ACCUSED KRASNIQI: [via videolink] No, no, no.

6 PRESIDING JUDGE SMITH: I apologise for this. We'll step aside  
7 for just a few moments so that they can get this worked out, and then  
8 we'll be ready to go on with the final oral order.

9 We're adjourned.

10 THE ACCUSED KRASNIQI: [via videolink] [Interpretation] Now I can  
11 hear you.

12 --- Break taken at 9.08 a.m.

13 --- On resuming at 9.12 a.m.

14 PRESIDING JUDGE SMITH: I didn't fully complete the statement on  
15 the third order, so I'll repeat the order.

16 The Panel therefore orders the Court Officer to link 501433 --  
17 I'm sorry, 5014328-5014329 RED and 5007784-500793 RED to the Exhibits  
18 1D00156 and 1D00157, respectively.

19 This concludes the third oral order.

20 Regarding the fourth oral order, the Panel recalls that on  
21 12 July 2024 the SPO sought to replace an English translation of a  
22 transcript admitted as P01327.8-ET with a revised English  
23 translation.

24 Any objections to that?

25 MR. MISETIC: No objection.

1           PRESIDING JUDGE SMITH: Nobody else? From the Prosecution, no?  
2           None is heard. The Panel therefore orders the Court Officer to  
3           replace 083249-TR-ET Part 8 Revised with 083249-TR-ET Part 8 Revised  
4           ET.

5           The Panel has been notified that the Veseli Defence has  
6           requested time to be heard on Rule 107 issues.

7           You may.

8           MS. O'REILLY: Thank you, Your Honour.

9           So last Thursday we received the prep session materials and  
10          e-mail for the witness that's about to testify. That e-mail stated  
11          that the witness had brought with him materials that could not be  
12          disclosed to the Prosecution, and therefore obviously not to us, but  
13          that were nonetheless used by the witness to refresh his recollection  
14          and so forth during the preparation session. It wasn't made clear in  
15          either the preparation notes where those materials had been referred  
16          to.

17          So we asked them on Friday to identify those passages that were  
18          affected by the new material and also to clarify to us what steps had  
19          been taken to make disclosure.

20          We heard back from the Prosecution that they had inquired about  
21          disclosure, in fact, but that it wouldn't be able to be achieved  
22          before the witness's testimony. And we were also told that he had  
23          explicitly referred to the materials on, I think, three separate  
24          points.

25          Now, what wasn't clear was whether he had unexplicitly,

1 implicitly, or otherwise been referring to those materials throughout  
2 the course of the preparation session or, indeed, how long and what  
3 the prospects would be of getting those materials eventually and also  
4 what actually are they. I mean, we know we can't know specifically  
5 but to get a general sense of what they are and what the volume is,  
6 because this will be a document-heavy cross-examination for some of  
7 us and to now know at the last minute that there's a number of other  
8 documents that the witness has seen, that the witness is using to  
9 provide evidence, that we don't have access to, puts us in a very  
10 difficult position.

11 I will point out that this is a witness that was part of an  
12 application to amend the indictment late in pre-trial, and it's also  
13 a witness that they spoke to not just once but twice. So it seems to  
14 us quite unfair that we're being put in this position where the  
15 witness now turns up to The Hague with yet new documents. It feels  
16 to us like the goalposts are shifting once again.

17 So at this point we would simply like to get a sense from the  
18 Prosecution, if they know, or possibly from the 107 would-be  
19 providers, what the volume is, what it consists of, when we might get  
20 it, because it seems quite likely at this point, not knowing the  
21 answers to these questions, that we'll have to make an application --  
22 or we could be in a position to make an application to re-call this  
23 witness if those documents turn out to be substantive.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Do you wish to respond, Mr. Prosecutor?

1 MR. HALLING: Yes, Your Honour, we would. And it's possible  
2 that Rule 107 counsel may also wish to be heard on this matter.

3 First, there is no unfairness. Everyone is on an equal footing  
4 here. We don't have the materials. The Defence doesn't have the  
5 materials.

6 It is inherent with this witness, and it has been clear since  
7 2022, that there are materials of relevance that are not cleared for  
8 provision in this case. And for a vivid example, the witness at one  
9 point in the 2022 SPO interview started reading from a page of his  
10 journal, a page of his journal we don't have and weren't able to get  
11 cleared.

12 So the Defence has known about this problem for two years, and  
13 the only thing that has changed in the last week is what happened in  
14 the preparation session.

15 As Your Honours have seen from the e-mail that the Veseli  
16 Defence forwarded to discuss this matter, there's only one fact that  
17 the witness refreshed his recollection on using these materials that  
18 he could confirm, and it was the date of a soccer game on 1 August  
19 1999, which, from the context of this witness's evidence, is  
20 marginally relevant at best. And he has checked a few other points  
21 where he wasn't able to make any determinative conclusion.

22 In terms of what the witness has reviewed, what the witness can  
23 say, the witness is here today. He can be cross-examined. And if in  
24 the course of the examination any unfairness arises as to the  
25 Defence's ability to cross-examine, it can be dealt with by the Panel

1 in the course of the examination.

2 PRESIDING JUDGE SMITH: All right. I do appreciate the fact  
3 that you did have some cross-communication about this and have at  
4 least clarified a few matters. I don't think we're going to get any  
5 further clarification today through no fault of either side, and so  
6 we will proceed with his testimony. You have the information that  
7 you're going to get and that the Prosecution is going to get.

8 As you correctly pointed out, if you find some reason later on  
9 down the road to re-call this witness and that can be justified under  
10 the circumstances, the Court, of course, would have to consider that.  
11 So we will proceed.

12 You also had something about the sitting schedule?

13 MS. ROWAN: Your Honour, yes. Is the Panel minded to deal with  
14 that now in advance of this witness?

15 PRESIDING JUDGE SMITH: Yes.

16 MS. ROWAN: Could I ask whether or not the Panel has had the  
17 opportunity to see the filing submitted on Friday?

18 PRESIDING JUDGE SMITH: Yes.

19 MS. ROWAN: I'm grateful for that indication.

20 Your Honour will therefore have seen the request made by the  
21 Veseli Defence and the reasons for it. We asked for that to be dealt  
22 with today as, of course, it is a submission that, if conceded to,  
23 will have significant impacts on both the SPO and the Defence either  
24 way.

25 In our submission, given the recent change of personnel and the



1 position that the Defence team are in, it is in the interests of  
2 justice for this application to be granted. But before I continue  
3 with substantive submissions, could I ask that we please deal with  
4 this in private session?

5 PRESIDING JUDGE SMITH: Into private session, please.

6 [Private session]

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we are back in public session.

11 PRESIDING JUDGE SMITH: Thank you.

12 So just again for the record, Mr. Thaci, Mr. Selimi, and  
13 Mr. Veseli are present in court today, and Mr. Krasniqi is joining us  
14 by videolink.

15 Madam Court Officer, please bring the witness in.

16 [The witness entered court]

17 PRESIDING JUDGE SMITH: Good morning, Witness. Good morning,  
18 Witness. Can you hear all right?

19 THE WITNESS: I can. Yes, sir.

20 PRESIDING JUDGE SMITH: The Court Usher will now provide you  
21 with the text of the solemn declaration which you are asked to take  
22 pursuant to Rule 141(2) of our rules. Please read it aloud.

23 THE WITNESS: Conscious of the significance of my testimony and  
24 my legal responsibility, I solemnly declare that I will tell the  
25 truth, the whole truth, and nothing but the truth, and that I shall

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1 not withhold anything which has come to my knowledge.

2 WITNESS: STEVEN RUSSELL

3 PRESIDING JUDGE SMITH: Thank you. Please be seated.

4 The parties and participants may have noticed that we have three  
5 representatives of the US Government who are joining us this morning.  
6 One is seated next to the witness. Two are seated behind  
7 Victims' Counsel. If each individual could please introduce  
8 themselves for the record, starting with Major Kyle.

9 MR. KYLE: Yes, sir. My name is Major Jeffrey Kyle. I  
10 represent the United States Army.

11 PRESIDING JUDGE SMITH: Thank you very much.

12 MS. HART: Good morning, Your Honour. Regina Hart for the  
13 United States State Department.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. SATPATHY: Good morning. Ankita Satpathy also with the  
16 United States State Department.

17 PRESIDING JUDGE SMITH: Major Kyle, Ms. Hart, and Ms. Satpathy,  
18 thank you for joining us this morning. If at any time you need a  
19 moment to speak with the witness or wish to address the Panel, you  
20 can raise your hand in order to be granted permission to do so by the  
21 Panel. In addition, if you feel that part of the witness's testimony  
22 should be redacted or if a particular subject comes up that you feel  
23 should be discussed in private session, please notify the Panel in  
24 the same manner.

25 Witness, today we will start your testimony which is expected to



1 last approximately one day. As you may know, the Prosecution will  
2 ask you questions first. Once they are finished, the Defence has the  
3 right to ask questions of you, and members of the Panel might also  
4 have questions of you.

5 The Prosecution estimate for your examination is one and a half  
6 hours. The Defence estimates that it will need five hours. As  
7 regards each estimate, we hope that the counsel will be judicious in  
8 their use of their time.

9 The Panel may allow redirect examination if conditions for it  
10 are met.

11 Witness, please try to answer the questions clearly with short  
12 sentences. If you don't understand a question, feel free to ask  
13 counsel to repeat the question, or tell them you don't understand and  
14 they will clarify. Also, please try to indicate the basis of your  
15 knowledge of facts and circumstances that you will be asked about.

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

20 Also, please speak into the microphone and wait five seconds  
21 before answering a question, and then speak at a slow pace so that  
22 the interpreters can catch up.

23 During the next days while you are giving evidence in the Court,  
24 you are not allowed to discuss with anyone the content of your  
25 testimony outside of the courtroom. If any person asks you a

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1 question outside this court about your testimony, let us know  
2 immediately.

3 Please stop talking if I ask you to do so and also stop talking  
4 if you see me raise my hand. These indications mean that I need to  
5 give you an instruction.

6 If you feel the need to take at a break, please let us know and  
7 we will accommodate your need.

8 So we begin now with your testimony, and the Prosecution, as I  
9 stated, will go first.

10 Mr. Halling, you may proceed.

11 MR. HALLING: Thank you, Your Honour.

12 Examination by Mr. Halling:

13 Q. Good morning, Mr. Witness. Mr. Russell, we've met before. I'm  
14 Matt Halling from the SPO and I'll be asking you questions this  
15 morning. We'll start with what is your name?

16 A. My name is Steve Russell.

17 Q. Your date and place of birth?

18 A. 25 May 1963, Oklahoma City, Oklahoma, in the United States.

19 Q. Mr. Russell, have you previously been interviewed by the SPO on  
20 two occasions?

21 A. That would be correct.

22 MR. HALLING: Could the Court Officer please pull up  
23 103757-TR-ET Part 1 RED, page 1, and put it on the screen. And it's  
24 not broadcast.

25 Q. Now, Witness, you see here an interview dated 14 October 2021.

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1 Is this your first SPO interview?

2 A. Yes, it was.

3 MR. HALLING: Now, if the Court Officer could please pull up  
4 106349-TR --

5 PRESIDING JUDGE SMITH: I'm sorry, could you say that again?

6 MR. HALLING: Certainly. 106349-TR-ET Part 1, page 1.

7 Q. And, Witness, looking on the screen here we see an interview  
8 5 May 2022. Is this your second SPO interview?

9 A. That is correct.

10 Q. Have you recently had an opportunity to refamiliarise yourself  
11 with the contents of these interviews?

12 A. Yes, last week.

13 Q. And in that preparation session, you indicated some changes and  
14 clarifications to these interviews; is that right?

15 A. That is correct.

16 Q. And these changes got reflected in a note that you got to read;  
17 correct?

18 A. That is correct.

19 Q. Do you confirm that what you read in that note reflected your  
20 changes fully and accurately?

21 A. I do.

22 Q. Subject to the changes provided in that note, do these  
23 interviews accurately reflect what you said and what you would say if  
24 asked again in court today?

25 A. Yes, they do.

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1 Q. Thank you.

2 MR. HALLING: Your Honours, having fulfilled the Rule 154  
3 criteria and in accordance with decision F02489, the SPO hereby  
4 tenders all of 130757-TR and 106349-TR in English and Albanian along  
5 with Preparation Note 1, which is 122336 to 122342. This tender also  
6 includes the associated exhibits identified in footnote 85 of the  
7 Rule 154 decision.

8 PRESIDING JUDGE SMITH: Any objection?

9 MS. TAVAKOLI: No, Your Honour.

10 MS. O'REILLY: No, Your Honour.

11 MR. TULLY: No, Your Honour.

12 MR. ELLIS: No, Your Honour.

13 PRESIDING JUDGE SMITH: 103757-TR and 106349-TR are admitted  
14 together with the associated exhibits and Prep Note 1, which is  
15 122336 to 122342.

16 MR. HALLING: And, Your Honour, just to apologise, let me  
17 correct the ERN of that Preparation Note 1. It's 122330 to 122335.  
18 Apologies.

19 PRESIDING JUDGE SMITH: Wrong on both ends, huh. All right.  
20 Prep Note 122330 to 122335, as prep note, is admitted as well. The  
21 associated exhibits are admitted and will be -- a document will be  
22 distributed showing their exhibit numbers.

23 You may proceed -- oh, go ahead. Go ahead, Madam Court Officer.

24 THE COURT OFFICER: Thank you, Your Honour. The documents will  
25 be sent shortly to the Panel and the parties.

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1           PRESIDING JUDGE SMITH: Thank you.

2           Go ahead, Mr. Halling.

3           MR. HALLING: Thank you.

4           Q. Witness, there are just a few matters that I would like to  
5 clarify with you today about your evidence.

6           MR. HALLING: And I would like to first start with the -- if the  
7 Court Officer could please pull up on the screen 078199 to 078204,  
8 and we'll start on the first page.

9           Q. Witness, you can see this document on the screen. It begins  
10 "Undertaking of Demilitarisation and Transformation by the UCK."  
11 With you familiar with the terms of this document during the war?

12          A. As it related to the Military Technical Agreement and UN  
13 Resolution 1244, yes.

14          MR. HALLING: If we could please now go to page 078202, and  
15 going down to Article 23 on the bottom of the page.

16          Q. Witness, you discussed weapons storage sites in the course of  
17 your statements. It says here in Article 23(a) that the UCK agrees  
18 that:

19                 "Within 7 days, the UCK shall establish secure weapons storage  
20 sites, which shall be registered with and verified by the KFOR."

21          Was this the provision that governed the proper use of weapons  
22 storage sites in the period you were in Kosovo?

23          A. That was our understanding, yes.

24          Q. You also talked about assembly areas in your evidence. In 23(b)  
25 it says:

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1           "Within 7 days the UCK will clear their minefields and booby  
2 traps, vacate their fighting positions and transfer to assembly areas  
3 as agreed with COMKFOR at the JIC."

4           Is this the provision that governed the assembly areas that you  
5 discussed in your evidence?

6           A.    That would be correct.

7           Q.    You also talk about JIC cards in your evidence. Is the  
8 reference to JIC the same Joint Implementation Commission you discuss  
9 in your evidence?

10          A.    Yes, it is.

11          Q.    If we go to the next page, this would be Article 23(c) on the  
12 top:

13                "After 7 days automatic small arms weapons not stored in the  
14 registered weapons storage sites can only be held inside the  
15 authorised assembly areas."

16                Was this your understanding about what was permitted by the KLA  
17 during this time?

18          A.    Yes, it was.

19          MR. HALLING: And if we can go back two pages now to 078201.

20          Q.    And you can see this is a continuation from Article 10. And  
21 Article 10 talks about the UCK undertaking, in particular, in -- this  
22 is in Article 10(d):

23                "Not to attack, detain or intimidate any civilians in Kosovo,  
24 nor shall they attack, confiscate or violate the property of  
25 civilians in Kosovo."

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1 Did you understand this to be what the KLA was not permitted to  
2 do in your area of operations?

3 A. That is for certain.

4 MR. HALLING: And now if we can just go to the last page of this  
5 agreement, and this is really just for the benefit of the Panel.

6 Q. If you see on the bottom here, this is dated 21 June 1999, and  
7 it's offered by Hashim Thaci, and received by Commander KFOR Mike  
8 Jackson.

9 MR. HALLING: Your Honours, we'd ask to tender this agreement.

10 PRESIDING JUDGE SMITH: Any objection?

11 MS. TAVAKOLI: No, Your Honour.

12 PRESIDING JUDGE SMITH: No objection is heard.

13 078199 to 078204 is admitted.

14 THE COURT OFFICER: Your Honour, that document will receive  
15 Exhibit P01444, and it's classified as confidential.

16 MR. HALLING: Your Honour, this can be public.

17 PRESIDING JUDGE SMITH: This will be reclassified as public.

18 THE COURT OFFICER: Thank you, Your Honour.

19 MR. HALLING:

20 Q. Now, Mr. Russell, despite these regulations, in your experience  
21 was the KLA following the regulations set out in that agreement?

22 A. They did assemble at an assembly area in our area of  
23 responsibility. They also did turn in some weapons at a storage  
24 site, a weapons storage site. But in terms of staying consistent  
25 with that, it was not the case.

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1 MR. HALLING: We'd now ask the Court Officer to please pull up  
2 SITF40007080 in a 50-50 with the Albanian on one side of the screen  
3 and the English version of that page on the other.

4 Q. Now, Witness, you can see on the right side of the screen this  
5 is an order claiming to be dated 6 August 1999 from the Karadak  
6 operational zone about giving permission to the Kompakt company in  
7 Gjilan to run the Jugopetrol company fuel station and a Beopetrol  
8 fuel station. As I understand it, you hadn't seen this order prior  
9 to the preparation session; is that right?

10 A. That is correct.

11 Q. Were you able to recognise Ahmet Isufi's signature on this  
12 document?

13 A. Yes, I had seen it on other documents.

14 Q. Was Ahmet Isufi allowed to decide to let the Kompakt company run  
15 the fuel stations of others?

16 A. That would have violated the United Nations Resolution 1244.

17 MR. HALLING: Next, again in a 50-50, could the Court Officer  
18 pull up SPOE00226926, and it's a one-page document. Albanian on one  
19 side, English on the other, please.

20 THE INTERPRETER: The interpreters kindly ask the speakers to  
21 make a pause between question and answer. Thank you.

22 MR. HALLING: Yes, we're guided by the interpreter.

23 Q. Now, Witness, on this you can see "Authorisation Police" on the  
24 back of a card, and the card provides:

25 "The holder of this official identity Card, as an authorised



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1 official person is permitted to carry a firearm and use it in  
2 situations as stipulated by the law, to identify persons and bring  
3 them to the police, to enter a person's house without their  
4 permission, to be served with other person's means of transport and a  
5 telephone, as well as to confiscate any items that are contrary to  
6 law."

7 Witness, did you see police authorisation documents like this  
8 that the KLA had?

9 A. Not only did we see them, we seized them every time that we  
10 encountered them or encountered people doing illegal policing.

11 Q. And I think it's clear from your answer, but you seized them  
12 because this was illegal policing; correct?

13 A. Only the United Nations had authorisation to establish policing.

14 MR. HALLING: And one more, SPOE00226883. Again, one-page  
15 document. Again, in Albanian and English.

16 Q. Now, Witness, here you can see a card, Ministry of Public Order  
17 Official ID card for a Selim Krasniqi. Would you see cards like this  
18 as well in the hands of KLA members?

19 A. We did see cards of this nature. We also encountered illegal  
20 car tags and illegal governance documents that had not been cleared  
21 through any official channel.

22 Q. And as I understand it, you did not know yourself at the time  
23 who the minister of public order was in the KLA; is that correct?

24 A. As the mission developed, we learned more of who some of the  
25 structure was. But we did not know in the early days who many of the

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1 players were.

2 MR. HALLING: And, Your Honours, you can see in the lower  
3 right-hand corner of that card, it says "Minister of Public Order  
4 Rexhep Selimi."

5 At this time, we would like to tender the last three documents  
6 that we have shown. This is again SITF40007080, and then  
7 SPOE00226926, and finally SPOE00226883. The latter two documents  
8 were seized from Rexhep Selimi's residence.

9 MR. ELLIS: Your Honour, on the first document, we would object.  
10 It's a document that the witness clearly had not seen before and was  
11 not asked any questions about content of the document.

12 PRESIDING JUDGE SMITH: Any response?

13 MR. HALLING: I did ask questions about the content, and I asked  
14 him to confirm if this was permitted, and he said it wasn't.

15 PRESIDING JUDGE SMITH: Anything else?

16 MR. TULLY: No objection.

17 PRESIDING JUDGE SMITH: SITF40007080 is admitted.

18 THE COURT OFFICER: Your Honour, that document and its English  
19 translation will receive Exhibit P01532. Classification is  
20 confidential.

21 PRESIDING JUDGE SMITH: SPOE00226926 is admitted.

22 THE COURT OFFICER: The document will receive Exhibit P01533.  
23 Classification is confidential as well.

24 PRESIDING JUDGE SMITH: And, finally, SPOE00226883 is admitted.

25 THE COURT OFFICER: The document, Your Honour, and its English

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1 translation will receive Exhibit P01534. Classification is  
2 confidential. Thank you.

3 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.  
4 Go ahead.

5 MR. HALLING: Thank you, Your Honour. And just a marker in the  
6 record for that last exhibit, P1534, just to link that with P69.

7 Q. Now, Witness, you discussed this briefly already. But in the  
8 area of your operations between July and -- or June and September  
9 1999, who was authorised to conduct legitimate policing?

10 A. The United Nations 1244 resolution was worked in its  
11 effectiveness with NATO forces. The United States military's portion  
12 of that, we were in Multinational Brigade East. We, obviously, as  
13 military, had to establish law and order. So some of the burden fell  
14 upon the military until the United Nations then could establish  
15 legitimate governance and, with that, institutions such as policing  
16 and other things.

17 Q. In the period that I mentioned - again, June to September 1999 -  
18 was the UNMIK police already active by that point?

19 A. They were not active in practice, no. There were the mechanics  
20 of it being implemented, but in the first three months of the  
21 mission, there was no presence of United Nations police that I  
22 recall. There were some liaisons, and there were plans, and there  
23 were recruitment drives that were done by August and September of  
24 1999. And then eventually by the end of the year you began to see an  
25 international United Nations police force begin to take shape.

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1 Q. So as I understand your answer, during the period we're  
2 discussing now, the only legitimate police force in your area of  
3 operations was you, was US KFOR?

4 A. That was correct.

5 Q. Describe the resources that US KFOR had available to them to  
6 investigate and prosecute crimes at this time?

7 A. You have to understand, in a military unit of the size that we  
8 possessed that there were many resources that provided a delineation  
9 between policing and investigations and then standard infantry-type  
10 operations such as we were responsible for. You would have had  
11 military police units that would be trained in the law and also  
12 policing and investigation. You would have had the Judge Advocate  
13 General staff which would have possessed qualified attorneys in the  
14 military. They would interrelate.

15 So our responsibility in infantry units is that as we would  
16 encounter things that were more of a police nature, that we would use  
17 the assets that were available. In our forces, in, as I recall, the  
18 MNB East, we had a military police battalion and companies were  
19 assigned to different sectors. And we had the first MP company that  
20 was specifically attached to our task force. So we had many  
21 policing-type assets that were available to us.

22 Q. In the course of the US KFOR investigations that you were just  
23 describing, were you investigating accusations of crimes from all  
24 sides equally?

25 A. Yes, we were. We -- as we entered the area of operation, a few

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1 American soldiers had any knowledge of Serbo-Croatian or Albanian  
2 languages, cultures, and the like. And so we looked at things really  
3 in the terms on their face value of what was occurring and whether it  
4 was right or wrong.

5 Q. Did the KLA leadership that you interacted with refer any  
6 investigations to you?

7 A. As the operations officer of our infantry task force, that would  
8 have immediately alerted me to shut down whatever it might have been  
9 as a referral because that would have been illegal under the mandates  
10 of UN Resolution 1244.

11 While we did listen to villagers, ex-officials, those wanting to  
12 be officials, people of influence in the church or the mosque or  
13 whatever it might be, we would take all of that information. But in  
14 terms of collaborating or cooperating with the former institutions or  
15 illegal wanting-to-be institutions, that would not have been the  
16 case.

17 Q. Let me ask the question in a different way just to make sure  
18 that I'm clear. If the KLA leadership had referred crimes committed  
19 by KLA soldiers to you, would you have investigated that?

20 A. Certainly we would have. Just as we would get tips on what they  
21 called Chetnik activity that might have come through legitimate means  
22 on the Serbian side and with the contacts that we had there.

23 Q. Did you receive any such referrals from the KLA leadership to  
24 investigate crimes committed by the KLA?

25 A. I do not recall any incident of that type.

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1 MR. HALLING: Your Honour, I note that it's 10.00 now. If you'd  
2 like to take the mid-morning break.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 We'll take a short break at this time, about ten minutes. You  
5 may leave the courtroom now.

6 [The witness stands down]

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

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

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

10 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness  
11 in.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: You may be seated.

14 All right. Mr. Halling, you may continue.

15 MR. HALLING: Thank you, Your Honour.

16 Q. Welcome back, Witness. Just one last question on the topic that  
17 we were discussing before the break.

18 From June to September 1999, was there also an ICTY presence in  
19 Kosovo?

20 A. I do remember an ICTBY -- or an ICTY, yes.

21 Q. Thank you.

22 MR. HALLING: Now we would like to go to a document that's  
23 already been admitted. This is P1518, and it's page 105928. And if  
24 that can be broadcast on the screen.

25 Q. Witness, I would like to pull up a page of the Annual Historical

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1 Review that you discuss in your evidence and then ask you a couple of  
2 questions about one of the raids that you describe.

3 So you see it there on 16 July 1999:

4 "CPT Doug Willis, commander of B/1-77AR rescued a Serbian male  
5 from the UCK assembly area in Malesevo. He was kidnapped from Silovo  
6 and being forced to sign confessions."

7 Just a couple of questions about this incident. First, to the  
8 extent that you know, how did this Doug Willis receive information  
9 that someone had been kidnapped from Silovo?

10 A. And I will refer to many of the towns by the Serbo-Croatian  
11 names because those were the only maps that we had available. That's  
12 how we learned the towns and villages. I understand they're  
13 different now.

14 Captain Doug Willis commanded B Company 177 Armour which was  
15 attached to our task force. And Highway 1 ran through Gnjilane, and  
16 north of there was a small town of Silovo. They flagged him down.  
17 They saw his Humvee, being a KFOR element, and they told him that a  
18 person had just been kidnapped in a field near there. And they said  
19 they believe they knew where he had been taken, and so that initiated  
20 the actions of Captain Willis.

21 Q. Do you have any information as to how this farmer was  
22 transferred from Silovo to the Malisheve assembly point?

23 A. As it was related, he had been taken by a utility truck. I  
24 believe it was a white Zastava truck. It had a faded orange type  
25 of -- a very faded canvas cover on it and was tossed in the back and

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1 taken to the assembly area in Malisevo.

2 Q. Is what you just described the same white Zastava truck that is  
3 later seized by US KFOR at Kisno Polje?

4 A. Yes, that would be correct.

5 Q. When the farmer was eventually returned, what was the reaction  
6 of the people in Silovo to the return?

7 A. It was shock, surprise. My element, we personally delivered him  
8 to the town of Silovo and pulled into the town. He was sitting in  
9 the back, and when he got out of the truck, they -- they were  
10 shocked.

11 Q. Can you give any further detail as to how you knew they were  
12 shocked?

13 A. There was weeping, embracing. They had considered that they  
14 would never see him again. So they were very grateful.

15 Q. Were they afraid that he was going to be killed?

16 A. They were. And they -- even mixed in with the joy, they, you  
17 know, had still asserted and presented names of those that had been  
18 kidnapped that were still -- their whereabouts were unknown.

19 Q. It says in the -- what we have on the screen here, that this  
20 person was forced to sign confessions. I know this is discussed  
21 already in your evidence, but how exactly did US KFOR know that he  
22 was signing false confessions?

23 A. As Captain Willis related to us, when he got to the assembly  
24 area at Malisevo, he and his soldiers, they effected the release of  
25 the kidnapped male. And there, they found this note, and they found



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1 where he was being interrogated, and they were able to free him. And  
2 then they took him into their own custody.

3 Q. Did the freed farmer say it was a false confession?

4 A. Yes. He said that he was forced to sign it.

5 MR. HALLING: Now if we can go to a picture. This is within  
6 105816 to 106095, and it's specifically page 105979. And there's an  
7 English translation of this page as well. So if the Albanian picture  
8 could be on one side of the screen and the English translation of  
9 that page on the other.

10 Q. Witness, do you recognise the document on the left side of the  
11 screen?

12 A. Yes, I do.

13 Q. What is it?

14 A. It would have been the one that the individual was forced to  
15 sign.

16 Q. And we see a name here, a Velibor Stojanovic. Is this the name  
17 of the farmer?

18 A. That would be correct.

19 Q. And, sorry, is the first name Velibor or Vladimir?

20 A. I believe it was Velibor.

21 Q. Okay. The document itself, if you look at the English  
22 translation on the right side, it talks about how there are  
23 approximately 150 armed young men, 20 pistols. It gives a name,  
24 "Bora Stankovic has a heavy machine-gun. Momcilo Pavic from  
25 Budriga." What was your assessment as to why this false confession

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1 was being written? What was this being used for?

2 A. What we had seen in other documentation that we had captured was  
3 that this would form the basis to either kidnap or to target by some  
4 means people that would have been stated on these lists.

5 Q. Thank you.

6 MR. HALLING: Your Honour, we'd like to tender this picture into  
7 evidence at this time. The ERN is 105979 and its English  
8 translation.

9 PRESIDING JUDGE SMITH: Any objection? None shown.

10 MS. TAVAKOLI: No objection.

11 PRESIDING JUDGE SMITH: 105979 is admitted in both English and  
12 Serbian, I think.

13 MR. HALLING: Correct.

14 PRESIDING JUDGE SMITH: Thank you.

15 THE COURT OFFICER: Your Honour, that specific page and its  
16 English translation will receive Exhibit P01535. And classification  
17 is confidential.

18 MR. HALLING: Thank you.

19 Q. Witness, I'd now like to go to a page of your admitted SPO  
20 interview.

21 MR. HALLING: This would be P1510.2 and page 46. The English  
22 alone is sufficient and it can take the full screen.

23 Q. Witness, I'd now like to turn your attention to the Internat  
24 raid discussed at length in your evidence on 9 August 1999. And this  
25 part of your statement is the part where you're talking about showing

1 Ahmet Isufi the torture room. And you say the following:

2 "Walked him through the room. I remember motioning and  
3 pointing, you had blood on the floor, you had electrical outlet plugs  
4 that were exposed, you had -- wires, that is, and near a chair. You  
5 had sticks, a pipe. Some of the sticks were sharpened. You know,  
6 they were of various sizes. I mean, it didn't take a genius to  
7 figure out what was going on there."

8 Focusing first on your description. From the layout of the  
9 room, describe where the blood on the floor was.

10 A. So as I recall, as you entered the basement, you had -- there  
11 was a place to the right that -- where you had, like, a partition, a  
12 chair, and you had these various implements and sharp instruments or  
13 clubs. You had the bloodstains there on the floor. So it was all  
14 kind of contained in the -- in the corner area.

15 Q. Where were the bloodstains in proximity to this chair?

16 A. They were all proximate -- all of these things were proximate.

17 Q. Can you estimate how much blood there was on the floor when you  
18 got there?

19 A. It wasn't a -- and I don't mean to be crass, it wasn't like it  
20 was a massive bleed-out, but it was a puddle probably 2 feet in  
21 length and maybe 12 inches, you know, a foot or so in width. Clearly  
22 something that -- and looked like it had been dripped and puddled  
23 down. So it was obviously caused by wounds just upon examination.

24 Q. Upon examination, are you able to give any estimate as to around  
25 how old this blood was?

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1 A. It looked fairly fresh. It wasn't damp, but it was fresh. It  
2 wasn't blackened. Infantrymen get acquainted with a lot of horrific  
3 scenes. This looked fairly recent.

4 Q. And now turning to the part of this exchange where you show it  
5 to Ahmet Isufi. When identifying this room to Ahmet Isufi, did you  
6 identify it as a torture chamber when talking to him?

7 A. I don't recall if I used those exact words or not, but I -- I do  
8 remember very much taking him directly to the place to show him what  
9 we had found and to show him the problem with it.

10 Q. Did you ask him what it was when you got there?

11 A. I don't remember exactly the specifics of the conversation.  
12 These were very tense moments. But I do recall that I wanted to know  
13 what was going on.

14 Q. Did Ahmet Isufi give you any explanation as to what was going on  
15 in that room?

16 A. He was very guarded. And he -- he knew we had a chain of  
17 authority also, and he knew that I was not at the top of mine, and so  
18 I think he wanted to use that to buy time.

19 Q. Did he give any denial that the room was used to torture people?

20 A. He made no opinions on what we had found unlike some of the  
21 others. But he -- he made no comments on what we had found, whether  
22 weapons or the torture chamber.

23 Q. You talked -- you said "unlike some of the others." Did anyone  
24 that you met from the KLA during the course of this raid give you an  
25 explanation as to what was going on in that room?

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1 A. When the raid began, there was much bluster that we would find  
2 nothing once we told them why we were there. And they said, "Search  
3 all you want. You won't find anything." That sort of thing. Of  
4 course, we found a lot, and then that kind of silenced that sort of  
5 thing.

6 Q. So once you found the torture room, did anyone from the KLA give  
7 you an explanation as to what that room was?

8 A. They did not. We got the impression that they were trying to  
9 buy time and to figure things out.

10 Q. You talk in your evidence about Ahmet Isufi wanting to take  
11 custody of the ten men that you had identified for detention. I  
12 think this is already clear from your interview, but just to make it  
13 crystal clear, this conversation was after you had shown him the  
14 torture room; is that right?

15 A. That's correct. I had made clear to him what our actions would  
16 be, that we would take the ten, and that -- I wanted him to  
17 understand why. And so after showing him all of the things, we took  
18 -- I told him that we were going to take the ten. He said, "No, we  
19 will take the ten and I'll take them into my custody." And I believe  
20 I said something, "Yeah, that's not going to happen."

21 Q. And it, in fact, didn't happen in the end?

22 A. It did not.

23 Q. Let's go into some of the reports on this and other raids that  
24 you conducted.

25 MR. HALLING: If we can please go to R091-3802 to R091-3802, and

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1 broadcast that in full -- not to be broadcast that to the public but  
2 displayed in full on the screen.

3 Q. You can see here that this is extracted from MNB-E. It's in  
4 sum. It appears to be an MNB-East report. And focusing on this  
5 report about the raid of the Internat. It says:

6 "Dozens of pistols, grenades, explosive devices, and hundreds of  
7 rounds were seized in the raid. Additionally a 5 Ton load of illegal  
8 documents and UCK uniforms were confiscated. In the basement a cut  
9 off broom ... and sharpened stakes were found (possible torture  
10 devices). Three JIC card holders were present at the time of the  
11 raid Adrien Mehmeti ... Abyrrahmun Radadani ... and Shaqir Shaqiri  
12 ..."

13 And it provides their JIC card numbers where available.

14 Witness, first of all, had you seen this report during the war?

15 A. Yes, I'm certain I would have.

16 Q. Did you make this report?

17 A. We had our intelligence sections as well as our operations  
18 section that would report to our headquarters, and in the course of  
19 those reports they would make extracts to be read by all of MNB East.

20 Q. Is the general reporting of the raid at the Internat accurate as  
21 described in this report?

22 A. It is accurate. Not entirely comprehensive. There was much  
23 more.

24 Q. Understood. But accurate will suffice.

25 MR. HALLING: R091-3802, we would tender that for admission at

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1 this time.

2 PRESIDING JUDGE SMITH: Objection?

3 MS. TAVAKOLI: No objection.

4 PRESIDING JUDGE SMITH: No objection is heard. R091-3802 is  
5 admitted.

6 THE COURT OFFICER: Your Honour, the document will receive  
7 Exhibit P01536. Classification is confidential. Thank you.

8 PRESIDING JUDGE SMITH: Thank you.

9 MR. HALLING:

10 Q. I'd now like to turn your attention, Witness, to two OSCE  
11 documents.

12 MR. HALLING: The first one is SITF00011502 to 00011508. And  
13 the specific page we'd like on the screen, SITF00011504.

14 Q. Now, Witness, as this is being pulled up, this is indicated as  
15 an OSCE Mission in Kosovo weekly report from the dates of 11 to  
16 17 August 1999. And if we can focus on the bottom of this page where  
17 it talks about:

18 "There is little respite to the daily confrontations in  
19 Gnjilane. After searching a dormitory used by the UCK and finding  
20 what was described as a torture chamber as well as weapons,  
21 ammunition, explosives and booby traps, KFOR troops were surrounded  
22 by angry crowds. Only nine of the intended thirty people could be  
23 arrested by KFOR; the next day further ethnic Albanian demonstrations  
24 took place against the peacekeepers in an attempt to win the release  
25 of those detained."

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1           Now, Witness, you talk in your evidence already that it was ten  
2           and not nine people detained, but is the overall reporting of the  
3           raid here by OSCE accurate?

4           A.    Yes, I would say that it was.  Except it says "dormitory used by  
5           the UCK," that should have read "illegally used by the UCK" because  
6           it was not their authorised assembly area, and it was a large  
7           operation that they had going there.

8           Q.    Understood.  The other one.

9           MR. HALLING:  If the Court Officer could please put on the  
10          screen SITF00385940 to 00385944.  And the page would be SITF00385941.

11          Q.    And, Witness, as this is put on the screen, this is purporting  
12          to show a senior human rights officers meeting of the OSCE on 13  
13          August 1999.  And you can see in the first full paragraph on the  
14          screen here, talking about:

15                "KFOR stormed a dormitory in Gnjilane which is presently used as  
16                KLA headquarters and discovered a torture chamber, weapons,  
17                ammunition and explosives.  After KFOR's arrest of several persons in  
18                connection with this incident, hostility against KFOR has been  
19                increasing, and KLA organised anti-KFOR demonstrations took place."

20          The same question:  Is what is indicated here in the OSCE  
21          meeting minutes accurate?

22          A.    I think the spirit of it is.  Again, some confusion on whether  
23          or not that they would be allowed to use this facility.  I've -- I  
24          would not be clear on why they would call it a headquarters in any  
25          legitimate sense.



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1 Q. But do the events described in this paragraph, is this what  
2 happened when you were at the --

3 A. Yes. Yes, it is accurate.

4 Q. And the OSCE seems to be interested in this event. To the  
5 extent that you know, describe what you remember the reaction to this  
6 raid being from organisations other than the KLA?

7 A. I think in many regards it -- it kind of shocked a lot of  
8 people, including us.

9 Q. Is there more -- to what extent was this big news, what you had  
10 done?

11 A. I think, to put it simply, if we had discovered something like  
12 this on the other side, it would not have been a shock. But because  
13 it was on the side that we were cooperating with, it came as quite a  
14 shock.

15 Q. Because it came as quite a shock, did it attract a lot of  
16 attention, your raid?

17 A. It did. And it was questioned. Even the day as the raid  
18 unfolded, there was a lot of concern about what we had stirred up.

19 MR. HALLING: Your Honours, we'd ask to tender these two OSCE  
20 documents at this time. The witness has given meaningful context as  
21 to the overall accuracy of the reporting, and the reports further  
22 suggest the broader notoriety of this event. The ERNs are  
23 SITF00011502 to 00011508, and then SITF00385940 to 00385944.

24 PRESIDING JUDGE SMITH: Objection?

25 MR. ELLIS: Your Honour, no objection to the specific pages that

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1 were put to the witness, which he's properly given answers about, but  
2 I do object to the -- they each appear to be multipage documents  
3 which address a variety of different issues which go beyond the  
4 witness's evidence.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 I believe you've indicated four pages; is that correct?

7 MR. HALLING: I mean, really just one page in each. But we  
8 would say that this is about 12 pages in total across the two  
9 documents. It's just to have context. You can't even tell it's an  
10 OSCE report from the exact pages that we showed to the witness, so  
11 this is why we tender them as complete documents.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 Is there something objectionable in the other material,  
14 Mr. Ellis?

15 MR. ELLIS: Well, Your Honour, I mean, what's happening is that  
16 a paragraph on a page has been put to the witness which is about --

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. ELLIS: -- the area he can speak to.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 My question is very direct. Was there something you object to  
21 in the other material, something that's relevant and objectionable?

22 MR. ELLIS: No, it's the principle.

23 PRESIDING JUDGE SMITH: SITF00011502 to 11508 is admitted.

24 THE COURT OFFICER: Your Honour, the document will receive  
25 Exhibit P01537. Classification is confidential.

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1           PRESIDING JUDGE SMITH: And then SITF00385940 to SITF00385944 is  
2 admitted.

3           THE COURT OFFICER: Your Honour, the document will receive  
4 Exhibit P01538. Classification is confidential. Thank you.

5           PRESIDING JUDGE SMITH: Thank you.

6           Go ahead.

7           MR. HALLING: Thank you, Your Honour.

8           Q. Witness, for the raids that you discuss in the course of your  
9 evidence - so this would be the Malisheve assembly point, Novo Brdo,  
10 logistics base, Kisno Polje, the Internat - for each of these raids,  
11 did you bring them to the attention of Ahmet Isufi?

12          A. The one that we specifically requested that -- or was rather  
13 asked to have Isufi involved with was the Internat raid on 9 August.  
14 The other raids, any time we would find these illegitimate or illegal  
15 operations, our practice with was to go and shut them down, and then  
16 we would let others sort out the political.

17          Q. So you're talking about Ahmet Isufi's, you know, involvement  
18 during one of these raids. My question's a little different. After  
19 each of the raids that I described, would you bring each one to the  
20 attention to Ahmet Isufi?

21          A. I recall in our occasional meetings - again, I was not the  
22 commander of the task force, I was the operations officer - but I  
23 would meet with him from time to time, and I would point out the  
24 circumstances from -- that had resulted from these raids with regard  
25 to their illegal activity or policing or things of that nature.

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1 Q. So when you say the circumstances resulting from these raids,  
2 did you tell him that you found evidence of crimes being committed?

3 A. Not only evidence but would point out the problems with it. The  
4 illegal police structure, "the black shirts" we called them. The  
5 co-opting of legitimate aid that had been brought in and was used to  
6 coerce others, whether Serb or Albanian, to try to get cooperation  
7 when these were aid relief organisations that were meant to aid  
8 suffering.

9 Q. You mentioned "the black shirts" in that last answer. Are these  
10 illegal KLA military police officers?

11 A. Yes, that would be correct.

12 Q. And to the extent you can give a kind of general understanding,  
13 what were Ahmet Isufi's reactions to such accusations?

14 A. As I recall, it was never to address what had been pointed out.  
15 It was only to play a "oh, yeah, what about this?" game of  
16 one-upmanship, usually with passion, and sometimes photographs of and  
17 long discussions of atrocity. That was usually the reaction. It was  
18 never to address what we had pointed out.

19 Q. I think it's clear from your SPO interview, but just to give a  
20 little more detail here, when Isufi says, "Oh, yeah, what about  
21 this?" can you give a little clarification as to what he was talking  
22 about when he reacted this way?

23 A. Well, in one particular incident that I believe I had referenced  
24 in my earlier interviews, he had a sheaf of photographs and slammed  
25 them -- well, not slammed them, but he -- he threw them on the table

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1 with passion, understandable, and then he said, "How can you justify  
2 this?" And, you know, they were pictures of like what we had been  
3 seeing, you know, on all sides since we had been there. And, you  
4 know, you -- you have compassion for the human suffering, but you  
5 didn't have a lot of patience for those that were trying to  
6 perpetuate it on one side or the other.

7 Q. Did he ever deny the accusation of crimes that you presented to  
8 him?

9 A. I don't recall on the things that we had discovered or pointed  
10 out that he ever said that that did not happen or this was not the  
11 case. It was usually in protests. Many times they would protest our  
12 operations through formal letters talking about the conduct of our  
13 soldiers and things of that nature.

14 Q. Did Ahmet Isufi ever tell you in any of these conversations that  
15 he would take any disciplinary steps to address what you were telling  
16 him?

17 A. I don't recall an acknowledgement of the things that we were  
18 trying to point out. It was usually, "What are you going to do  
19 about, you know, these problems," not "I'll take care of these  
20 problems." He may have related that to others, but I don't recall  
21 him relating it to me.

22 Q. Are you aware of any indication that the KLA took disciplinary  
23 measures against the evidence of crimes you uncovered in your raids?

24 A. As the infantry operations officer, we turned many of these  
25 things, the people that we detained, the documents that we found,

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1     although, we would do cursory look-throughs with translators to try  
2     to quickly do a triage, if you will, of what was important in  
3     documentation, and then we would get an assimilation of that after  
4     our intel section would tell us what was found in the raids, both  
5     from our intel and from the military police. But beyond that, most  
6     of those functions, they would transfer to the military police  
7     channels, which is where they belonged.

8     Q.    I understand that these efforts continued after the information  
9     that you had. I'm just focusing on the information that you had.  
10    Did you have any indication that the KLA took disciplinary measures  
11    against those responsible for the crimes you uncovered in your raids?

12    A.    I don't recall any immediate responses, no.

13           MR. HALLING: We'd now ask if the Court Officer could please put  
14    on the screen SPOE00231630 and its English translation side by side.  
15    And if we could first scroll down a little further on the page in  
16    the -- yes, thank you. And then scroll up a little in the English,  
17    just to capture the full message. Yes.

18    Q.    So, Witness, this is purporting to be a document from an MP  
19    commander named Fatmir Mehmeti. And if you scroll now up to the top,  
20    you can see a header of "Kosovo Liberation Army, Karadak Operational  
21    Zone, Military Police."

22           Now, I understand that before the preparation session you had  
23    not seen a document of this kind; correct?

24    A.    No. I mean, we knew that they were unhappy about the raid.

25    Q.    So it mentions here that it was 10 August 1999. I understood

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1 that it was the 9th. But is the description of the raid on this page  
2 accurate? And I can specifically point to:

3 "KFOR forces arrived at 09:30 with the objective of checking the  
4 premises of the Military Police. We would like to stress the  
5 necessarily unnecessary, rude behavior which took place, and the  
6 matter of the maltreatment of the Military Police personnel and  
7 soldiers who were on the premises at the time.

8 "KFOR forces exhibited inappropriate behaviour and have  
9 destroyed all of the documentation and also ransacked all of the  
10 soldiers' quarters.

11 "We would ... like to emphasise the fact that, from 9:30 until  
12 10 in the evening, KFOR forces acted in a manner which is in  
13 violation of all normal human behaviour, which led to a protest from  
14 the soldiers and also a large number of citizens who joined in.

15 "Without any explanation, the KFOR forces led away 10 soldiers  
16 to Sojeve prison, and nothing is known about their fate.

17 "With this note we are calling for a better understanding and  
18 treatment of the Army."

19 And now, Witness, what my question is, is this description of  
20 the raid accurate?

21 A. Not from our perspective, no.

22 Q. And what about it is not accurate?

23 A. Well, there are several things. One, it was not an official  
24 premise -- premise of anything. There was no authorised military  
25 police. There was no authorised barracks or assembly point for them.

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1 This was one of the reasons that we shut it down.

2 In terms of the ransacking, I can attest that the military  
3 police elements under Mike Matthews, who had the 1st MP Company, he  
4 actually was the one that was in charge of the room searches because  
5 the military police were trained better in that than our infantrymen.  
6 So they did police-type searches in all of those rooms to look for  
7 documents and weapons, which they found quite a few.

8 From the violation of normal human behaviour, I don't know what  
9 that would mean. No one passed out. We provided water to the  
10 detainees. We -- after my elements had been ordered by our brigade  
11 headquarters to hold fast rather than to shut down the raid, I was  
12 not happy about that. I felt the longer that we lingered it made us  
13 more vulnerable, and that proved to be the case. But, nevertheless,  
14 at that point we decided to cut the zip ties on many of the  
15 individuals so that they would have some relief. They were under  
16 guard. We passed out water so that people -- it was a hot day, it  
17 was August, so that people could, you know, have a little relief. We  
18 moved people under the shade. You know, we -- we tried to be humane.

19 Now, you know, we weren't trying to be friends. This was a  
20 tense situation. But, no, I would not say that this was accurate.

21 Q. So it talks about the raid being from 9.30 until 10.00 in the  
22 evening. Is that about accurate as to the time in which the raid  
23 took place?

24 A. Unfortunately for us, yes. It was intended to be a much shorter  
25 raid, but because of what we had stirred up, it immediately became a



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1 very high-level back and forth among senior leaders and I suppose  
2 those involved in the political process. There were requests that  
3 key leaders would come and be paraded through these barracks to look  
4 at what we had discovered, and that created some tense situations  
5 until we could get the situation well in hand with proper forces for  
6 our security and also for those that we detained.

7 Q. This report, this document also talks about the KFOR forces  
8 leading away ten soldiers. Is this the accurate number of soldiers  
9 that were taken?

10 A. Yes, it was ten.

11 Q. And there was a KLA person you mentioned in your evidence named  
12 Fatmir. This Fatmir, am I right, he was the commander of the  
13 Malisheve assembly area; is that right?

14 A. That's correct. We had had direct conversations with him during  
15 the kidnapping incident, and we detained three people from the  
16 Malisevo assembly area, which was legitimate. It was allowed to be  
17 there. But we had direct confrontation with him, and he did  
18 relinquish the three that we ultimately detained. So I -- I remember  
19 him quite well.

20 Q. And did you see that Fatmir on the day of the Internat raid on 9  
21 August?

22 A. Oh, yes, he showed up, because he had a Joint Implementation  
23 Commission card, the purple card, the JIC card. They would come in  
24 and out. And many of the UCK leaders who were JIC card holders,  
25 other than those that we detained at the site, they came and went.

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1 And we requested through some of them to bring Ahmet Isufi.

2 Q. We saw from the reports that there were three JIC card members  
3 taken in the course of this raid. Fatmir was not one of them;  
4 correct?

5 A. That's correct. As I recall, he was not physically there when  
6 we did the raid.

7 Q. Do you have any indication that Fatmir may have been involved  
8 with the military police?

9 A. I think there's no question given the circumstances that we've  
10 seen not only on that day but with the kidnapping and with the  
11 interaction that he had with Shaqir Shaqiri, who fashioned himself as  
12 kind of the head of these black shirts and others. They had constant  
13 coordination, sometimes even in our presence.

14 Q. And you see a name Fatmir Mehmeti here. As I understand it, you  
15 don't know with certainty the last name of the person you knew as  
16 Fatmir; is that right?

17 A. That is correct. He was known to us simply as Fatmir.

18 Q. And I understand from your evidence that you disagree with the  
19 characterisation given by in this document, but does this accurately  
20 reflect the sentiments of the KLA that you encountered during the  
21 raid?

22 A. No question. And it's understandable that that would be their  
23 view, but it was not accurate at all.

24 Q. Thank you.

25 MR. HALLING: Your Honour, we would say that this witness has

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1 given meaningful context to this document. It is addressed:

2 "... hereby inform the General Staff and the Ministry of Public  
3 Order ..."

4 And this document was received seized from Rexhep Selimi's  
5 residence.

6 PRESIDING JUDGE SMITH: Any objection?

7 MR. TULLY: Yes, Your Honour. Leaving aside the usual  
8 objections about no signature or stamp, we object on authenticity to  
9 a document purporting to be from the KLA where, if you look at the  
10 first line in the original, the person appears to have struggled  
11 spelling the name of that organisation. Thank you.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: And we also object on the usual grounds: It's not  
14 signed, it's not stamped, it doesn't appear to be dated. So we  
15 object on grounds of authenticity.

16 PRESIDING JUDGE SMITH: All right. The objection is overruled.  
17 SPOE00231630 plus the English translation is admitted.

18 THE COURT OFFICER: Your Honour, the document and its English  
19 translation, will receive P01539. Classification is confidential.  
20 Thank you.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. HALLING: Thank you, Your Honours.

23 Q. Thank you, Witness.

24 MR. HALLING: Nothing further.

25 PRESIDING JUDGE SMITH: We'll take the 11.00 break at this time.

1 We'll be back at 11.30. Thank you.

2 You may leave the courtroom with the Court Usher.

3 [The witness stands down]

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

5 --- Recess taken at 10.55 a.m.

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

7 PRESIDING JUDGE SMITH: Go ahead.

8 MR. MISETIC: Thank you, Mr. President. I just wanted to get  
9 back to you on the procedural matter you raised in the morning.

10 We do have an issue with one sentence in the SPO's proposed new  
11 translation of 1D00006. There is a phrase in there, and the Albanian  
12 speakers will forgive my pronunciation, "*japin Ilgari*," which we  
13 believe the existing translation is the better translation.

14 I have spoken to Mr. Halling in the break. As I understand it,  
15 what they have proposed to submit is an SPO revised translation. And  
16 if there's a dispute, our proposal would be to send it to CMU for an  
17 official translation, a neutral translation, to update it if the SPO  
18 wishes to pursue the matter further.

19 PRESIDING JUDGE SMITH: Any problem with that?

20 MR. HALLING: None at all, Your Honour.

21 PRESIDING JUDGE SMITH: Let's do that then. We will send it to  
22 them. I will leave it to you two to get that accomplished with the  
23 translators.

24 Madam Court Usher, you may bring the witness in.

25 [The witness takes the stand]

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1           PRESIDING JUDGE SMITH: You may be seated.

2           We will begin now the cross-examination. We begin with

3 Ms. Tavakoli, who represents Hashim Thaci's Defence.

4           Go ahead, Ms. Tavakoli.

5           MS. TAVAKOLI: Thank you, Your Honour.

6                           Cross-examination by Ms. Tavakoli:

7           Q. Good morning, Mr. Russell.

8           A. Good morning.

9           Q. Now, I want to start talking, firstly, about the presence of VJ  
10 soldiers when you arrived. Now, you told the SPO that when the last  
11 of the VJ had left under the mandate, which I presume would be from  
12 20 June; is that right?

13          A. That sounds right, the 20th. Yes.

14          Q. You didn't see any organised Serbian military in the area. Do  
15 you remember saying that?

16          A. Yeah, that's -- that's correct.

17          Q. And then you said that there were some border incursions back  
18 and forth as they tried to work out the border; correct?

19          A. Yes, with the MUP, which was their kind of militarised police.

20          Q. And that you didn't share General Peterson's subsequent concerns  
21 that the Serbs might launch a massive attack. In your mind, you  
22 didn't think that the Serb army would come back to your area; is that  
23 right?

24          A. We didn't see the intelligence that would support that. There  
25 were no assembly areas. There were no massing of troops that might

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1 be associated with such an incursion.

2 Q. So would it be accurate to say that in your mind, when you were  
3 there, the armed conflict between the VJ and the KLA was over?

4 MR. HALLING: Objection, calls for ultimate issue.

5 PRESIDING JUDGE SMITH: Sustained.

6 MS. TAVAKOLI: Thank you.

7 Q. Now, I want to move on to your role. You were an operations  
8 officer supporting the commander of your unit, who was a Lieutenant  
9 Bob Scurlock; is that right?

10 A. Lieutenant-Colonel Bob Scurlock, yes.

11 Q. Sorry. Sorry. And above Colonel Bob Scurlock,  
12 Lieutenant-Colonel, was General Craddock; is that right?

13 A. Actually, we had Steven Hicks who was the brigade commander, and  
14 he was in a deputy role to the overall MNB East commander, which  
15 would have been General Vance Craddock.

16 Q. Thank you. And the KLA had official interlocutors -- sorry,  
17 KFOR had official interlocutors with the KLA, KFOR liaison officers,  
18 and you weren't one of those, were you?

19 A. No.

20 Q. And in terms of what your job was, I don't know whether you'd  
21 agree with this, but military police officer Michael Matthews has  
22 described your job as essentially writing orders on behalf of  
23 Lieutenant-Colonel Bob Scurlock.

24 A. That may be Mike's perspective.

25 Q. Yeah.

1 A. An operations officer is responsible for the daily operations of  
2 what is going on in the sector. He also is, from an execution point  
3 of view, responsible for executing the orders of the commander. He  
4 is also not only responsible for writing the plans but seeing them to  
5 completion, and any other details that the commander would wish.

6 Q. Thank you. And you told the SPO that whilst you had  
7 interactions with the KLA area commander Ahmet Isufi, and you've told  
8 the Court about those today, you told the SPO before that they  
9 weren't as frequent as your commander's because that was their  
10 prerogative to deal with him and it wasn't your primary role; is that  
11 correct?

12 A. There were times that I would be asked by the commander to go in  
13 his stead. You have to understand that we were really the main and  
14 largest of the combat forces in MNB East. We were a heavy mechanised  
15 task force, so we had a lot of capability. And necessarily,  
16 Colonel Scurlock would be required to go to a number of meetings, and  
17 many times I would go in his stead to meet with whoever that he could  
18 not meet with.

19 Q. Yeah. I think you also told the SPO that you didn't have actual  
20 Green Tab authority, which meant that a lot of the meetings that they  
21 asked you about with Isufi had been done by Craddock and Scurlock; is  
22 that right?

23 A. No, I don't think that would be entirely correct. I certainly  
24 didn't have command authority, but I certainly had the authority to  
25 make decisions based upon the guidance that the commander had given

1 me and to ensure that the things that he wanted me to emphasise or  
2 the things that he wanted me to execute were properly done.

3 Q. So had you made a mistake then when you spoke to the SPO before?  
4 And the reference, if the Court wants to see, is --

5 A. A mistake regarding what, ma'am?

6 Q. You told the SPO - and the reference for the Court is P01510.1 -  
7 that they were asking you, basically, about Isufi. And then you said  
8 a lot of the meetings that they were asking you about, the direct  
9 meetings, would have been done by Scurlock and Craddock, rather than  
10 you, and the reason you suggested was because you didn't have this  
11 Green Tab authority. I just wanted to check that.

12 A. It wouldn't be because of the authority structure per se. It  
13 would be -- you have to understand we had few field grade officers in  
14 our sector. We were handling three opstinas in an early part of the  
15 mission, which was a very large sector, and so the commander relied  
16 on the field grade officers to do many of the tasks that needed that  
17 level of attention.

18 Q. Okay. I'll move on. Now, from what you saw, you told the SPO  
19 that you understood - and I just need a "yes" or a "no" answer - that  
20 Isufi held authority over those under him; correct?

21 A. He seemed to.

22 Q. And it's right, isn't it, that you also told the SPO that that  
23 authority was sometimes challenged by people you described as  
24 hotheads like the Mehmetis and others?

25 A. That seemed to be what they were doing, yes.



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1 Q. And I think you said, you know, describing that, they'd talk  
2 back, they'd try to push back and so on; is that right?

3 A. That's correct.

4 Q. And then in your SPO interview - and the reference for the Court  
5 is P01509.2 at page 59 - you said this:

6 "... Isufi was able to control them," you were meaning the  
7 hotheads, "to some extent, but ... they were hotheads."

8 Could you help us? What did you mean by "to some extent"?

9 A. He seemed to get them to follow his directions, his commands, if  
10 you will.

11 Q. Now, on the day of the dormitory raid that you've given evidence  
12 about, you told the SPO that there was pushback from Mehmeti and  
13 Ramadani when Shaqir Shaqiri showed up. And specifically you said  
14 that there was a lot of cussing and carrying on.

15 "... I remember that they were saying things like, you know, in  
16 polite terms, 'Screw Isufi.' And there were shouts of that. So  
17 there was a little bit of a rebellion that was going on internally to  
18 them ..."

19 MS. TAVAKOLI: And the reference for the Court is P01510.2 at  
20 page 43.

21 Q. Do you remember saying that?

22 A. Yes.

23 MS. TAVAKOLI: And then if we could please pull up  
24 Exhibit P01536 that you were shown by the Prosecutor earlier today.

25 Q. And this is a KFOR intelligence summary from MNB East about the

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1 dormitory raid that you said you confirm that you had -- you would  
2 have seen.

3 MS. TAVAKOLI: And if we can go to the second paragraph, please.

4 Q. And if you see here, it says the following:

5 "Adrian Mehmeti ... was responsible for inciting the detainees  
6 to charge the 5 ton truck when TF1-26 raided the illegal UCK police  
7 station on 10 Aug 99. He was not interested in waiting for the UCK  
8 and TF Falcon commanders to negotiate. Referring to UCK commander,  
9 Isufi, he stated 'he is not my commander, I am in command here, these  
10 are my soldiers.'"

11 So it's clear, isn't it, that on that day your intelligence is  
12 recorded that Mehmeti is rejecting Isufi's authority. That's what  
13 the document says; correct?

14 A. He didn't appear to act that way when confronted by Isufi later,  
15 ma'am. He actually followed his orders, so there had to be some sort  
16 of authority structure there.

17 Q. But in that report by your -- you don't have any reason to doubt  
18 that report by your intelligence services, do you?

19 A. He also said some foul things about Isufi, so, yes, I -- I'm  
20 sure he said something of this nature.

21 Q. Thank you. And did you know - if we could look at the next  
22 paragraph, please - that after that raid on 1 September -- sorry,  
23 that's right. The local -- if we go to the last sentence:

24 "The local UCK leadership wanted Mehmeti to lose his JIC card  
25 and claimed that they would take it from him when he turned up ..."

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1 Did you know that?

2 A. Not only was it known, we had requested that all of those that  
3 we detained at the illegal Internat raid that were JIC cardholders  
4 should lose that status. My impression was that it was our request.

5 Q. But on the face of this document, your intelligence service is  
6 recording that, in fact, it is the local UCK leadership requesting  
7 that. Can you see that?

8 A. Yeah, I'm not surprised. We -- we had asked for that ourselves.  
9 We were --

10 Q. But they were effectively agreeing with you on that. In this  
11 instance, that's what it says, doesn't it?

12 A. I think that that was their only option, yes.

13 Q. Now, did you see --

14 THE INTERPRETER: The interpreters kindly ask the speakers to  
15 make a pause between question and answer. Thank you very much.

16 THE WITNESS: My apologies.

17 MS. TAVAKOLI: Sorry.

18 Q. Now, other than Mehmeti, was Isufi's authority challenged by  
19 anyone else, for example, Ramadani?

20 A. I'm trying to recall an incident where Ramadani would have been  
21 separate from Mehmeti where that might play out, and I can't think of  
22 one.

23 Q. Thank you. Now, you told the SPO that in your time there you  
24 didn't see anyone give Isufi an order; correct?

25 A. Could you repeat that?

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1 Q. You didn't see anybody give Ahmet Isufi an order.

2 A. At which place or time or -- I'm not sure I understand the --

3 Q. The whole time that you were there. The reference for the --

4 you were asked did you see anyone give Isufi an order at any time.

5 And the reference for the record is P01510.1.

6 A. No, I was not present when someone would have given Isufi a

7 verbal order or something of that nature, no.

8 Q. And you also told the SPO that you didn't recall dealing with

9 anyone above Isufi in the KLA structure; correct?

10 A. Not directly.

11 Q. And you yourself, save for the day in October when you arranged

12 the security for Hashim Thaci for the speech in Gjilan, you didn't

13 deal personally with anyone in the KLA General Staff, did you?

14 A. Ours was not a political mission. Ours was to secure MNB East.

15 Q. Thank you. So it would be accurate, would it, to say that

16 outside of what you observed locally, you have no first-hand

17 knowledge of how the KLA was structured and organised?

18 A. If "locally" defines MNB East, which was a rather large sector,

19 I suppose that that could be interpreted that way.

20 Q. Thank you. Now I'd like to move to events at the dormitory,

21 please.

22 MS. TAVAKOLI: The document can come off the screen. Thank you.

23 Q. Now, the KLA had painted a UCK emblem on the side of that

24 building and they flew an Albanian flag from it; correct?

25 A. And we also found UCK flags on the site, yes.

1 Q. So they weren't hiding the fact that they were there, were they?

2 A. The emblem -- the emblem's appearance was rather recent, and the  
3 flags of the illegal elements were discovered upon the raid.

4 Q. And would it surprise you that military police officer Michael  
5 Matthews - and the reference for the Court is 106826 Part 1, page 23  
6 - said that this was a widely known facility where former members of  
7 the KLA lived and were conducting their transition?

8 A. The explanation early on that we had been told was that it was a  
9 place for the international office of migration to have people that  
10 needed placement for job training to transition, and so it was looked  
11 upon as more of a refugee status location rather than a military  
12 barracks and headquarters. It was returned to that after the raid.  
13 So prior to, it came to our attention because of a soccer game and  
14 uniforms that were being worn. That created a bit of a stir because  
15 it was not allowed outside of the assembly areas. So we went there  
16 and we wanted to know what was up. It was not an authorised place  
17 for such activity.

18 Q. And just to go back to what Mike Matthews said. He said that it  
19 was a place where the KLA was conducting their transition. And it's  
20 correct, isn't it, that that transition to demilitarisation was  
21 ongoing and had to be completed by September 20th?

22 A. Under the terms of the Military Technical Agreement and UN  
23 Resolution 1244, transition through an IOM-type structure would never  
24 include storing landmines, explosives, firearms, or having implements  
25 for interrogation or torture. That would not be part of the process.

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1 Q. Sorry, that's not my question. My question was simply a factual  
2 one: That transition to demilitarisation had to be completed by  
3 September 20th; correct?

4 A. It did, but there were no -- we didn't perceive the location as  
5 anything other than what we were told it was at the beginning, an  
6 IOM --

7 Q. Sorry, I think my question was simply a factual one about the  
8 date.

9 A. Could you restate the basis of the question? I'm trying to --

10 Q. It's just -- I just wanted to check with you that our  
11 understanding is correct that the transition to demilitarisation was  
12 ongoing at this time and had to be completed by September 20th. So  
13 it's a calendar question.

14 A. Yes. And the calendar also would have been given to us in the  
15 same agreement that defined the two locations where such activity  
16 would be authorised, and the Internat was not one of those.

17 Q. Thank you.

18 A. You're welcome.

19 Q. Now, we know that the military police had created a list of ten  
20 men that they wanted to take in for questioning about the allegations  
21 of torture; correct?

22 A. That's correct.

23 Q. Now, hothead, this is your description, Adrian Mehmeti and  
24 Ramadani were two of those men; correct?

25 A. Yes.

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1 Q. And they were taken in eventually.

2 A. Yes.

3 Q. I don't need to -- eventually [Overlapping speakers] ...

4 A. They were among the ten, yes.

5 Q. Yeah. Now, you wrote in your personal journal - and this is  
6 Exhibit P01519 at page 105829 - the following:

7 "As we prepared to depart with the ten detainees and MPs, and  
8 also prepared to release the 60 others, Task Force Falcon issued  
9 orders to leave everyone and everything in place until the UCK  
10 leadership saw in person what we found. The word we got was Falcon  
11 6, Brigadier General Craddock, wanted Isufi to see for himself."

12 Now, it's possible, isn't it, that the reason why Brigadier  
13 Craddock wanted to bring Isufi to the site to see for himself is that  
14 he thought he didn't -- perhaps he didn't know about this site?

15 A. You're referring to the beginning of the raid or at the end of  
16 the day?

17 Q. I'm referring to the fact that Brigadier Craddock, and you also  
18 confirmed it this morning, he wanted Isufi to come, I think a family  
19 member of his had been killed or something that day, because he  
20 wanted him to see for himself. That's what you wrote in the journal.

21 A. We were told, yes, by Task Force Falcon that they wanted Isufi  
22 to be present. And I myself had even asked when -- I believe it was  
23 Fatmir and Shaqir Shaqiri, if Isufi was available, and they said no,  
24 that he was in Kamenica because of a relative that had been killed.

25 Q. And my question was is it possible that the reason that Craddock

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1 wanted Isufi there in person was to show him because perhaps he  
2 didn't know about this alleged room?

3 A. I think that would be speculation. The order, as I understood  
4 it, was so that we could use the chain of command that they had to  
5 show them what had been discovered.

6 Q. Now, it's right, isn't it, that Isufi, I think, assisted,  
7 liaised directly with Craddock and they negotiated a settlement, I  
8 think is the word you used, allowing KFOR to arrest the ten men.  
9 That's right, isn't it?

10 A. Yes.

11 Q. Now, it follows from that that Isufi himself was not on that  
12 list of ten; is that correct?

13 A. He was not present during the raid.

14 Q. But before you arrived on that scene, the military police had  
15 compiled a list of ten names that they wanted; correct?

16 A. The -- to provide you clarity of the ten, the ten were  
17 determined by the witness who had been tortured, and she was able to  
18 identify them from photographs that were snapped immediately in the  
19 early morning of the raid. And from those ten of those present -- or  
20 from the number of those present, she identified ten, and that's  
21 where the ten came from.

22 Q. Okay. I understand. So --

23 A. Well, it's -- it's an important --

24 Q. Yeah.

25 A. -- clarification, ma'am, because we didn't have the names of the



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1 ten prior to the raid. We were trying to determine who the alleged  
2 victim was saying were her torturers.

3 Q. And that investigation, the conversations with the Albanian lady  
4 and the investigation into who may be the victims and who were the  
5 perpetrators, that was a matter for the military police, wasn't it,  
6 that Mike Matthews led on that?

7 A. Okay, can you rephrase the question, please?

8 Q. The investigation -- discussing these matters with the Albanian  
9 lady and the investigation into allegations of potential torture,  
10 that was conducted by the military police, wasn't it? It was Mike  
11 Matthews.

12 A. The initial intelligence came from Mike Matthews which caused us  
13 to plan the raid.

14 Q. Thank you. Now, it's right, isn't it, that Isufi, at no stage  
15 during your time in MNB East was he taken in for questioning or  
16 arrested by KFOR; correct?

17 A. I wouldn't know. Beyond my personal interactions with him, I  
18 would not know.

19 Q. You told the SPO the second time you spoke to him - and  
20 reference is P01510.1 - that he wasn't ever arrested or taken in.

21 A. Not to my knowledge.

22 Q. Thank you.

23 A. No.

24 Q. Therefore it's possible, would you agree with me, that your  
25 superiors who dealt with him more frequently than you didn't think

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1 he'd been involved in this alleged torture facility?

2 MR. HALLING: Objection, calls for speculation.

3 PRESIDING JUDGE SMITH: Sustained.

4 MS. TAVAKOLI:

5 Q. Now, did you see -- I would like to show you another  
6 intelligence report from your area.

7 MS. TAVAKOLI: And the reference for the Court is SPOE00217519  
8 to SPOE00217918, and it's at page SPOE00217623. I think the document  
9 shouldn't be shown on a public screen because it's an intelligence.

10 MR. HALLING: As long as it's not being publicly broadcast --

11 MS. TAVAKOLI: Yeah.

12 MR. HALLING: -- we have no problem showing it to the witness.

13 MS. TAVAKOLI: Okay. Thank you. If we could go down to --  
14 well, it's page 105 of this document.

15 MR. HALLING: Ah, apologies, Your Honour. I'm getting more  
16 clarification that there is a special condition attached to this  
17 document that it needs to be discussed in private session. So for  
18 that reason alone, we would ask that it go into private session but  
19 it can still be discussed with the witness.

20 MS. TAVAKOLI: I want to read out from it, so perhaps should we  
21 go into private session?

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 We'll go into private session, please.

24 [Private session]

25 [Private session text removed]

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1 [Private session text removed]

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1 [Private session text removed]

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10 [Open session]

11 THE COURT OFFICER: We are back in public session, Your Honours.

12 MS. TAVAKOLI: Thank you.

13 Q. Now, I just wish to talk about the geography of where Gjilan is.

14 I think you've commented to the SPO that it was at a crossroads. A

15 lot of people came through there because it was on an important

16 highway and line of communication. That's right, isn't it?

17 A. That's correct.

18 Q. And I think you also told them that you didn't know who were

19 actually residents of there and who were squatters that were coming

20 in and who were people that were force -- that were forcing people

21 out of their homes and claiming that they were theirs. You told the

22 SPO that, and the reference for the Court is P01509.1 at page 3.

23 A. That would characterise much of the early days, yes.

24 Q. Yeah, thank you. Now, you noted in your evidence that there was

25 a lot of criminality; correct?

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1 A. Yes.

2 Q. And in your personal journal, you've noted a number of actors  
3 committing that criminality, the KLA, and then you also referred to  
4 individuals you've named "punks."

5 MS. TAVAKOLI: And if the Court wants a reference, that's P01519  
6 at page 105839, page 105841, and page 105842.

7 Q. That's correct? And then you also included in that journal a  
8 *Washington Times* article which was dated 16 October.

9 MS. TAVAKOLI: And the reference for the Court is P01519 at  
10 pages -- at page 105851.

11 Q. And that report also referred to teenagers and children. I  
12 think the children were throwing stones. That's right, isn't it?

13 A. I'm not sure what you're asking me what is right or not.

14 Q. I'm asking you just about the actors, the people that you said  
15 were committing crimes. There was a range of actors is what I'm  
16 saying.

17 A. Yes.

18 Q. Yeah. And you've told the Court that your organisation would  
19 cooperate with the OSCE, that's -- or you had liaisons with them.  
20 That's right, isn't it?

21 A. Initially, it took time to develop, but by September it was more  
22 established.

23 Q. Thank you. And did you see -- did you know that Claudia Moser,  
24 I think of the OSCE - and the reference for the Court is 073295 to  
25 073302 at page 073298 - she put in a report -- we don't have the

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1 report, unfortunately, so -- but I'm taking it from another source.  
2 Did you know that she reported an incident on 2 July 1999 where she  
3 saw houses burning that KFOR responded to and put out the fires, and  
4 she said that the local Albanians who set the Serb mayor's house on  
5 fire were members of the LDK? So were you aware that members of the  
6 LDK were also committing crimes in Gjilan?

7 A. The 10th of July is when we --

8 Q. 2nd, sorry. 2nd.

9 A. Yes, but I'm answering your question, ma'am. We did not have  
10 charge of the sector until 10 July.

11 Q. Oh, sorry.

12 A. The Marines we were working parallel with for a couple of weeks  
13 from mid-June to the 10th. So that may have been possible, but we  
14 would have had less access to the sector as a result.

15 Q. You wouldn't know then. That's -- that's fine.

16 A. Not on the 2nd. It would have been more difficult without  
17 witnessing it first-hand.

18 Q. Yeah. No, I understand. You might say the same then about this  
19 next question --

20 A. Perhaps.

21 Q. -- but I'll try --

22 A. We'll see.

23 Q. -- anyway.

24 MS. TAVAKOLI: If we could please bring up document SPOE00059488  
25 to 00059490 at page 59490.

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1 Q. Here, this is a report from 5 July, I think, from the title I  
2 saw. And then if you look at the second paragraph it says:

3 "The OSCE team in Gnjilane reports a continuing situation of  
4 lawlessness. Several criminal gangs are operating in the city,  
5 looting Serbs flats and expelling Serb families from their homes."

6 "In Zhegra almost all Albanian houses have been burned and Serb  
7 houses are currently burning. The local LDK-leader admitted that the  
8 latest destruction was carried out by Albanians who were shocked to  
9 see their properties destroyed after returning."

10 Does this description reflect what you saw when you arrived?  
11 Did you see criminal gangs and ordinary Albanians also committing  
12 crimes?

13 A. It was hard for us to determine who was responsible. That was  
14 the nature, to get a handle on the security very quickly to try to  
15 determine who was causing it.

16 We looked at it objectively. We wanted to know who was where,  
17 what were the nature of the towns, who might be perpetrating the  
18 violence, because as the armed force in the theatre and the muscle of  
19 the United Nations resolution, we had to determine how to stop the  
20 violence regardless of its source.

21 So at these early stages, and you're talking literally days  
22 within entry here, it was very difficult to determine what the  
23 sources of the violence would be. That's what we were trying to  
24 formulate early on.

25 Q. Thank you.

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1 MS. TAVAKOLI: I'd like to tender that document, I don't know if  
2 there's an objection, in light of that answer.

3 MR. HALLING: Just an objection as to foundation. It's a report  
4 dated 5 July 1999. The witness just explained the moment in time he  
5 was able to comment on the situation on the ground and it was after  
6 this time.

7 PRESIDING JUDGE SMITH: Do you have any other foundational  
8 questions?

9 MS. TAVAKOLI: No.

10 PRESIDING JUDGE SMITH: The tender is denied then.

11 MS. TAVAKOLI:

12 Q. Now, you've given evidence - and the reference is P01509.1 at  
13 page 10 - that you thought that your nation had picked one side in  
14 that conflict. That's right, isn't it?

15 A. If I may explain. We were going in to enforce Resolution 1244  
16 which was a result of intervening in Serbian sovereignty and on  
17 behalf of those that were suffering in Kosovo province. So I think  
18 that in that context, we were intervening in Serbian sovereignty to  
19 alleviate the suffering of humanity in Kosovo province. That would  
20 be how I would explain it.

21 Q. And you also told the SPO - and the reference for that is  
22 P01509.1 - and these are your words, you didn't think that the NATO  
23 air campaign, and then I quote, was "really a peacekeeping endeavour.  
24 [It] was forcing an outcome." Do you remember saying that?

25 A. Could you give me more context? I don't.



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1 Q. It's just you were asked about the NATO air campaign in your  
2 interview to the Prosecutor, the first interview. Your words were  
3 that you didn't really think it was a peacekeeping endeavour. That  
4 it was forcing an outcome. Do you remember saying that?

5 A. If it's on the record, I did. I think the -- it's difficult for  
6 air power to bring a conclusion without presence on the ground. I  
7 think there's ample history to support that.

8 Q. The question is more about the outcome that was being forced.  
9 Not about how effective [Overlapping speakers] ...

10 A. Yeah, I would have understood that more to be from a military  
11 tactical resolution than how do you get to a mission accomplishment.

12 Q. Now, obviously, you've given evidence about what you thought  
13 about the mission, those two quotes. So had you seen your  
14 commander-in-chief, Bill Clinton's address on 24 March 1999 about why  
15 America had, in your words, picked a side?

16 A. I think we were all briefed as soldiers at the time, and we were  
17 alerted to the possibility of -- that if NATO were called upon, that  
18 we would be among those forces that would go.

19 MS. TAVAKOLI: Perhaps we could just play three minutes of that  
20 video which is DHT04061. If it can just be played to 03:27 just to  
21 see whether or not it's consistent with your knowledge at the time  
22 about why you had been sent to Kosovo.

23 [Video-clip played]

24 "My fellow Americans, today our armed forces joined our NATO  
25 allies in air strikes against Serbian forces responsible for the

1 brutality in Kosovo. We have acted with resolve for several reasons.  
2 We act to protect thousands of innocent people in Kosovo from a  
3 mounting military offensive. We act to prevent a wider war, to  
4 diffuse a powder keg at the heart of Europe that has exploded twice  
5 before in this century with catastrophic results. And we act to  
6 stand united with our allies for peace. By acting now, we are  
7 upholding our values, protecting our interests, and advancing the  
8 cause of peace.

9 "Tonight I want to speak with you about the tragedy in Kosovo  
10 and why it matters to America that we work with our allies to end it.  
11 First, let me explain what it is we are responding to. Kosovo is a  
12 province of Serbia in the middle of south-eastern Europe, about 160  
13 miles east of Italy, that's less than the distance between Washington  
14 and New York, and only about 70 miles north of Greece. Its people  
15 are mostly ethnic Albanian and mostly Muslim.

16 "In 1989, Serbia's leader, Slobodan Milosevic, the same leader  
17 who started the wars in Bosnia and Croatia and moved against  
18 Slovenia in the last decade, stripped Kosovo of the constitutional  
19 autonomy its people enjoyed. Thus, denying them their right to speak  
20 their language, run their schools, shape their daily lives. For  
21 years, Kosovars struggled peacefully to get their rights back. When  
22 President Milosevic sent his troops and police to crush them, the  
23 struggle grew violent.

24 "Last fall, our diplomacy, backed by the threat of force from  
25 our NATO alliance, stopped the fighting for a while and rescued tens

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1 of thousands of people from freezing and starvation in the hills  
2 where they had fled to save their lives. And last month, with our  
3 allies and Russia, we proposed a peace agreement to end the fighting  
4 for good. The Kosovar leaders signed that agreement last week. Even  
5 though it does not give them all they want, even though their people  
6 were still being savaged, they saw that a just peace is better than a  
7 long and unwinnable war.

8 "The Serbian leaders, on the other hand, refused even to discuss  
9 key elements of the peace agreement. As the Kosovars were saying yes  
10 to peace, Serbia stationed 40.000 troops in and around Kosovo in  
11 preparation for a major offensive and in clear violation of the  
12 commitments they had made. Now they've started moving from village  
13 to village, shelling civilians and torching their houses. We've seen  
14 innocent people taken from their homes, forced to kneel in the dirt,  
15 and sprayed with bullets. Kosovar men dragged from their families,  
16 fathers and sons together, lined up and shot in cold blood. This is  
17 not war in the traditional sense. It is an attack by tanks and  
18 artillery on a largely defenceless people whose leaders already have  
19 agreed to peace."

20 MS. TAVAKOLI: Thank you.

21 Q. Was that, what President Bill Clinton said, consistent with your  
22 knowledge at the time about why the US and NATO had intervened and  
23 why you were there?

24 A. I think that was the sentiment of all of us.

25 Q. Thank you.

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1 MS. TAVAKOLI: Please, could I tender this for admission? Up to

2 03:27 is fine.

3 PRESIDING JUDGE SMITH: Any objection?

4 MR. HALLING: Not particularly relevant, but no objection.

5 PRESIDING JUDGE SMITH: DHT04061 is admitted.

6 MS. TAVAKOLI: And -- sorry.

7 PRESIDING JUDGE SMITH: Just a second.

8 THE COURT OFFICER: Your Honours, that video, up to 3 minutes,  
9 27 seconds, will be admitted as Exhibit 1D00172, and classification  
10 is public.

11 MS. TAVAKOLI:

12 Q. And in that video, your commander-in-chief talked about Albanian  
13 leaders having signed the peace agreement. Did you know that one of  
14 them was Hashim Thaci?

15 A. I would assume so as he -- as I understood it, in his role with  
16 senior leaders within NATO, I knew he interfaced with them, I would  
17 not be surprised.

18 Q. Thank you. And in terms of how --

19 MS. TAVAKOLI: The video can come down. Thank you.

20 Q. In terms of how you prepared for your mission, before you  
21 deployed, were you briefed about -- Bill Clinton there referred to  
22 crimes that had been committed against Kosovan Albanians. Were you  
23 briefed before you deployed about what exactly had happened in  
24 Gjilan?

25 A. We weren't for certain at this stage in the spring or late

1 winter of 1999 where we would end up. That was still being  
2 determined. For one, we didn't know if the Serbs would agree to  
3 vacate. You have to understand at that stage in the spring when our  
4 task force was alerted, it was very much with the view that, as we  
5 would stage in Skopje, North Macedonia today, that we may have to  
6 enter Kosovo by force and would have to fight our way in to -- that  
7 was really how we were approaching the mission.

8 And so there was some relief then for us as warriors that we  
9 didn't have to fight our way in, that it could be more of a peaceful  
10 transition. So there was a lot of thankfulness on the part of  
11 infantrymen over that, I can assure you.

12 Q. I think my question -- really what I was driving at was were you  
13 briefed -- I understand the State Department does briefings. I have  
14 a fact sheet here, actually, which I'd like to show you. Briefings  
15 about what -- once you deployed to Gjilan, a briefing about what you  
16 were going to find, what had happened to the people in Gjilan before  
17 you got there and so on. Did you receive any kind of briefing like  
18 that?

19 A. We did. And our task force, to give you some background,  
20 that -- and not make it long but just to give you understanding. We  
21 had already deployed to Bosnia. We were familiar with the former  
22 Yugoslavia. We had deployed to Macedonia.

23 Our task force from 1996 to 1999 had had multiple deployments.  
24 This was our third. So they were very familiar with some of the  
25 background of the conflict and what the makeup of populations might

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1 be in different areas.

2 Q. Thank you.

3 MS. TAVAKOLI: If we could bring up the State Department report,  
4 and I'll just see if you're aware of these facts. So it's a US State  
5 Department fact sheet dated 4 June 1999, and the reference is  
6 DHT03974 to DHT03986, and the page I'd like is DHT03980 and that's  
7 about Gjilan. That's it.

8 Q. So were you briefed about this:

9 "... between 7 and 15 April, Serb forces reportedly extorted and  
10 physically abused ethnic Albanians in this town, according to refugee  
11 reports. Additional refugees claim that on 16 April, the  
12 paramilitary units ordered all ethnic Albanians out of the town, or  
13 be killed. At least 1.000 IDPs departed and were harassed by Serb  
14 forces along the way. Men were reportedly separated from the convoy  
15 and killed; Serb forces reportedly ordered other refugees to bury the  
16 bodies of at least six ethnic Albanians. Two of the bodies had been  
17 burned, while the other four had bullet wounds to the back of the  
18 head."

19 Did you receive briefings like that from the State Department  
20 before you deployed?

21 A. We knew that there was a lot of violence in MNB East. We knew  
22 that there was activity by three Serbian elements. That would have  
23 been the VJ, the army; it would have been the MUP, which would have  
24 been their police; and then it would have been the Chetniks, which  
25 were a paramilitary not really recognised by anyone.

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1 Q. Thank you.

2 MS. TAVAKOLI: Please, could I tender that document as it  
3 accords with the witness's understanding of what he was briefed  
4 before he arrived.

5 MR. HALLING: I don't think that what the witness has said  
6 actually accords with the specific allegations here. Noted also on  
7 the first page that this document was released 4 June 1999 which,  
8 again, predates the witness's practical experience of being in  
9 Gjilan. So we would again object on foundation grounds.

10 MS. TAVAKOLI: Sorry, the point about it was it was a briefing  
11 before he arrived, so naturally the incidents occurred before.

12 PRESIDING JUDGE SMITH: I'll admit the document. DHT03974 to  
13 DHT03986 at page DHT03980 is admitted.

14 MS. TAVAKOLI:

15 Q. Now, it's --

16 MS. TAVAKOLI: It can come down. Thank you.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MS. TAVAKOLI: Sorry.

19 THE COURT OFFICER: Your Honours, this specific page, DHT03980,  
20 will receive Exhibit 1D00173. Classification is public. Thank you.

21 PRESIDING JUDGE SMITH: Thank you.

22 MS. TAVAKOLI: Thank you.

23 Q. Now, it's quite possible, isn't it, that having experienced this  
24 level of violence against them, ordinary Albanians sought revenge  
25 against those that they'd held responsible, in this case the Serbs,

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1 and that was the cause of a lot of the violence that you observed?

2 A. That would have been irrelevant to our mission, ma'am.

3 Q. That --

4 A. UN Resolution 1244 said that we would be the arm that would make  
5 it all stop. And everything was in the favour after the agreement  
6 for those that we were going in to support. They had the goodwill of  
7 the nation, they had the most powerful alliance on the planet to come  
8 and provide them security, they had the world banks to provide  
9 relief, they had everything in their favour. Why would they  
10 retribute? Those were crimes against humanity.

11 Q. You told the SPO in your first interview with them -- and the  
12 reference here is P01509.2, at page 20. I'm going to suggest that  
13 you recognised that revenge was at play because you told the SPO, and  
14 I quote:

15 "... the whole province was nothing but a bitter 600-year,  
16 700-year history of vendetta on both sides."

17 A. And I'm trying to understand are you asking me if I believe that  
18 revenge is justifiable?

19 Q. No. I'm asking you do you think revenge was a cause of ordinary  
20 Albanians committing crimes at that time?

21 A. From a soldier's point of view, it is irrelevant because we were  
22 there to enforce the agreement and to make it stop. And we did, to  
23 the extent that we could.

24 Q. But the point is that you recognised -- my question really is  
25 you recognised that revenge was at play, didn't you? If we could



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1 refer now to P0 -- would you like me to bring it up?

2 A. If I may, ma'am, I would have no sympathies to revenge from any  
3 party.

4 Q. And do you remember writing in your journal, and the reference  
5 is P01519 at page 105834:

6 "I've never in my life seen such deep-rooted hatred, deceit, and  
7 lawlessness. If there is a 'Old West' in the world today, it surely  
8 exists in Kosovo."

9 Do you stand by that assessment?

10 A. I think that characterises the hatred. It doesn't make it  
11 justifiable, but it is an observation.

12 Q. Thank you. Now, the Supreme Allied Commander in Europe,  
13 General Wesley Clark, visited MNB East on 1 August. Did you meet him  
14 that day?

15 A. I did not. I was asked by my commander to ensure that many  
16 areas of the sector were secure for his safe arrival.

17 Q. Do you know who did meet him that day?

18 A. I know that my commander did and others that were there.

19 Q. And which commander was that?

20 A. Well -- and what was the date again?

21 Q. 1 August.

22 A. So it would likely have been Steven Hicks and General Craddock.

23 Q. And do you know what intelligence he received before that visit?

24 A. General Clark?

25 Q. Mm. Would you have been privy to the same intelligence that

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1 General Wesley Clark received?

2 A. Not before he shared it, but surely after.

3 Q. Now I'd like to show you a report that he wrote after his visit.

4 MS. TAVAKOLI: And the reference for that is

5 SPOE00217919-00218047 -- oh, sorry. We need to go into private  
6 session. Sorry. Perhaps.

7 PRESIDING JUDGE SMITH: Into private session, please.

8 [Private session]

9 [Private session text removed]

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13 [Open session]

14 THE COURT OFFICER: Your Honours, we are now back in public  
15 session.

16 MS. TAVAKOLI: Thank you.

17 PRESIDING JUDGE SMITH: Thank you.

18 MS. TAVAKOLI: Sorry, can I tender that document into evidence?

19 PRESIDING JUDGE SMITH: Any objection to the tender?

20 MR. HALLING: We understand it's just the two pages of the  
21 letter? No objection.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. TAVAKOLI: It's the two pages because it's a letter.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 SPOE00218019 to SPOE00218020?

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1 MS. TAVAKOLI: Yes, that's correct.

2 PRESIDING JUDGE SMITH: It's admitted.

3 THE COURT OFFICER: Your Honours, those two pages will receive  
4 Exhibit 1D00174. Classification is confidential. Thank you.

5 MS. TAVAKOLI:

6 Q. And just one final question about this theme. Again in the  
7 early period, had you seen -- there's a State Department report in  
8 1999.

9 MS. TAVAKOLI: If we could please pull it up. It's DHT01472 to  
10 DHT01473. And this is an extract from something from the US State  
11 Department published in December 1999. If we go to page 15, please.  
12 Thank you. And then if we go to the paragraph that begins "The  
13 Roma," but we start in the middle of that sentence -- middle of that  
14 paragraph. Thank you.

15 Q. "A July 20 statement condemning attacks on Serbs and Roma was  
16 released by the former UCK leadership, and former UCK leader Hashim  
17 Thaqi publicly denounced the July 23 Gradsko attack. There is no  
18 evidence that the former UCK leadership is orchestrating the  
19 violence."

20 Now, do you have any reason to doubt your State Department's  
21 reporting?

22 A. The report was made by our State Department. Gradsko was not in  
23 our sector. So I have no reason to doubt it.

24 Q. Thank you.

25 MS. TAVAKOLI: Please, could I tender that page for admission.

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1 MR. HALLING: No objection.

2 PRESIDING JUDGE SMITH: DHT01472 to DHT01473 is admitted.

3 THE COURT OFFICER: Thank you, Your Honour. Just a  
4 clarification. It's the entire document? Because counsel said one  
5 page.

6 MS. TAVAKOLI: Yeah, I know. It's -- how many pages is the  
7 document?

8 THE COURT OFFICER: Two.

9 MS. TAVAKOLI: Two. The whole document then. It'll be clearer,  
10 because I think the front page explains what it is.

11 THE COURT OFFICER: Thank you. Document with ERN DHT01472 to  
12 DHT01473 will be assigned Exhibit 1D00175 and classification is  
13 public. Thank you.

14 MS. TAVAKOLI: Thank you.

15 PRESIDING JUDGE SMITH: Go ahead.

16 MS. TAVAKOLI:

17 Q. Now, you told the Court that the KLA in Gjilan didn't report any  
18 alleged crimes of their soldiers to you, but had they done so, you  
19 would have investigated them; correct?

20 A. We would have.

21 Q. And would you have done so impartially and fairly?

22 A. That was why we were there, UN Resolution 1244, to enforce that.  
23 Why would we not?

24 Q. I'd like to take you now to a few things that you wrote in your  
25 personal journal at the time.

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1 A. Okay.

2 MS. TAVAKOLI: The first one, the reference for the Court, is  
3 P01519 at page 105831.

4 Q. In that journal, you described Isufi, the KLA commander, as a  
5 murdering terrorist. Do you remember that?

6 A. What was the date?

7 MS. TAVAKOLI: I'll have to bring it up. Sorry.

8 MR. HALLING: Just if it assists, it may assist just to put it  
9 on the screen --

10 MS. TAVAKOLI: Okay.

11 MR. HALLING: -- just for the witness's benefit as well.

12 MS. TAVAKOLI: That might be easier. It's page 105831. I think  
13 you'll have to -- it's about the date of the --

14 THE WITNESS: So this would have been in the culmination of  
15 multiple raids where we had found a lot of interrelated  
16 documentation. Obviously we were concerned. And I had a view that  
17 they were not being straightforward with us but were set on  
18 retribution.

19 MS. TAVAKOLI:

20 Q. But you said that. Well, it's in your diary --

21 A. Well, it's written --

22 Q. -- penned down?

23 A. -- of course. But that's why I was curious on the date. That  
24 view was formulated by raids and documentation and evidence that came  
25 later.

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1 Q. Thank you. And then to the SPO, and the reference for that is  
2 P0 --

3 MS. TAVAKOLI: This can come down now. Thanks. P01509.2 at  
4 page 20.

5 Q. You described the Albanians to the SPO in that interview as a  
6 bunch of cutthroats. Do you remember that?

7 A. Give me a wider context.

8 Q. Yeah. You were --

9 A. What was this, please --

10 Q. -- talking about how you were trying to get both parties to come  
11 to the party, so to speak, and you said you told them that we would,  
12 and I quote, "quickly and rapidly erode the goodwill of the  
13 United States and the goodwill of NATO and Europe by showing," I've  
14 put in the word, "yourself," "[themselves] as a bunch of cutthroats."

15 A. Yeah, I think I was trying to make the point to those that I was  
16 in discussions with, both Serb and Albanian, how they would be  
17 perceived. And as far as my personal view, I tried to look at it  
18 very objectively. We went in objectively. And if I might add, I had  
19 great sympathy for the people that were suffering, and that included  
20 Albanians, and people that I personally tried to help.

21 Q. Now, in -- there's a photo that is referred to.

22 MS. TAVAKOLI: Perhaps it can be brought up. It's P01522 at  
23 page 106092.

24 THE COURT OFFICER: Can counsel please repeat the page number.  
25 I cannot find 106092. The document ends with 106016. That's the



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1 last page.

2 MS. TAVAKOLI: I'm trying, sorry.

3 MR. HALLING: If it assists, counsel, not every photo in the  
4 range provided with this witness is admitted in evidence. So this  
5 photo is not an admitted exhibit and can be found within the broader  
6 range of the entire compilation, which I believe starts with page  
7 105816.

8 MS. TAVAKOLI: Thank you.

9 Q. Now, the heading of this document has a gentleman's name, and  
10 then it's saved as "UCK thug." Was that an official KFOR photo  
11 labelling that gentleman a thug?

12 A. The photo appears to have been that when we encountered a large  
13 formation of UCK at the soccer game, and so he would have been  
14 photographed that day, not by me, but by some of our forces, yes.

15 Q. And then again in your diary again you wrote a letter, I think,  
16 home. And the reference for the Court is P01519 and it's at 105835.  
17 And there you refer to Kosovo as a God-forsaken country. Do you  
18 remember that?

19 A. I do.

20 Q. So in light of all that, do you think that the KLA would have  
21 perceived you to be impartial?

22 A. I would hope. It's easy to cherry-pick something here. This  
23 photo I didn't label or process, so -- I do recognise the background  
24 where these individuals would have been photographed, but it was not  
25 me doing the labelling.

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1 In terms of the stating a geographical place as being  
2 God-forsaken, there was a lot of darkness there. There were a lot of  
3 people that were trying to harm and kill each other. And I should  
4 add that my personal view was those that suffered the greatest are  
5 noted the least, and that was the Roma population. They're rarely  
6 talked about at all. And yet we had great compassion for all of the  
7 families that were suffering there.

8 And our view was to go in and find those that were --

9 Q. Okay.

10 A. -- motivated to make it stop. And --

11 Q. Now, sorry, I just want to stick to my questions. I just have a  
12 limited amount of time, I'm sorry.

13 A. Are you suggesting or asking if I'm prejudiced against  
14 Albanians? That would be inaccurate, greatly.

15 Q. Thank you. Now, I want to move on now to the speech of  
16 Hashim Thaci's. So on the 3rd --

17 MS. TAVAKOLI: That picture can come down. Thanks.

18 Q. Now, on 3 October 1999, you provided security for Mr. Thaci's  
19 speech in Gjilan.

20 A. Yes.

21 Q. Correct?

22 A. That's correct.

23 Q. And did you know that he had just announced the formation of his  
24 own political party at that time?

25 A. I was aware that he was involved in the political process. That

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1 was the nature of why we had orders to secure him as he came to  
2 deliver speeches.

3 Q. Now, you relied on your translators to translate the speeches  
4 because you weren't fluent in Albanian; correct?

5 A. Correct.

6 Q. And would it be right that generally to interact with the  
7 Kosovan and Albanian populations, you would use translators?

8 A. We did. But you have to understand that at the field grade  
9 level, we had access to what we call Category 3 translators. These  
10 were United States citizens. They were heavily vetted. They could  
11 handle classified information, so they were very reliable.

12 Q. And that day, do you recall -- whilst they're United States  
13 citizens, did they originate from Kosovo or Serbia?

14 A. I don't know specifically in all cases whether they learned the  
15 language through their family as second generation or whether they  
16 were born there. In some cases, we would get to know them. But I do  
17 know that as citizens of the United States, they had taken an oath of  
18 allegiance to our country.

19 Q. Thank you. Now, you also told the SPO that you tried to monitor  
20 what the leaders or notables said because it gave you a window into  
21 their intent; correct?

22 A. We were even -- I was assigned -- typically as we would travel  
23 through the sector, we had very limited translators and so we had to  
24 be very judicious about where they went. And many times our best  
25 Albanian translators would be with Colonel Scurlock. On this

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1 particular day, he gave me his best translator with instruction to  
2 know what was being stated at the events. And so not only did we  
3 provide security, but we were also asked to listen to what were the  
4 statements being made as to political policy should people come to  
5 power.

6 Q. Thank you. And if we could perhaps bring up what you recorded  
7 in the annual historical review about that speech.

8 A. Sure.

9 MS. TAVAKOLI: That's P01518 and it's at page 105939. It's  
10 paragraph 3. Thank you.

11 Q. So you record here:

12 "Self-proclaimed Kosovo President Thaci visited Gnjilane as  
13 TF 1-26 IN guarded the area to prevent any potential violence there.  
14 Thaci's speech was both hostile and probing in regard to stated UN  
15 objectives, citing the need to rid Kosovo of the remaining Serbs to  
16 be truly free and calling on all Albanians to fight for freedom in  
17 the Presevo valley in Serbia. The Spaders felt that UN and KFOR  
18 officials not taking serious offence at his comments only served to  
19 create more problems later."

20 And then in your personal notebook written the same day, we  
21 don't have a copy of that, but it was read onto the record in your  
22 second SPO interview, you said this about Thaci:

23 "'He spoke of lofty ideals and stated that Kosovo was not  
24 totally unified yet because there were still Serbs. Thaci also  
25 stated that the Bujanovac and Presevo were a part of Kosovo,' but I

1 put in parentheses '(they're not),' 'and that they would be  
2 defended.'"

3 Now, when you were questioned by the Prosecution about the  
4 difference in these two statements, you said that the historical  
5 record, which is the one on the screen, would be accurate because it  
6 is the historical record, it's what you placed in there, and you  
7 wouldn't make flippant comments or put something in there that would  
8 portray the wrong view because that would be dangerous. So this is  
9 probably -- so you agree with that?

10 A. Well, I think it's important to delineate between what  
11 information you place in a historical record and then what you have  
12 in your notebooks. I wouldn't say either one was inaccurate. It's  
13 just a matter of what do you place in there.

14 Q. Yeah. And then I think in your interview, the SPO also showed  
15 you an UNMIK memo of the same speech -and the reference for the  
16 record is SITF00173046 to 00173046 - which had another speaker  
17 identified as Hyseni saying:

18 "We wanted Kosovo without the Serbs and now we have it."

19 And you were asked about that, you know, how did that accord  
20 with your recollection. And I think you couldn't explain that, but  
21 you said what you had written there was correct.

22 A. No, I think -- if you're asking me about the differences between  
23 my journal and what is in the historic record, I can answer it for  
24 you now. I was --

25 Q. No, no, I --

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1 A. -- given specific instruction to listen to Mr. Thaci's speech,  
2 and I did so. I made notation to his comments that might violate UN  
3 Resolution 1244, and specifically the things that came out of that  
4 would be anything that would be contrary to a multi-ethnic Kosovo,  
5 and that anything that might be pulled in to identify other  
6 populations of Albanians that were not in Kosovo province, which is  
7 why I honed in on Bujanovac and Presevo and Presevo valley because  
8 those were in Serbia proper.

9 Q. And you told the SPO that whatever the difference is, it was  
10 clear that Thaci wasn't envisaging a multi-ethnic Kosovo; correct?

11 A. That was our interpretation.

12 Q. And that Serbs weren't welcome and that that was communicated by  
13 their leader?

14 A. Leaders.

15 Q. Yeah. Now, how did hearing Hashim Thaci say things like that  
16 affect how you viewed the KLA in your area and in your interactions  
17 with them?

18 A. I think it's important to differentiate between the KLA and the  
19 Albanian people. We looked at the KLA as an entity that would be  
20 discontinued on September 20th, which was the 90-day point under the  
21 Military Technical Agreement.

22 Q. Sorry, my question --

23 A. So we --

24 Q. Sorry, sir, just to be specific, how did this speech and what  
25 you heard Hashim Thaci say affect how you thought about the KLA?

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1 Just this speech, not broader than that.

2 A. I looked at the speeches as we needed to report what was being  
3 stated for those that needed to listen to what the objectives were of  
4 those that might end up in charge of the nation. In terms of the  
5 KLA, and in Task Force 126's sector, my opinions were formulated by  
6 the violence, the constant violations of the technical agreement, the  
7 setting up of multiple stations outside of the legal assembly --

8 Q. Sorry --

9 A. -- area and the --

10 Q. -- sir, I have to focus just on this speech.

11 A. I'm --

12 Q. Did this speech affect how you saw the KLA?

13 A. I'm telling you my opinion of KLA was formulated by their  
14 violations of the Military Technical Agreement, not by a speech of a  
15 political leader who was coming to Gnjilane to visit.

16 Q. Thank you. Now, you didn't know if this speech had been  
17 televised or recorded?

18 A. No idea.

19 Q. Now, in fact, it was recorded by a national Albanian broadcaster  
20 TVSH at the time, and we've obtained a copy of the speeches, and I'd  
21 like to play them for the Court. In terms of timing, the speech  
22 by -- they're 20 minutes in total. I was only proposing to play  
23 Hashim Thaci's, which is ten minutes, and potentially Hyseni's. I  
24 don't know if you want to do that before or after the luncheon.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 Which is the longest of the two?

2 MS. TAVAKOLI: Thaci's, and that has to come first.

3 PRESIDING JUDGE SMITH: Okay. Go ahead and play that one and  
4 then we'll play the other one after the break.

5 MS. TAVAKOLI: Thank you. Could we please pull up -- the  
6 document is DHT04076, and it's at 09:54 and it runs to 21:16. We've  
7 subtitled it and we have a separate transcript just for the record at  
8 DHT04076-4081. The transcript has all the speeches on, so ...

9 PRESIDING JUDGE SMITH: I'll tell you, why don't we just wait  
10 until after and you can set this up the way you want it.

11 MS. TAVAKOLI: Thank you.

12 PRESIDING JUDGE SMITH: All right? We'll take the lunch break  
13 at this time so that we can run these speeches all together.

14 THE WITNESS: Yes, sir.

15 PRESIDING JUDGE SMITH: So you may leave the courtroom now.  
16 Thank you very much. Please do not discuss your testimony with  
17 anybody outside the courtroom.

18 THE WITNESS: Yes, sir.

19 [The witness stands down]

20 PRESIDING JUDGE SMITH: About how much time do you have left?

21 MS. TAVAKOLI: Yeah, I was just about to say that. I think we  
22 only need to play 15 minutes of this. I've asked for -- technically  
23 I've got half an hour more. I may need another 15 minutes, but I've  
24 spoken to my learned friend Mr. Ellis and he won't need his two  
25 hours. I think hopefully I can be done in 45 minutes.



1           PRESIDING JUDGE SMITH: Thank you very much.

2           We're adjourned until 2.30.

3                         --- Luncheon recess taken at 12.59 p.m.

4                         --- On resuming at 2.31 p.m.

5           MR. HALLING: Yes, Your Honour. Just one small matter before we  
6 continue again.

7           With the assistance of the Court Officer's charts for the  
8 admitted exhibits, we noticed over the lunch break that not all of  
9 the English translated pages of P1522 and P1531 have been marked as  
10 admitted, and we just wanted to confirm that all of those English  
11 translated pages are admitted exhibits as well.

12          PRESIDING JUDGE SMITH: What were the numbers again?

13          MR. HALLING: So concretely, within P15 -- they're both photo  
14 arrays. Within P1522, the English translated pages are 106007 to  
15 106009, and then the more full one, which is 106016 --

16          PRESIDING JUDGE SMITH: [Microphone not activated].

17          MR. HALLING: Sorry. 106016 to 106016. That's the appointment  
18 order. And then within P1531, there were two pages in that range  
19 that have English transcripts, pages 106077 and 106080. Thank you,  
20 Your Honour.

21          PRESIDING JUDGE SMITH: Any objection to that addition?  
22 Anybody? No. So that addition will be made.

23          Madam Court Officer. So under 1522, 106007 to 106009; and  
24 106016 to 106016.

25          THE COURT OFFICER: Yes, Your Honour. Those translation will be

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1 added to Exhibit 1522.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 THE COURT OFFICER: Apologies, it's 1522. Yes.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 At P1531, page 106077 and 106080 also added.

6 THE COURT OFFICER: Yes, Your Honour. That translation will be  
7 added to Exhibit P01531. Thank you.

8 PRESIDING JUDGE SMITH: Thank you.

9 Madam Usher, you can bring the witness in.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Please be seated.

12 We continue now with the cross-examination by the Thaci Defence.

13 Go ahead, Ms. Tavakoli.

14 MS. TAVAKOLI: Thank you.

15 As I mentioned, we've received a copy of the speeches from an  
16 Albanian broadcaster, so I'd just like to play you Hashim Thaci's  
17 speech.

18 Q. And if you could just tell me where I should stop the video  
19 where you see Hashim Thaci saying that Kosovo needs to get rid of the  
20 remaining Serbs to be free or where he indicates that a multi-ethnic  
21 Kosovo is not -- is undesirable. If you just raise your hand when  
22 that happens.

23 MS. TAVAKOLI: And if we can play it, please, from 09:54 to  
24 21:16. Thank you.

25 [Video-clip played]

1 THE INTERPRETER: [Voiceover] "Dear citizens of Gjilan. Dear  
2 citizens of Gjilan, dear officers and soldiers of the Kosovo  
3 Liberation Army, dear families of the nation's martyrs. It is my  
4 honour to be present here before you today in this public mass  
5 celebration, for the first marking of its kind in full freedom of the  
6 city of Gjilan and in Kosovo.

7 "The organisation of this meeting at the city centre is very  
8 significant because Kosovo's freedom, also present in the city of  
9 Gjilan today, is at the very heart of the city and it is in the very  
10 heart of your hearts as well. We, from other areas of Kosovo, have  
11 always been proud of Gjilan boys and girls because they have and are  
12 making an outstanding contribution to our movement for Kosovo's  
13 liberation.

14 "You were the ones who, in 1968 and 1981, dealt the heaviest  
15 blow to Tito's regime of Yugoslavia.

16 "Therefore, even if the nation's martyrs are not amongst us,  
17 namely, Kadri Zeka, Metush Krasniqi, Rexhep Mala, and Nuhi Berisha,  
18 they are here with us today, amongst us, because they fell for the  
19 freedom of Kosovo. They fell for this day.

20 "From the very inception of the Kosovo Liberation Army, you have  
21 given an outstandingly valuable contribution to its mobilisation,  
22 growth, and strengthening throughout Kosovo.

23 "I have met with many fellow fighters from the Operational Zone  
24 of Karadak who operated and fought throughout Kosovo, like fellow  
25 fighters from other Kosovo zones who operated and fought in the

1 Karadak area.

2 "It was the Kosovo Liberation Army that unified the people; it  
3 truly restored the international community's respect, sympathy, and  
4 strong support for freedom and democracy in Kosovo.

5 "When the war broke out in Drenica, I saw many boys and girls  
6 from Gjilan there. They were in Likoc, in Prekaz, and they were with  
7 the Kosovo Liberation Army's legendary commander, Adem Jashari.

8 "The Kosovo Liberation Army fought for this day. The Kosovo  
9 Liberation Army is the liberator of Kosovo.

10 "It brought NATO to Kosovo and won the sympathy, respect, and  
11 strong political, moral, humanitarian, and military support.

12 "This is the biggest capital that we've ever had in the history  
13 of the Albanian people, because we have the international community's  
14 strong support.

15 "Responding to a new reality created in Kosovo and the region  
16 after the expulsion of the Serbian military and police forces from  
17 Kosovo, the Kosovo Liberation Army is also undergoing a  
18 transformation, like the overall social transformation in all of  
19 Kosovo. Although it no longer carries the Kosovo Liberation Army  
20 emblem today, it has been transformed into the Kosovo Protection  
21 Corps, a protection force for Kosovo.

22 "The Kosovo Protection Corps will be led by the former Kosovo  
23 Liberation Army leading structures both at the General Staff level  
24 and at the operational zones level in Kosovo. There will be over  
25 5.000 soldiers from the former Kosovo Liberation Army in this

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1 protection force. It will have six operational zones which will  
2 function and operate in Kosovo. It will have in its midst the  
3 national honour and pride - the Guard of Kosovo.

4 "Also, as part of the transformation and professionalisation of  
5 Kosovo's defence structures, we will soon open a military academy.  
6 This academy will produce military officers and professionals for the  
7 future and will be a guarantee for the Army of Kosovo.

8 "The first steps in the preparation of its opening in Vushtrri  
9 are already underway.

10 "We will also build our police. A modern and democratic police,  
11 a police that will never commit crimes against its people like some  
12 others have done upon us.

13 "It will be made up of 60 per cent of the police, which will  
14 form and will be deriving among the former military police structures  
15 of the Kosovo Liberation Army. There will be no room in it for  
16 criminals, murderers, or those who arrested and tortured our sons and  
17 brothers.

18 "However, we cannot be fully satisfied with the current  
19 situation in Kosovo.

20 "You know that in the city of Mitrovica, the situation is not  
21 good at all. There is a *de facto* division of the city there, a  
22 division that is worrying us, and we are doing our best to break this  
23 division, in cooperation with the international community, so that  
24 the bridge that has been a linking bridge, the Iber bridge, to be a  
25 bridge of bringing people together and uniting cities.

1            "We are interested in finding a political solution to this  
2 issue. However, the territory of Kosovo is internationally  
3 recognised and guaranteed. It is an obligation and a duty of the  
4 Kosovo Protection Force, and it will carry out this obligation and  
5 this responsibility. It will protect every inch of the territory of  
6 Kosovo, including Mitrovica.

7            "We have supported and continue to support the Rahovec people to  
8 find a good and fair solution, which will include the presence of  
9 international troops, police, but not the Russian military forces,  
10 those who have committed crimes and massacres against the Rahovec  
11 people.

12           "The situation in Presheve, Medvegje, and Bujanoc is quite  
13 volatile as well. The violent displacements and the forced expulsion  
14 of the people of Presheve, Medvegje, and Bujanoc, arrests,  
15 imprisonment, torture, and forcing these people out to Gjilan and  
16 other areas within Kosovo is a phenomenon that should honestly not be  
17 tolerated. The citizens of these Albanian areas have the right to  
18 live there because they are autochthonous and they will live there.

19           "We will not allow for them to leave from there and for us to  
20 receive them here. We should help them live there, and they will do  
21 so there.

22           "Also during our last visit to the US, we raised the issue at  
23 the highest level, including the Department of State, the Pentagon,  
24 but also in the White House. I'm convinced that we'll have a fair  
25 political solution. Anyway, we will be here and we will respond to

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1 the dangerous situations that might come up later.

2 "Your city is being reborn, like the entire Kosovo is being  
3 reborn.

4 "Today, we have obligations, and we, as the Provisional  
5 Government of Kosovo, within our capacity, potential, and  
6 responsibilities, will carry out these obligations for such a rebirth  
7 of Kosovo. We are interested in and will deliver an overall  
8 transformation of Kosovo.

9 "We will also do our best to soon start reconstructing the burnt  
10 houses during the war and reconstructing and constructing new  
11 hospitals, schools, and roads. We are going to build a new Kosovo, a  
12 free Kosovo, a democratic Kosovo.

13 "We have taken a major step toward Kosovo's full independence  
14 but we have not yet won complete independence, and this independence  
15 will precisely be up to you. Because we will no longer allow anyone  
16 outside Kosovo to decide about Kosovo. For Kosovo, it will no longer  
17 be decided in Belgrade or in European chancellories. For and about  
18 Kosovo, it will be decided in Kosovo through a declaration by the  
19 people, through your declaration, through the universal right to a  
20 referendum, and I have full confidence that you will all declare  
21 yourselves for the right to independence.

22 "Thank you."

23 MS. TAVAKOLI:

24 Q. Now, Mr. Russell, Hashim Thaci didn't say what you said he said,  
25 did he?

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1 A. I'm sorry?

2 Q. Sorry, I think there was a problem in the interpretation.

3 You've seen the speech now. You didn't stop me. Hashim Thaci didn't  
4 say what you previously said that he said about not wanting a  
5 multi-ethnic Kosovo, did he?

6 A. Perhaps not in the exact language. I think the part about  
7 Mitrovice that -- that I heard may have been interpreted that way.  
8 And then the comments about the Presevo valley and that area, that  
9 they needed their own independence and self-determination there would  
10 be the same comments that I would have had on those regions.

11 Q. Sorry, I'm a bit confused. About Mitrovice, what he said ...

12 A. At the bottom of page 5, I believe, ma'am.

13 Q. Yeah. About Mitrovice, this is what he said in the transcript:

14 "There is a *de facto* division of the city there, a division that  
15 is worrying us, and we are doing our best to break this division in  
16 cooperation with the international community, so that the bridge that  
17 has been a linkage bridge, the Iber bridge, to be a bridge of  
18 bringing together and uniting cities."

19 Is that what you're saying --

20 A. Yeah, I think that --

21 Q. -- is the part where -- excuse me, where --

22 A. No, I apologise.

23 Q. -- he was not envisaging a multi-ethnic Kosovo? Is that in that  
24 section?

25 A. I think the understanding was at the time that he was talking



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1 about, as we understood it, the existence of a Serb enclave in  
2 Mitrovice needed to be resolved, whatever that interpretation would  
3 be.

4 Q. If we can go back to what you recorded, just to be crystal clear  
5 what you're saying --

6 A. Sure.

7 Q. -- Mr. Russell. In the annual historical review, which you said  
8 was accurate, you said this:

9 "Thaci's speech was both hostile and probing in regard to stated  
10 UN objectives, citing the need to rid Kosovo of the remaining Serbs  
11 to be truly free ..."

12 Where in that speech did Mr. Thaci say that? Are you saying  
13 it's in the section about Mitrovice?

14 MR. HALLING: Just in fairness to the witness, that sentence got  
15 cut off in the historical review, and we'd ask for the rest of the  
16 sentence to be read.

17 PRESIDING JUDGE SMITH: Could you please read --

18 MS. TAVAKOLI: No, because --

19 PRESIDING JUDGE SMITH: -- the entire sentence?

20 MS. TAVAKOLI: -- they're two separate points. Sorry.

21 Q. So:

22 "... citing the need to rid Kosovo of the remaining Serbs to be  
23 truly free ..."

24 A. I'm confused now about the question, please.

25 Q. The question is you said to the SPO, and you repeated it

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1 multiple times, including last week in your preparation session, that  
2 in that speech it was clear that Hashim Thaci was not envisaging a  
3 multi-ethnic Kosovo, and that he gave an indication that Serbs were  
4 not welcome and that was communicated by your leader, and that's a  
5 direct quote from your second interview. And in the historical  
6 review, you said that he cited the need to rid Kosovo of the  
7 remaining Serbs to be truly free.

8 They're all the same thing, Mr. Russell. I played you the  
9 video. It's right, isn't it, that at no point in that video did  
10 Mr. Thaci say any of those things?

11 A. He did talk about the Presevo valley and those regions needing  
12 to be self-determined, and that would be have been in violation of  
13 Resolution 1244.

14 Q. We're going to go on to the Presevo valley in a minute. That's  
15 the second issue I want to deal with you. But the first issue is  
16 about the fact that Serbs aren't welcome. He didn't say that, did  
17 he?

18 A. The interpretation of Mitrovica, where it talked about that it  
19 was troubling, would have been perhaps my interpretation that the  
20 Serbs were not welcome there. In regard to a broader context, not  
21 necessarily assigned or subscribed to this speech to Mr. Thaci, but  
22 certainly to those present that day, that a platform that Serbs were  
23 not welcome in Kosovo, and that I do recall.

24 Q. Sorry, you're saying that it was other people on the platform?

25 A. Not necessarily the Presevo valley and these things and in the

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1 Mitrovice pieces that -- that is there, but in terms of the overall  
2 comments that we heard that day, I stand by what we heard in those  
3 speeches or I would not have recorded them.

4 Q. Okay. So we have -- there's two issues that I want to -- okay.  
5 Can we separate the Presevo valley. That's a separate line of  
6 questioning, I'm going to ask you about that separately, and we'll go  
7 back exactly to what Hashim Thaci said about that in a moment.

8 I have the video of all the speeches of that day, and I suggest  
9 to you that no speaker that day spoke about the need to have a Kosovo  
10 free of Serbs. And if you'd like, we can play, if the Judges will  
11 allow me, the whole 20 minutes.

12 A. I'm a fast reader. I could read the transcripts, I suppose.

13 MS. TAVAKOLI: I'm in Your Honours' hands.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. TAVAKOLI: The issue is one of timing. I hadn't planned to  
16 play the whole amount.

17 PRESIDING JUDGE SMITH: Well, then you probably shouldn't. If  
18 you want to show him the speeches -- the translations, he can take a  
19 look at them.

20 MS. TAVAKOLI: Okay. I could -- yeah. So the translation, for  
21 the Court, is DHT04076-EN, and the Court has that record. And that  
22 contains all of the speeches that day.

23 PRESIDING JUDGE SMITH: I'm not getting translation. I'm not  
24 getting the text, I should say. Are you?

25 MS. TAVAKOLI:

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1 Q. Mr. Russell, can you see that translation?

2 A. I -- I --

3 PRESIDING JUDGE SMITH: Wait, no. No, we can't go on because  
4 our --

5 MS. TAVAKOLI: Sorry.

6 PRESIDING JUDGE SMITH: Our transcript has stopped.

7 [Trial Panel and Court Officer confers]

8 PRESIDING JUDGE SMITH: Okay. Now we're ready. Go ahead.

9 MS. TAVAKOLI:

10 Q. Mr. Russell, the transcript, I think it's now on the --  
11 Mr. Russell would like to read it to see -- we're separating the  
12 Presevo valley area. I'm going to ask you questions about that in a  
13 moment. This is simply about what you told the SPO, that the  
14 speakers are talking about the need to rid Kosovo of Serbs. Could  
15 you please read through that and tell me, if it wasn't Thaci, which  
16 speaker was it.

17 A. Is there a way to scroll down?

18 PRESIDING JUDGE SMITH: No.

19 THE WITNESS: Okay.

20 PRESIDING JUDGE SMITH: Do you have a paper copy?

21 MS. TAVAKOLI: If we could just scroll down the screen as we,  
22 yeah, go. Sorry. Thanks.

23 PRESIDING JUDGE SMITH: Mr. Russell, you just indicate when you  
24 need to have it scrolled.

25 THE WITNESS: Yes, Your Honour. Please scroll. Please scroll.

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1 Please scroll. Please scroll. Please scroll.

2 MS. TAVAKOLI:

3 Q. Now we're back to Hashim Thaci and that's the final one. Which  
4 one of those speakers, sir, said that they needed Serbs out of  
5 Kosovo?

6 A. Well, from these excerpts, I don't see any statement on these.  
7 And with the video, assuming that all was a continuous speech and not  
8 edit, but I know what we heard that day and I know what I recorded.

9 Q. This translation is exactly as we have on the video.

10 A. Yes, and --

11 Q. If you'd like us to play the whole video, we can now.

12 A. Well, I think it's instructive in the video that there was a cut  
13 in the video, so I -- I don't know.

14 Q. The video we got is as we got from the provider, but perhaps  
15 let's deal with it this way. In fact, we are in agreement -- the  
16 SPO, when they interviewed you, they told you that the other sources  
17 that they had didn't record Hashim Thaci saying this.

18 MS. TAVAKOLI: And if we go specifically to your interview, your  
19 second interview, so P01510 Part 1, page 25.

20 Q. And they said:

21 "I should just tell you a couple of things that we have. We  
22 have an UNMIK memo saying that there was a remark at this speech on  
23 3 October that there were no Serbs in Kosovo but it was said by a  
24 Mr. Hyseni, rather than [a] Mr. Thaci. We've also got a video that  
25 the Associated Press seems to have of part of the speech, but it's

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1 only a part of the speech. But in the part where Thaci is talking on  
2 the video, he doesn't mention getting rid of [the] Serbs in that  
3 particular extract, nor does the AP article report it."

4 And you were shown that document, it's 020858, in your  
5 preparation session. And then you were asked what do you think the  
6 difference was.

7 So we are in agreement with the Prosecution that none of the  
8 other sources that they showed you contained what you say. And I'd  
9 like to bring to your attention another source that you weren't  
10 shown, which is a local Kosovan article, and that is DHT04067-EN, and  
11 that's an article in *Koha Ditore*, I think.

12 And then if we look at the first page, it records what  
13 Mr. Hyseni said. And if you look halfway down:

14 "We wanted Kosovo with free flags, like it is today, without  
15 foreign and invading flags, we wanted Kosovo without foreign rulers  
16 and police officers, without violence and terror, and here we have  
17 it. We wanted Kosovo without Serbia and here it is."

18 So the national press doesn't report Mr. Hyseni saying that he  
19 wants a Kosovo without Serbs.

20 And then if you turn over, the national press records -- he says  
21 he wanted a Kosovo free of Serbia, not Serbs. And then if you look  
22 at the second page, that records, at length, what Mr. Thaci purported  
23 to say. And I suggest to you - of course, do read that page - that  
24 there is nothing in there that Mr. Thaci says he wants a Kosovo free  
25 of Serbs or anything against a multi-ethnic Kosovo.

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1 If you want to read that, please.

2 A. Next page, please, or scroll down. And if there's more, I can  
3 read more.

4 Q. That's the end --

5 A. Okay.

6 Q. -- of that. So I think it's clear.

7 A. There were statements there about free of Serbia, and I think  
8 that you have to understand in the context of our operations at the  
9 time, it was much different than today. There were assurances at our  
10 national level --

11 Q. Sir, we're focusing now --

12 A. No, I'm explaining that --

13 Q. No, but I need to -- sorry, I'm not interested in -- to the  
14 extent that -- I don't mean to be rude. You have given specific  
15 testimony that you heard Mr. Thaci say express things. I have played  
16 you the exact speech. He did not say them. I then referred --

17 A. A Kosovo without Serbia --

18 Q. Sorry --

19 A. -- would be a violation of 1244.

20 PRESIDING JUDGE SMITH: Wait until the --

21 THE WITNESS: I'm sorry, Your Honour.

22 PRESIDING JUDGE SMITH: Wait until the question's finished.

23 THE WITNESS: Yes. Yes, sir.

24 MS. TAVAKOLI:

25 Q. I've then -- you've been shown two international press articles,

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1 a local press article, none of them record what you say. I am  
2 suggesting to you that you've got it wrong. If you disagree with me,  
3 then that will be the end of it. We can't go around in circles  
4 forever, but that is our position.

5 A. A Kosovo without Serbia would have been a violation of the  
6 status of what we entered in there in the Military Technical  
7 Agreement of the day, and so I made notes on the basis of what we  
8 were sent there to do, regarding Serbs and regarding these areas  
9 outside of Kosovo proper. I made them. It appears that there are  
10 things very similar to that in these speeches.

11 Q. Thank you. That's your evidence.

12 MS. TAVAKOLI: Please, could I tender the video of the speech,  
13 the transcript of the speech, and also the local article.

14 PRESIDING JUDGE SMITH: Can you go over the numbers again for  
15 me?

16 MS. TAVAKOLI: Sorry.

17 PRESIDING JUDGE SMITH: I have DHT04067.

18 MS. TAVAKOLI: DHT04076, English, of all the speeches.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MS. TAVAKOLI: Yes, thank you. Oh, no, sorry.

21 PRESIDING JUDGE SMITH: 04076 is admitted.

22 MS. TAVAKOLI: Sorry, I made a mistake. It's DHT04076 through  
23 to 04 -- DHT04081.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MS. TAVAKOLI: Sorry. And the video --



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1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           040763 to 040781. Correct?

3           MS. TAVAKOLI: Yes.

4           PRESIDING JUDGE SMITH: All right.

5           MS. TAVAKOLI: Thank you.

6           PRESIDING JUDGE SMITH: No objection?

7           MR. HALLING: None, Your Honour.

8           PRESIDING JUDGE SMITH: All right. It's admitted. Please give  
9 it a number.

10          THE COURT OFFICER: Your Honour, just a clarification. The  
11 video is DHT04076. And only from 09:54 to 21:16? That's the portion  
12 we played.

13          MS. TAVAKOLI: Yeah. Perhaps it would be better to -- the  
14 problem is the transcript is of everything. I was conscious of the  
15 Court's time. I would propose to put the whole video in. And if  
16 there's an objection to that, I suggest that we play the whole video.

17          MR. HALLING: No need. We would like the whole video and all  
18 the speeches in.

19          PRESIDING JUDGE SMITH: [Microphone not activated].

20          MS. TAVAKOLI: I think it's the same number.

21          PRESIDING JUDGE SMITH: [Microphone not activated].

22          We are admitting 040763 to 040781.

23          THE COURT OFFICER: Yes, Your Honour. That will be admitted as  
24 1D00176, and classification is public.

25          PRESIDING JUDGE SMITH: Anything else as far as tender?

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1 MS. TAVAKOLI: And the local press, the *Koha Ditore* article  
2 that's on the screen.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. TAVAKOLI: And that is DHT04067-EN.

5 PRESIDING JUDGE SMITH: Any objection?

6 MR. HALLING: No, Your Honour.

7 MS. TAVAKOLI: To -- sorry.

8 PRESIDING JUDGE SMITH: DHT04067-EN --

9 MS. TAVAKOLI: To 0 -- DHT04068. Sorry, I'm being confusing.  
10 It's DHT04067 through to the next page, which is DHT04068.

11 PRESIDING JUDGE SMITH: DHT04067 to 04068 is admitted.

12 MS. TAVAKOLI: Thank you.

13 THE COURT OFFICER: Your Honour, that document, in Albanian and  
14 its English translation, will receive Exhibit 1D00177.  
15 Classification is public. Thank you.

16 MS. TAVAKOLI: Thank you.

17 Q. And I said that I would ask you a few questions about the  
18 Presevo valley, I will, but I just need to do something before that  
19 that's --

20 A. Yes, ma'am.

21 Q. -- more linked to the section that we've just had. So were you  
22 aware that at the time that you were in Kosovo that, in fact,  
23 Hashim Thaci was regularly speaking publicly for his desire for a  
24 multi-ethnic Kosovo and condemning ethnic violence against Serbs and  
25 others across the whole of Kosovo?

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1 A. That was the hope.

2 Q. So, for example, had you seen there's a press conference on  
3 24 July 1999 after the massacre of the 14 Serb farmers, and there --  
4 did you see that press conference?

5 A. And what was the date, ma'am?

6 Q. 24 July 1999.

7 A. I probably would not have been at the television on that day. I  
8 was probably out and about in the field.

9 Q. Okay. Well, the Court has that record. I don't think we need  
10 to play it. That's 1D00090.

11 Now, had you also heard that Hashim Thaci had reached out to  
12 other minorities around that time - Turkish, Bosniak, and Gorani  
13 communities - calling for interethnic tolerance and co-existence?

14 A. I would have hoped.

15 Q. And I just want to show you three short articles on that. The  
16 first is DHT04069 to DHT04070, and the English translation ends 71.  
17 Now, this is an article talking about a visit Hashim Thaci made on  
18 26 September when he visited the Turkish town of Mamushe and Prizren,  
19 where he addressed the residents in the public square and held an  
20 open meeting with the local government, representatives of political  
21 parties, and intellectuals.

22 MS. TAVAKOLI: If you look at the second page, please. Sorry,  
23 if we go to the first page and go to the bottom.

24 Q. And you'll see here he's reported to have said the following:

25 "'Today, we live in a free Kosovo, but we have many tasks ahead

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1 of us - promoting co-existence, understanding, tolerance, and mutual  
2 civil respect. Denigrating and destabilising elements that seek to  
3 sow divisions between Albanians and Turks have failed. You have  
4 always been and will continue to be Kosovo citizens. You will live  
5 here; together, we will build a free and democratic Kosovo. We will  
6 always be with you, ' ..."

7 MS. TAVAKOLI: And then, please, could you go to page 3.

8 Q. "In conclusion," halfway down the page, "Mr. Thaci had a  
9 message: 'If we respect each other properly and we build a culture  
10 of mutual ethnic respect, I believe that Kosovo will be an example  
11 not only for the Balkans but for the entire region.'"

12 Did you know that -- had you heard of Mr. Thaci's outreach  
13 attempts like this?

14 A. This was not in our area. We did monitor news reports and  
15 political activity to the extent that we could.

16 MS. TAVAKOLI: I seek to tender this ...

17 MR. HALLING: The witness just said he knows absolutely nothing  
18 about this. We don't see any foundation for admission at this time.

19 MS. TAVAKOLI: Sorry, just to be clear, I should have said I'm  
20 seeking to tender it on the basis of impeachment.

21 PRESIDING JUDGE SMITH: The objection is overruled. DHT04069 to  
22 DHT04070 plus the English translation is admitted.

23 THE COURT OFFICER: Your Honour, that document and its English  
24 translation will receive Exhibit 1D00178. Classification is public.  
25 Thank you.

1 MS. TAVAKOLI: The second article I'd like to bring up, please,  
2 is DHT04072 to DHT04072. That's the Albanian. And the English, I  
3 think, runs to 75. And if you could pan down. Sorry, if we stay on  
4 the first page just to get the context.

5 Q. Here, it's Hashim Thaci visiting the Bosniak community in  
6 Vitomirice in Peja together with the SRSG Bernard Kouchner on 4  
7 October.

8 MS. TAVAKOLI: And if we can please go down and to the next  
9 page. That's it. That's fine. Thank you.

10 Q. At the top of that page, Hashim Thaci is recorded as saying  
11 this:

12 "'We are aware of the difficulties that Kosovo ethnic  
13 communities, who used to live together for years, are now going  
14 through,' said the UN civilian mission administrator in Kosovo,  
15 Bernard Kouchner, adding that 'Thaci has said that people who  
16 committed crimes against the civilian population have no place here,  
17 but Serbs should come back here to live together.'"

18 MS. TAVAKOLI: If we could go to the next page, please.

19 Q. "In conclusion, Prime Minister Thaci addressed the crowd saying  
20 'on behalf of the PGK, and [on] my behalf, I want to greet you,  
21 citizens of Vitomirice, of both Bosnian and Albanian communities. I  
22 am glad to see you together.'"

23 And in the final paragraph:

24 "Thaci went on to promise members of the Bosnian community that  
25 'you will be in schools and universities, and you will take part in

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1 free elections that we will organise soon. Together, we will do  
2 everything that is possible to build a free Kosovo, and I hope that  
3 you, too, will join the KPC because this protection corps of Kosovo  
4 will not only belong to the Albanians but to all those who want to  
5 live in Kosovo.'" "

6 Did you hear about that outreach effort?

7 A. I was not monitoring the daily travels or the political speeches  
8 of Mr. Thaci in our area of Task Force 126, so I really can't answer  
9 that.

10 MS. TAVAKOLI: Thank you. I'd like to submit that into  
11 evidence, please, on the basis of impeachment.

12 MR. HALLING: Limited to that purpose, no objection.

13 PRESIDING JUDGE SMITH: DHT04072 to DHT04075 is -- did you  
14 extend it to 75?

15 MS. TAVAKOLI: It's 74, sorry. That's a mistake.

16 PRESIDING JUDGE SMITH: So to DHT04074 is admitted.

17 MS. TAVAKOLI: And there's one final document --

18 PRESIDING JUDGE SMITH: Wait.

19 MS. TAVAKOLI: Oh.

20 PRESIDING JUDGE SMITH: She has to give us a number.

21 THE COURT OFFICER: So if I understand correctly, the English  
22 translation will be from DHT04072 to DHT04074.

23 MS. TAVAKOLI: Yes.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 THE COURT OFFICER: And Albanian original is DHT04072 to

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1 DHT04072.

2 MS. TAVAKOLI: Thank you.

3 THE COURT OFFICER: They will receive Exhibit 1D00179.

4 Classification is public. Thank you.

5 MS. TAVAKOLI: Thank you. And the final one. It's very short.

6 This should not be shown to the public because of the provider. And

7 it's 7007158 to 7007167, page 2.

8 MR. HALLING: And, Your Honours, just noting the watermark on  
9 the top of this page. This would also need to be discussed in  
10 private session.

11 MS. TAVAKOLI: Please, can we go into private session.

12 PRESIDING JUDGE SMITH: Into private session, please,  
13 Madam Court Officer.

14 [Private session]

15 [Private session text removed]

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Witness: Steven Russell (Private Session)

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1 [Private session text removed]

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10 [Open session]

11 THE COURT OFFICER: Your Honours, we are back in public session.

12 PRESIDING JUDGE SMITH: Thank you.

13 MS. TAVAKOLI: Thank you.

14 Q. And I just have one last topic, and I'll try to be brief. It's  
15 going back to the speech. You noted in the annual historical review  
16 that Hashim Thaci called on all Albanians to fight for the freedom in  
17 the Presevo valley in Serbia. Do you remember that?

18 A. Yes.

19 Q. And just, I think, in evidence you said that he needed -- that  
20 they needed self-determination; correct?

21 A. Well, I think even in the -- what you presented today, when he  
22 says they stand ready to do whatever is needed, that was what  
23 concerned us at the time.

24 Q. I'm not going to rehash it because we clearly have different  
25 views on what was present in that translation. I'm simply going to



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1 submit to you that nowhere in Hashim Thaci's speech, either the video  
2 copy or the transcript, or those other articles and press reports,  
3 did Hashim Thaci call for Albanians -- he didn't issue a call to arms  
4 for Albanians to fight for freedom in the Presevo valley, did he?

5 That's my case.

6 A. I don't believe I ever said that they should fight for freedom  
7 in the Presevo valley. I'm not sure what you're referring to, ma'am.

8 MS. TAVAKOLI: Perhaps we can pull up the historical review, and  
9 the specific page reference is -- there we go. The exhibit is  
10 P01518, and the page is 105939. If we pan down -- thank you.

11 THE WITNESS: Oh, I see.

12 MS. TAVAKOLI:

13 Q. Do you see that there? You've written --

14 A. You're talking with regard to the Presevo valley.

15 Q. Mm. "... calling on all Albanians to fight for freedom in the  
16 Presevo valley in Serbia."

17 Do you see that?

18 A. Yes, I do. And I also stand by my comments based upon what we  
19 heard that they would do whatever it takes and that they needed to  
20 remain there, that they should not come back to -- or come to Kosovo,  
21 but they should remain where they are, and then said that they would  
22 do and stand by to do whatever is needed. These were comments that  
23 we thought were noteworthy that might raise concerns with UN  
24 Resolution 1244, and that's why I recorded all of them.

25 MS. TAVAKOLI: Can we pull back up the transcript, please, of

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1 Thaci's speech, which now has an exhibit number of -- sorry,  
2 Madam Court Officer, do you have the exhibit number? Thank you.

3 THE COURT OFFICER: For the record, this is Exhibit 1D00176.

4 MS. TAVAKOLI: And if we can go to the final page of that.

5 Q. Where in there, Mr. Russell, do you say that Hashim Thaci called  
6 on all Albanians to fight for freedom in that valley?

7 A. It says they "have the right to live there because they are  
8 autochthonous, and they will live there. We will not allow them to  
9 leave from there and for us to receive them here. We should help  
10 them live there, and they will."

11 Q. There's no reference to fighting, though, is there?

12 A. If you would recall the statements that "we stand by ready to do  
13 whatever we need to," that's what raised concern. And by way of  
14 context, we captured some UCK elements at the Internat raid that were  
15 from the Presevo valley.

16 Q. Sorry, the question is about the speech, not about anything  
17 else.

18 A. I'm trying to give you an understanding of why I would record  
19 these remarks, ma'am.

20 Q. I would --

21 A. We had evidence --

22 Q. -- assume that you would record these remarks because you heard  
23 Hashim Thaci say them that day; is that not right?

24 A. Well, that is -- that is true, yes.

25 Q. And he didn't say them that day, did he?

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1 A. Okay. Well, if you're parsing actual words, but if you're  
2 looking at "free of Serbs," "free of Serbia," if you're looking at  
3 "we stand by ready to do whatever we need to do for those in the  
4 Presevo valley," I stand by what we recorded. I think that there are  
5 elements of that there.

6 Q. Sorry, I'm just looking at that. What is wrong with saying that  
7 people should be allowed to stay in their homes, "we should help them  
8 live there"?

9 A. If you could imagine for a moment that we had seen tremendous  
10 violence on a daily basis, and if you imagine for a moment that we  
11 had captured documentation and people that were from the Presevo  
12 valley that were there illegally, we would turn them over to the IOM  
13 when we would discover them so that they could be sent home, these  
14 things sparked immediate interest. And then when you hear people  
15 make comment that "we will stand by ready to do whatever is needed  
16 when called" -- there had already been military-type activity toward  
17 that end on 9 August that we had evidence of. So these were things  
18 that we alerted to when we heard them.

19 Q. Where in those words just there, I'm looking at it, does it say  
20 "we'll do whatever is necessary"?

21 A. If you would scroll down.

22 Q. I don't see that, sir.

23 A. Let me -- I'm certain I can find it.

24 "... we will respond to dangerous situations that might come up  
25 later."

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1 And then:

2 "We will not allow for them to leave from there and for us to  
3 receive them here. We should help them live there, and they will."

4 And then "respond to dangerous situations that might come up  
5 later."

6 And so as you're listening to these things, and you've already  
7 seized or captured documents and training and everything else with  
8 regard to the Presevo valley, these were things that we honed in on  
9 very, very quickly.

10 Q. Thank you. We'll move on. I've just got two points perhaps we  
11 can do before the break.

12 And, in fact, are you aware, it may have come after your time,  
13 so that might be the answer, that, in fact, Hashim Thaci played a key  
14 role in stopping the conflict in the Presevo valley and working in  
15 step with KFOR and the American representatives?

16 MS. TAVAKOLI: If I could show you two news articles that  
17 confirm that. The first is from the *New York Times*, and the  
18 reference is DHT04062 to DHT04064. I'm afraid this version has  
19 highlights on it. We tried to resolve that before we agreed with the  
20 Prosecutor that they won't mind us switching it up, but it doesn't --  
21 there seems to have been a problem. I don't think it matters  
22 particularly, but we tried at the lunch break to submit an  
23 unhighlighted copy.

24 Sorry, I think I need leave from the Panel. We had a  
25 highlighted copy that we'd originally loaded to the queue. At

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1 lunchtime, we spoke to the SPO and they didn't mind us switching them  
2 to provide two unhighlighted copies, and they said that would be  
3 okay. Does Your Honour give leave for us to exchange them so we have  
4 the unhighlighted copies?

5 PRESIDING JUDGE SMITH: As long as there's no objection.

6 MR. HALLING: None at all, Your Honour.

7 PRESIDING JUDGE SMITH: Go ahead.

8 MS. TAVAKOLI: Thank you. So the first one. Thank you.

9 Q. And this is an article in the *New York Times* of 11 March 2000  
10 which basically records Hashim Thaci, at General Clark's instigation,  
11 you can see that in the first and second paragraphs, appeared  
12 alongside General Klaus Reinhardt, the commander of the peacekeeping  
13 troops in Kosovo, a joint press conference, where Reinhardt vowed to  
14 stop any insurgency from Kosovo into Serbia.

15 And if you go on to page 2 please, the paper reports, if you pan  
16 down a bit further, please. Comments from James Rubin. If you go  
17 further than that. That's fine.

18 "Mr. Thaci and leaders of the Kosovo Protection Corps, the  
19 civilian structure that has replaced the liberation army, are  
20 apparently already listening and are moving to take the appropriate  
21 public stands. In an interview this week, just after a meeting in  
22 Kosovo with General Clark, Mr. Thaci clearly stated that the Presevo  
23 Valley, long a majority Albanian area and once part of Kosovo, was  
24 not his concern."

25 And if you go down a bit further, his concern was only over

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1 Kosovo.

2 Were you aware that Hashim Thaci worked in that way?

3 A. I was not aware that that was his view in March. I was aware he  
4 had a different view in October.

5 Q. Thank you.

6 MS. TAVAKOLI: Please, could we submit that -- tender that into  
7 evidence.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. HALLING: Similar to the previous items, we have no  
10 objection to this being admitted and the Panel using it along with  
11 the other items as it sees fit, but this witness has done nothing to  
12 advance the foundation of this item.

13 PRESIDING JUDGE SMITH: DHT04062 to DHT04064 is admitted.

14 MS. TAVAKOLI: And the final --

15 THE COURT OFFICER: Your Honour, the document will receive  
16 Exhibit 1D00181. Classification is public. Thank you.

17 MS. TAVAKOLI: And the final document I wish to show you, again,  
18 this is the second document that I've spoken to my learned friend,  
19 the Prosecutor, about to upload a clean copy, and that is DHT04065 to  
20 DHT04066. It's an article from the BBC.

21 Q. And here on 24 March 2000, if you see the first paragraph:

22 "Leaders of an Albanian rebel group in southern Serbia have  
23 pledged to seek a political rather than a military solution to the  
24 problems in their region."

25 And that was announced by the head -- their head, Januz Musliu.

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1 And if you turn to the second page, you'll see that he did this -- if  
2 you go halfway down, Mr. Musliu made his statement after talks with  
3 Hashim Thaci, and US diplomats were present in the adjacent room, and  
4 this took place in Gjilan.

5 So our position. Had you seen this article and were you aware  
6 that Hashim Thaci was working for peace there with the Americans?

7 A. I was not. I do know that in the Internat raid, we did find  
8 evidence that people from Presevo were being trained.

9 Q. Thank you.

10 MS. TAVAKOLI: And, please, could I tender this document on the  
11 same basis?

12 PRESIDING JUDGE SMITH: Objection?

13 MR. HALLING: None, Your Honour.

14 PRESIDING JUDGE SMITH: DHT04065 to DHT04066 is admitted.

15 THE COURT OFFICER: Your Honour, that document will receive  
16 Exhibit 1D00182. Classification is public.

17 MS. TAVAKOLI: Thank you. I've no further questions.

18 PRESIDING JUDGE SMITH: We'll take a ten-minute break, Witness.

19 THE WITNESS: Thank you, Your Honour.

20 PRESIDING JUDGE SMITH: You may leave the courtroom. Please do  
21 not speak about the case outside the courtroom.

22 THE WITNESS: Yes, Your Honour.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: We're adjourned until 3.45.

25 --- Break taken at 3.35 p.m.

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1 --- On resuming at 3.46 p.m.

2 PRESIDING JUDGE SMITH: Please bring the witness in.

3 Are you finished, Ms. Tavakoli?

4 MS. TAVAKOLI: I have, yes. Thank you.

5 PRESIDING JUDGE SMITH: Okay.

6 You? Okay.

7 MS. O'REILLY: Yes, Your Honour. My time estimate is 30 minutes  
8 and I expect to stay within that.

9 PRESIDING JUDGE SMITH: Okay.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Please be seated.

12 We now continue with cross-examination, this time by the Veseli  
13 Defence. Ms. O'Reilly will have her questions for you.

14 MS. O'REILLY: Thank you, Your Honour.

15 Cross-examination by Ms. O'Reilly:

16 Q. Good afternoon, Mr. Russell. I've only got about half an hour  
17 of questions for you --

18 A. Okay.

19 Q. -- provided that --

20 A. That's fine.

21 Q. -- we stick to facts, not opinions, and answer the questions.

22 A. We'll count on it.

23 Q. Great. I'm actually just going to pick up where my colleague  
24 ended, which is on the Presevo valley.

25 MS. O'REILLY: So if we could please get onto the screen



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1 IT-05-87 6D00209, and this is a map of Gjilan which shows Presevo as  
2 well.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. O'REILLY: The numbers of this item?

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MS. O'REILLY: It's IT-05-87, i.e., Milutinovic, 6D00209.

7 PRESIDING JUDGE SMITH: Thank you.

8 MS. O'REILLY:

9 Q. All right. So here we have a map that shows, broadly speaking,  
10 your area of operation during 1999.

11 MS. O'REILLY: And actually, I think it's not entirely zoomed  
12 out because you should be able to see more of Presevo if you do zoom  
13 out. If you zoom out again. Great. Okay.

14 Q. So we have Presevo over there to the south-east of Gjilan. And  
15 you can see there is Gjilan, more or less, in the centre top part of  
16 the screen, and then some other areas that are relevant to your  
17 evidence. Malisevo, which was where the KLA had their official  
18 facility; and then Prilepnica, which is a fairly sizable village to  
19 the north-east; and Zegra to the south. Those were all within your  
20 area; is that right?

21 A. That's correct.

22 Q. Okay. And --

23 A. But Presevo was not, obviously, but the others [Overlapping  
24 speakers] ...

25 Q. Obviously Presevo was not because that's across the -- what was

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1 then an internal border with Serbia. Now, we've heard you talk about  
2 there being squatters and things like that, and people coming in, you  
3 didn't know where they were from, and it appears a lot of those  
4 people were from Presevo. Does the figure 11.000 sound about right  
5 to you of IDPs from Presevo during that time?

6 A. I would have to rely on the IOM reports at the time. We knew  
7 that there were a number of them. And as we would see them, we would  
8 report them.

9 Q. Report them for what exactly?

10 A. We -- to the IOM just to let them know that there may be people  
11 that needed registration or whatever there may be.

12 Q. 11.000 people coming across the border, that's immediately post  
13 war and has been severely destroyed. We can, I think, safely assume  
14 that they weren't coming for a holiday, so to speak. You're aware  
15 that there was serious discrimination going on on that side of the  
16 border as well, are you not?

17 A. In the entire region, yes.

18 Q. Thank you. Now, you're coming into that situation without a  
19 proper UNMIK deployment to back you up on the policing side of  
20 things; wasn't that right?

21 A. I'm not sure I understand the nature of your question.

22 Q. It's our understanding that UNMIK didn't really deploy until  
23 September or so --

24 A. Yes --

25 Q. -- and so until that time, you guys were the ones doing the

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1     policing?

2     A.    Yes, in cooperation with the military police that we would try  
3     to handle specific policing tasks.  That's correct.

4     Q.    Indeed.  But so you're dealing with this situation where you  
5     don't actually have those specific powers under 1224.  As you said  
6     this morning, the UN was the only power with the authority to do  
7     policing.  That's at page 25, line 5.  But you are the *de facto*  
8     policing power --

9     A.    Well, we had authority until they were able to establish it.  
10    That proved to be the case in Gjilan, where once they actually could  
11    do the recruitment and then they could begin to field police  
12    officers, then they would work in conjunction with military police,  
13    and then, you know, as time would go by, ultimately that they would  
14    have charge of it.

15    Q.    Indeed.  But because that deployment wasn't done at the  
16    beginning, you were filling a gap when, I would suggest, you were  
17    otherwise under quite a lot of pressure and dealing with an area  
18    where there's 11.000 IDPs.

19            Now, you have said about that -- or, rather, your colleague has  
20    said about that, I'm talking about Mike Matthews now, that the scale  
21    and scope of what you were being expected to do, what he was being  
22    expected to do as military police, was beyond what you were truly  
23    capable of doing at that time.  Do you have any reason to disagree  
24    with his assessment?

25    A.    If it would be in the context of providing police, I would have

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1 to defer to Mike Matthews. If it was whether or not we contained  
2 sufficient forces to stop violence, I felt that we did.

3 Q. You felt that you did. Did you feel like you successfully  
4 prevented violence in all --

5 A. There's a Kosovo today. I guess it got off to a good footing.

6 Q. All right. Thank you. So we're actually just going to look at  
7 two of the incidents to the raids that took place when you were  
8 there, not necessarily ones you were involved with. But the first  
9 one is the logistics building raid on the -- in the beginning of  
10 August, shall we say, because we don't actually know exactly when  
11 that was. We think it was in early August.

12 MS. O'REILLY: So if we look at P1512, if we could get that on  
13 the screen, please.

14 THE INTERPRETER: The interpreters kindly ask the speakers to  
15 make a pause between question and answer. Thank you.

16 MS. O'REILLY: Thank you. I'll just note for the record that  
17 I've been asked to slow down by the interpreters, and I'll do my best  
18 to do that.

19 Q. So this document appears to be about this raid on the logistics  
20 building. Now, it doesn't have, as far as I can see, an author as  
21 such, but what's your understanding of who would have written this?  
22 And we can go down to the next page as well, if you want to.

23 A. That would be helpful. Thank you. It would possibly have been  
24 by the intelligence sections or the military police sections as they  
25 would have processed captured information or computers.

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1 Q. You've referred in your statement to having read a report by Pat  
2 Rotier. Is that -- am I pronouncing that correctly?

3 A. Yeah, Pat Rotier. He was our intelligence officer for the task  
4 force.

5 Q. Was this what you were referring to as far as you can remember?

6 A. I'm not sure. I don't understand the question.

7 Q. Well, you weren't actually at the raid itself, were you?

8 A. So you understand that when we conduct raids, we do, for lack of  
9 a better term, triage. We have to determine what's important and  
10 what's not. So items that have stamps, signatures, appear military  
11 in nature, or have some possible value, photographs, many of them are  
12 quickly assimilated. Translators that are on the scene, they will  
13 give a cursory statement about what it might be --

14 Q. Witness, I'm just going to cut you off there for a moment. Were  
15 you present at the raid?

16 A. Which raid?

17 Q. This is the raid at which these lists were allegedly found on  
18 the logistics building at the beginning of August.

19 A. The raid was initiated by the military police. And once we were  
20 alerted to it, then we certainly arrived with Task Force 126 forces,  
21 and I would have also been present --

22 Q. Okay.

23 A. -- to see the raid and what was occurring.

24 Q. So, Witness, in your interview, this is your second interview,  
25 P1510, page 18, line 16, when you say:

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1 "I was not present at that raid so I can't say. I seem to  
2 remember -- I remember -- I seem to remember from the reports that it  
3 was a combination" of physical paper and things on computers.

4 A. We --

5 Q. That's not accurate, is it?

6 A. We didn't -- as I stated right before, we didn't initiate the  
7 raid. That was done by Mike Matthews. Now going to the scene, after  
8 things were being processed or looked at, we would go and look at  
9 different things.

10 Q. Okay. So contrary to what you said on 5 May 2022, you were at  
11 the raid?

12 A. I --

13 Q. Just --

14 A. -- was not present --

15 Q. -- pause --

16 A. -- when the raid was conducted.

17 Q. All right. Witness, when were you present?

18 A. So once the -- it would be like a crime scene, for lack of a  
19 better term. Once the scene had been established and protected, then  
20 you might go and look at it.

21 Q. Okay. Nonetheless, the point is whether or not you were there  
22 at some point later in the day after evidence had been seized, you  
23 have said that you -- you can't be sure, you can't remember whether  
24 you saw physical lists or lists on a computer or really whether it  
25 was one or both. That is what you have said in your 2022 interview.

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1 A. I stand by the statements. The assimilation and reporting of  
2 what was taken would have relied on the MPs and relied on the  
3 intelligence section processing.

4 Q. All right. Let's go back to the document.

5 MS. O'REILLY: Could we go to the top of the document, please.

6 Q. Now, I appreciate you didn't write this. However, there's a  
7 discrepancy that I was wondering if you could shed some light on. It  
8 says at the third entry:

9 "Date of information: 5 July 1999."

10 But then if we go down to "TEXT," and then point 1, you can see  
11 that it says:

12 "During a KFOR raid at a KLA administrative building in Gjilan,  
13 on 6 August computers were seized."

14 And then if you turn the page, it again talks about a document  
15 dated 5 July being seized on 6 July. This is at 2. And this is  
16 supposedly the list.

17 Now --

18 A. Does it -- I'm sorry, ma'am. On this --

19 Q. This is referring back to --

20 A. This second one, was it involved with the same raid or are they  
21 referring --

22 Q. Well, that's what I'm --

23 A. -- to a separate one?

24 Q. That's what I'm hoping you can explain to me.

25 A. Well --

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1 Q. And --

2 A. -- what I can say is that Task Force Falcon would not have had  
3 operational control from the 26th Marine Expeditionary Unit. All --  
4 all of the transfer of authorities had occurred on 10 July, so --

5 Q. So it doesn't make sense to you, then, these dates from --

6 A. The July dates would be interesting because we would not have  
7 been doing raids in --

8 Q. Okay.

9 A. Prior to 10 July.

10 Q. So potentially an error, but we can't be sure?

11 A. Well, we would have done no -- we would have initiated no raids  
12 from our task force prior to 10 July, so it could be accurate other  
13 than date.

14 Q. Okay. Thank you, Witness. Just give me one moment. Well,  
15 there's one other document that we should probably take a quick look  
16 at on this topic, and that's a diary entry of yours.

17 MS. O'REILLY: So it's from the large repository of documents  
18 that you provided the SPO, which is now, I believe, P1519. And it's  
19 at page 105825. I hope that's the right reference.

20 Q. Now, if we go to the second part of that entry, where it says --  
21 it starts with:

22 "Among the items found were anti-KFOR pamphlets" --

23 A. What date are we on, ma'am?

24 Q. My apologies. We're on 4 August.

25 A. Okay.



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1 Q. So we have a new date, but we'll put that on hold for the  
2 moment. So:

3 "Among the items found were anti-KFOR pamphlets, prostitution  
4 lists, notes on UNMIK and KFOR, illegal police paperwork and photos  
5 of Serb Orthodox artwork and monuments. We also seized computers and  
6 other records needing to be translated."

7 No mention of the lists there.

8 A. On the 4th, that would have been -- as I seem to recall, because  
9 of the nature of the amount of documentation that was there, that  
10 there were a number of things that had to be examined and lifted out  
11 of the building and that occurred over a several-day period.

12 Q. Thank you. That's helpful. It's just that you've put a lot of  
13 emphasis on this contemporaneous reporting being the most accurate,  
14 so I just wanted to address that with you.

15 MS. O'REILLY: If you could go back, please, to Exhibit P1512,  
16 there is just one more portion of that that I wanted to go over with  
17 you. And I apologise for jumping around like this. If we could go  
18 to page 2, please. Yeah.

19 Q. And I'm looking at that warning notice at the end where it says:

20 "This is an information report, not finally evaluated  
21 intelligence."

22 And above that at "Status," it says:

23 "Further reports will be furnished as additional information is  
24 developed."

25 Now, we don't have those additional further reports. I don't

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1 suppose you have them either, do you?

2 A. With regard to what, ma'am?

3 Q. With regard to this activity on 6 August. We're talking about  
4 the raid on the logistics building.

5 A. Other than what has been turned over with what the lists or  
6 manifests, if you will, of all of the things that were seized over  
7 that several-day period. And I might add that the warning notice,  
8 which was a common way to notify that these are initial reports, it  
9 doesn't delegitimise the report. It just says that this is the  
10 initial information that we have.

11 Q. Indeed. It's quite helpful because it gives us a sense of how  
12 much weight to accord to it.

13 Okay. Let's move on to the dormitory raid on 9 August. Now,  
14 that was quite a long day for you, I understand, starting at about  
15 9.30 a.m. and going as long as 10.00 p.m. that evening?

16 A. It was longer for me, but that was the active -- very active  
17 part of it, yes.

18 Q. And to summarise, you had gone into what was apparently some  
19 sort of KLA facility which you were aware of because of flags on the  
20 outside. You had found some weapons, but you say they were smart  
21 enough not to have heavy weapons where they could readily be found,  
22 which is your inference, I would suggest, but nonetheless nothing  
23 more than some, you say, pistols and rifles; correct?

24 A. Yes. Heavy weapons would have been belt-fed machine-guns,  
25 mortars.

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1 Q. Okay. Eventually later in the day, you found an empty room with  
2 some blood on the floor. No people were in that room; is that  
3 correct?

4 A. Repeat the first part of the question?

5 Q. You found what you have described as a torture room, which was,  
6 in fact, an empty room with some blood on the floor; is that correct?

7 A. It was -- we were actually notified of the possibility of its  
8 existence prior, and we had placed surveillance on the building  
9 several days before. These were based upon reports that we got from  
10 Mike Matthews of the 1st MPs related to witnesses. So we began to  
11 surveil the premises and ultimately decided to conduct a raid on it  
12 with a lot of force.

13 Q. Yes. Nonetheless, empty room, there's a bloodstain in there.  
14 You don't know whose blood it is. You don't know how long that blood  
15 has been there. And this is largely, as I understand it, conducted  
16 on the basis of the evidence of an alleged victim whose name we don't  
17 know; is that correct?

18 A. It was not known to me. It was known to the 1st MP Company.  
19 They were protecting her identity.

20 Q. Okay. Thank you.

21 A. But as to the other items, ma'am, I would only offer as a  
22 veteran of three wars in three different countries and having to  
23 participate in quite a bit of carnage, I do know the difference  
24 between old blood and fairly recent.

25 Q. Okay. You're aware that the Serbs had withdrawn just two months

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1 ago, I assume? They withdrew around 12th to 14th June from Gjilan?

2 A. That's correct.

3 Q. Right. So just give me one moment.

4 MS. O'REILLY: So there's a document that I want to put up. I'm  
5 not sure if it has a P number. It's ERN 106057. It's within the  
6 large repository of documents. I'm told it doesn't have an exhibit  
7 number.

8 Q. Now, while this is coming up, you said in your second interview,  
9 Part 2, page 24, that there were training kits found at the school.  
10 And I'll note that the title on the document that's about to come up  
11 is "Training Equipment." I should note it was training kits on how  
12 to work explosives.

13 THE COURT OFFICER: Can the counsel please provide the full ERN  
14 range where this page is contained.

15 MS. O'REILLY: Yeah, sure. Just one second. It's 105816,  
16 that's the first page, to 106095. And within that, it's page 106057.  
17 Now could we zoom in on the text on what appears to be a booklet.

18 Q. So this appears to be the training equipment that you were  
19 talking about in your SPO interview. And --

20 A. That's not all of it, no.

21 Q. No.

22 A. Not by any stretch.

23 Q. Okay. Do you see that the script there appears to be Serbian  
24 and not Albanian or English?

25 A. That would not have been surprising because most of the VJ

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1 manuals were in Serbo-Croatian.

2 Q. Thank you. That's fine.

3 Now, if we just talk about the actual conduct of the raid  
4 briefly. So you said it had started off well, and you'd managed to  
5 take all the pictures and get everybody outside within about the  
6 first hour; is that right?

7 A. Yes, that was the objective, to photograph as many as we could  
8 and only detain those that would be later identified.

9 Q. Right. And after this, you hit a couple of stumbling blocks  
10 which explains why it ended up taking all day. First of all, Ahmet  
11 Isufi wasn't there, was he?

12 A. He wasn't expected to be there.

13 Q. But you did summon him later so that you could --

14 A. Yes, and that was the intention, is that if we did discover  
15 things that we suspected, that he certainly needed to be notified.

16 Q. Okay. And there were -- you said earlier today there were some  
17 indications of resistance to Isufi's authority, which, for instance,  
18 came from Adrian Mehmeti who had said remarks such as, "He's not my  
19 commander, I am in command here, these are my soldiers." Do you  
20 recall saying that?

21 A. I do recall saying that there were several there. There were  
22 two that come to mind, Adrian Mehmeti and I believe it's Abdurrahman  
23 Ramadani. They were JIC card holders.

24 Q. Yeah.

25 A. So that's how we were able to easily determine their names. And

1 they were ones that were fomenting a lot of the resistance not only  
2 to Ismet, I think Sylejmani was his name, and then also Shaqir  
3 Shaqiri, Fatmir, any attempts at -- when it was discussions with  
4 Isufi. And as the day went on, the tensions rose, and that's what a  
5 lot of the pushback was there before Isufi's arrival.

6 Q. Right. There was some confusion about who was in control, I  
7 think, because you had Adrian Mehmeti saying, "These are my guys,"  
8 and then you have Abdyl Rrahman Ramadani, you describe him in your  
9 diary as the apparent leader of the 60 that were there. Do you  
10 recall saying that?

11 A. What I do recall is that much of this discussion was amongst  
12 themselves, their own chain of command, if you will, to include the  
13 swearing and the pushback on Isufi. It was translated to me what was  
14 being said. So --

15 Q. Can you give us an idea of what was being said?

16 A. I think I related it in the statements that I've already given.  
17 I don't want to be vulgar in court.

18 Q. It's fine with me.

19 A. Well, I -- they're in the statements.

20 Q. They're actually not.

21 A. No, they are in terms of what Mehmeti had stated about Isufi.

22 Q. In your SPO interview on 5 May 2022, you describe Shaqir Shaqiri  
23 as being the first guy in the food chain, which I assume you meant he  
24 was the commander.

25 A. We didn't look at any of them really as commanders because we

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1 didn't, at this stage, have a clear determination at the foot soldier  
2 level what their organisation was. We did understand that Isufi was  
3 a commander, and we understood that Fatmir was in charge of the  
4 elements that were at the assembly area in Malisevo.

5 We had some indication, which we later shut down, that another  
6 individual at Novo Brdo had been placed in some type of illegal  
7 command of some entity there which we raided and shut down.

8 But in terms of these younger men that were there, we would not  
9 have had any indication of their command structure or status on 9  
10 August. That would have been --

11 Q. Yeah, that's --

12 A. -- more difficult.

13 Q. That's sufficient. Thank you, Witness. And then you've  
14 mentioned that some of the KLA that were there, or alleged KLA, were  
15 from the Presevo valley. And we've also discussed how the -- Ahmet  
16 Isufi, the UCK there wanted Adrian Mehmeti to lose his JIC card as  
17 did KFOR. You're aware that Adrian Mehmeti was one of those from the  
18 Presevo valley, are you?

19 A. I seem to recall there were associations with some that were on  
20 the raid being at Presevo, and I've stated that. As to the exact  
21 individuals, I can't recall the names of who was from Presevo.

22 I do know that they were not only there but they were reported  
23 as such and that we had the Kumanova UCK element that was present.  
24 We captured their unit flag, and it is at Fort Moore at the Infantry  
25 Museum today. That's where it resides.

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1 Q. Okay. We need to move on. Just one last point on this raid.

2 One of the reasons things got complicated is because there were a lot  
3 of people present there on that day for a football match; isn't that  
4 right?

5 A. It developed later.

6 Q. Now, you weren't aware that there was going to be a football  
7 match there?

8 A. Our intention was that the raid would have been completed within  
9 about two hours. And we were not aware that that afternoon was a  
10 scheduled soccer game. I seem to recall somewhere around 2.00 or  
11 something. It was in the afternoon.

12 Q. And the reason that you didn't expect it to be that long is  
13 because you were trying to get orders for a couple of hours from your  
14 superiors, weren't you, as to what to do with these people and you  
15 couldn't get them?

16 A. We knew what to do with them. We were trying to get permission  
17 to leave the site.

18 Q. Which you couldn't do because you didn't have sufficient  
19 vehicles; is that right?

20 A. No, it wasn't that reason. We were delayed by the staff of  
21 the -- of Task Force Falcon that told us to remain there until they  
22 could get UCK leadership to see what we had discovered. That was a  
23 change in mission for us. So now we're just staying there, and that  
24 was not a good situation because the longer we remained, the --

25 Q. The more vulnerable you became.



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1 A. -- greater the potential -- absolutely.

2 Q. Indeed. Because things were rather volatile and there was a  
3 large gathering that you had not obtained intelligence about before  
4 you carried out this operation.

5 A. There was a public soccer game. Yeah, we were unaware of it.

6 Q. All right. Thanks a lot. There's just a couple of issues now  
7 that we should go over and then I will be done.

8 The first is about the house burning that was going on in the  
9 area. Now, earlier on we -- my colleague spoke to you about the  
10 extent of the destruction of Albanian houses. But, of course, you  
11 were mainly concerned by the time you got there with the burning of  
12 Serbian houses.

13 A. No, we -- no, ma'am, that is inaccurate. We were concerned  
14 about the burning of any house.

15 Q. Yeah, indeed, Witness. I didn't actually mean to imply bias on  
16 that occasion. But what you were seeing was what you believed to be  
17 burning of Serbian houses.

18 A. It wasn't a factor of whether a house had an ethnicity. It was  
19 a factor of where were these locations and --

20 Q. I feel like you might be misunderstanding what I am getting at.  
21 We have heard evidence in this case from German KFOR that Serbs were  
22 actually sometimes burning their own houses to prevent Albanians from  
23 occupying them. Is that something that you had experience --

24 A. We did not experience that. In fact, the military police had  
25 even cited, based upon all of their investigations up until

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1 September, that approximately 82 per cent of the violence had been  
2 Albanian on Serb. And you have to understand that MNB East was one  
3 of the most densely populated Serbian populations in Kosovo at the  
4 time --

5 Q. Witness, I'm going to have to cut you off again. Is your answer  
6 that you didn't receive information about Serbs burning their own  
7 houses in your area?

8 A. We didn't -- we didn't concern ourselves with --

9 Q. Yes or no, Witness? That's really all there is to it.

10 A. People don't burn their own homes.

11 Q. Okay. The evidence --

12 A. Albanian or Serb.

13 Q. -- we've heard in this case is that they did. But nonetheless,  
14 let's just move on to [Overlapping speakers] ...

15 A. Yeah, we did not have evidence of that in our sector. Maybe the  
16 Germans did. You would have to ask them.

17 MS. O'REILLY: Could we bring up a letter which you wrote, which  
18 is again at 105816 to 106095 at page P105840. Can we scroll down a  
19 little bit. My apologies. The page should end in 849. And if we  
20 can go to the end of the second paragraph.

21 Q. It reads:

22 "Even though I've developed a disgust for many of the Albanian  
23 people because of the horrible acts of violence they commit and the  
24 scrapes we have had with them, I cannot have -- help but have  
25 compassion for the innocent people ..."

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1 And then you continue:

2 "They were oppressed to be sure but were they ethnically  
3 cleansed? We have found no evidence of it."

4 Now, Witness, I assume at this point you're aware that  
5 approximately 10.000 Kosovo Albanians were killed during the course  
6 of what's come to be known as Operation Horseshoe; correct?

7 A. I am. I'm also aware that 3.000 MUP were also killed in trying  
8 to keep law and order at the time. So I mean, it's --

9 Q. I'm sorry, Witness --

10 A. -- well-established that both sides did a lot of horrible  
11 things. We were there to make it stop on both sides.

12 Q. Witness, you're aware that the MUP were part of the armed forces  
13 of Serbia during that conflict, aren't you?

14 A. Yes. They were --

15 Q. Yes or no?

16 A. Yes, they were.

17 Q. Okay.

18 A. And [Overlapping speakers] ...

19 Q. And are you familiar with the Djordjevic judgment from the ICTY?

20 A. I'm sorry?

21 Q. Are you familiar with the Djordjevic judgment from the ICTY?

22 A. I'm not.

23 Q. That's a judgment about the head of the MUP, where he was  
24 convicted for crimes against humanity committed against Kosovo  
25 Albanians including those from the area that you were in charge of

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1 when you were in Kosovo. And at para 1040 of that -- sorry,  
2 apologies, para 1035, it talks about 4.000 people being deported from  
3 Prilepnica, which you said at the beginning of your testimony was  
4 within your area of responsibility; and at paragraph 1048, of 420  
5 houses being partially burned and 120 being fully burned in Zegra,  
6 which was also in your area of responsibility. Are you aware of  
7 those findings?

8 A. I am aware of the Zegra ones in particular. The 40 per cent of  
9 Zegra that was burned was Serbian. The church was desecrated. They  
10 defecated on the altar. They smashed the tombstones in the  
11 cemeteries. So I remember it well. In terms of the individuals or  
12 leaders that perpetrated acts on either side being brought to  
13 justice, that is the hope, and I'm happy to hear it.

14 Q. Thank you, Witness. Those are my questions.

15 PRESIDING JUDGE SMITH: Thank you, Ms. O'Reilly.

16 Mr. Tully, you've got five minutes. How much time do you think  
17 you'll need?

18 MR. TULLY: Five minutes might be pushing it, Your Honour.

19 PRESIDING JUDGE SMITH: Okay.

20 MR. TULLY: I actually shortened my time to 20. I may need an  
21 extra ten at the end because a new document was raised in prep.

22 PRESIDING JUDGE SMITH: You can start at 9.00 a.m.

23 MR. TULLY: I'm grateful, Your Honour. Thank you.

24 PRESIDING JUDGE SMITH: Witness, your time today is finished.  
25 We'll be back here tomorrow at 9.00 a.m. Hopefully we will finish

1 with your testimony tomorrow. We can't make any promises. I thought  
2 you would be finished today.

3 THE WITNESS: Thank you, Your Honour.

4 PRESIDING JUDGE SMITH: So please do not speak with anybody  
5 after you've left the courtroom about what you've testified in court,  
6 and you may leave now with the Court Usher.

7 THE WITNESS: Yes, Your Honour.

8 PRESIDING JUDGE SMITH: Thank you for being with us.

9 THE WITNESS: Thank you.

10 MS. O'REILLY: Your Honour, I simply sought to tender the  
11 picture that I used that the witness had provided to the SPO, which  
12 was --

13 [The witness stands down]

14 MS. O'REILLY: -- at 106057.

15 PRESIDING JUDGE SMITH: So it's ERN 106157 is the one you want  
16 admitted?

17 MS. O'REILLY: 1060 --

18 PRESIDING JUDGE SMITH: I'm sorry?

19 MS. O'REILLY: 106057.

20 PRESIDING JUDGE SMITH: Any objection?

21 MR. HALLING: 106057, the training equipment picture, no  
22 objection.

23 PRESIDING JUDGE SMITH: [Microphone not activated] ... then you  
24 said, Ms. O'Reilly, 106057; is that correct?

25 MS. O'REILLY: That is correct, Your Honour.

1           PRESIDING JUDGE SMITH: All right. That will be admitted.

2           THE COURT OFFICER: Your Honour, picture with ERN 106057 will be  
3 admitted as Exhibit 2D00025. Classification is confidential. Thank  
4 you.

5           PRESIDING JUDGE SMITH: All right. Anything else?

6           MR. ELLIS: Your Honour, just to reassure, as foreshadowed by  
7 Ms. Tavakoli, I will be less than my two hours.

8           PRESIDING JUDGE SMITH: [Microphone not activated].

9           MR. ELLIS: I'm trying to cut down even as my topics are  
10 covered. Around an hour at the moment, I think.

11          PRESIDING JUDGE SMITH: [Microphone not activated].

12          Thank you for the information.

13          We're adjourned until 9.00 a.m. tomorrow.

14                         --- Whereupon the hearing adjourned at 4.25 p.m.

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