

1 Tuesday, 20 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. Thank you.

11 PRESIDING JUDGE SMITH: Before we continue with the testimony of  
12 Prosecution Witness W04868, the Panel has one oral order regarding an  
13 exhibit entered into evidence yesterday.

14 When 1D00176, which was the transcript for the video that was  
15 admitted, the ERN that was read on the record was DHT040763 to  
16 DHT040781. However, the correct ERN is DHT04076 to DHT04081-EN.

17 Are there any objections to the Court Officer making this  
18 correction on the record?

19 MS. TAVAKOLI: No, thank you very much.

20 PRESIDING JUDGE SMITH: Okay.

21 The Panel therefore orders the Court Officer to correct the ERN  
22 for 1D00176 to DHT04076 to DHT04081-EN.

23 This concludes the Panel's oral order.

24 The Panel was also notified the Selimi Defence wishes to be  
25 heard on granting a further extension on the deadline to respond to

1 SPO's pending bar motion.

2 MR. ROBERTS: Yes, Your Honour. It's more just a clarification  
3 in relation to the oral order that you'd issued just before the  
4 recess we had in relation to the bar table motion which is F2468,  
5 which we didn't know at the time that we had requested the extension.  
6 We had agreed with the Prosecution for an extension until  
7 6 September, and on the transcript it appeared that you'd granted the  
8 extension until 23 August instead.

9 PRESIDING JUDGE SMITH: Yes.

10 MR. ROBERTS: And I just wanted to verify that it was intended  
11 to be 23 August and wasn't a slip of the tongue just that so we know  
12 the deadline to follow.

13 PRESIDING JUDGE SMITH: It was not a slip of the tongue.

14 MR. ROBERTS: I understand.

15 PRESIDING JUDGE SMITH: If that is a difficult -- will you be  
16 able to handle it?

17 MR. ROBERTS: We would request a short extension of that just  
18 because we have various other deadlines for Rule 154 statements due  
19 on the same day, this Friday. So if we could have an extension, at  
20 least for a further week, perhaps until 30 August, that would greatly  
21 assist.

22 PRESIDING JUDGE SMITH: We will extend the deadline. We spoke  
23 about that. We will extend the deadline to Friday, August 30.

24 MR. ROBERTS: Much obliged. Thank you, Your Honour.

25 PRESIDING JUDGE SMITH: Thank you.

1 MR. TULLY: Sorry, Your Honour, just to point out that  
2 Mr. Roberts just made a slight mistake. At line 10 of page 2, he  
3 said:

4 "... I just wanted to verify that it was intended to be 23  
5 August and it was not a slip of the tongue ..."

6 PRESIDING JUDGE SMITH: It was intended to be the 23rd of  
7 August.

8 MR. TULLY: Okay. Sorry, sorry, sorry. I thought he misspoke.  
9 Excuse me.

10 PRESIDING JUDGE SMITH: That's fine. No problem.

11 So now we will continue hearing the evidence of Prosecution  
12 Witness W04868.

13 I note that except for Mr. Krasniqi, who is following the  
14 hearing via videolink, all the accused are present in court.

15 Madam Court Usher, please bring the witness in.

16 MR. TULLY: And, Your Honours, if I may, I indicated at the end  
17 yesterday I shortened my deadline -- I shortened my estimation to  
18 20 minutes. I will need about 35 minutes. There was a document  
19 added late in the presentation session I just need to deal with, if  
20 that's okay.

21 PRESIDING JUDGE SMITH: Thank you for the notice.

22 [The witness takes the stand]

23 PRESIDING JUDGE SMITH: You can be seated.

24 Good morning, Mr. Russell. Today we are going to continue your  
25 testimony. I remind you to please try to answer the questions

1 clearly with short sentences. If you don't understand a question,  
2 feel free to ask counsel to repeat the question or tell them you  
3 don't understand and they will clarify. Also, please remember to try  
4 to indicate the basis of your knowledge of facts and circumstances  
5 upon which you will be questioned.

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

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

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

13 As to the representatives who are with you, Major Kyle,  
14 Ms. Hart, and Ms. Satpathy, thank you for joining us again this  
15 morning. I remind you that if at any time you need a moment to speak  
16 with the witness or wish to address the Panel, you can raise your  
17 hand in order to be granted permission to do so by the Panel. In  
18 addition, if you all feel that there is a part of the witness's  
19 testimony which should be redacted or if a particular subject comes  
20 up that you feel should be discussed in private session, please  
21 notify the Panel in the same manner.

22 So we will proceed now with the cross-examination by the Selimi  
23 Defence. Mr. Tully is already standing. Please give him your  
24 attention.

25 WITNESS: STEVEN RUSSELL [Resumed]

1 Cross-examination by Mr. Tully:

2 Q. Good morning, lieutenant-colonel.

3 A. Good morning.

4 Q. My name is Eric Tully and I am counsel for Mr. Selimi. Before  
5 we get going, just a housekeeping matter. We are speaking the same  
6 language, so it is difficult for the interpreters when we don't leave  
7 gaps. I'm as guilty of it as anybody else.

8 A. Thank you.

9 Q. So I'd like to not get called on today for once.

10 So I want to begin with a topic concerning the policing  
11 capability of KFOR as you understood it to be in summer of 1999. And  
12 I want to focus on something you said in your preparation session,  
13 and I'll quote from paragraph 25 of Preparation Note 2. You said:

14 "The United States authorities had military police, a criminal  
15 investigation division (CID), commanders who could appoint special  
16 investigators, lawyers at every level, and special judge advocates."

17 So do I understand correctly from this paragraph that you  
18 remember or you recall that policing criminal investigation and  
19 criminal justice capabilities of KFOR in your AO to have been robust  
20 and well staffed?

21 A. As I remember it, sir, we were careful to things that we  
22 perceived as requiring police special training should be involving  
23 military police, and that's why the 1st MP Company was attached to  
24 our task force.

25 Q. Okay. And just to recap very briefly, you've answered some of

1 these already, but the situation as you found it, as KFOR found it in  
2 summer of 1999 was one without any kind of civil policing presence in  
3 Gjilan. That effectively had been abandoned at that point; right?

4 A. That is correct.

5 Q. And you expected KFOR to fill more of a combat role on the  
6 ground, and you anticipated some sort of military resistance which  
7 didn't really materialise?

8 A. Actually, it was a hybrid. I think that was true initially when  
9 we first came in. There was the expectation we may have to come in  
10 by force. But when the political developments changed the nature of  
11 that as to come in and the Serbian army would agree to leave, then we  
12 understood it to be similar to previous deployments that we had had  
13 that would regard more of a hybrid role, where we would keep law and  
14 order until the actual institutions could be re-established.

15 Q. Understood. And just to focus on something that you answered  
16 yesterday to my colleague Ms. Tavakoli. Obviously, a military  
17 prepares for all eventualities and KFOR was preparing for a potential  
18 resumption of a conflict between either KLA-Serbia, Serbia-KLA, and  
19 it didn't materialise. But your view was that there was no real risk  
20 of that occurring; is that correct?

21 A. I think -- we were watching it very closely.

22 Q. Yes.

23 A. Excuse me. We were also concerned how the interaction would be  
24 when the Russians came to Kamenica province and how they would  
25 integrate with NATO forces where we could reinforce the Military

1 Technical Agreement together. So we were very concerned about what  
2 might be assembling on the -- if you will, the other side of the  
3 border, and we were looking for assembly areas. Without going into  
4 detail, we had technical means to observe what might be assembling  
5 within the 5-mile zone. And as we would gain this intelligence, it  
6 did not appear that there were sufficient concerns to look like an  
7 attack was forming.

8 Q. Very well. Thank you. So moving on then to the law  
9 enforcement, and you highlighted in particular the MPs. So in the  
10 absence of a partner, a viable partner in UNMIK who had failed to  
11 carry out their recruitment for that period, I understood, and it's  
12 quite an obvious question, but this fell on the shoulders of KFOR MPs  
13 and they were under the command of then Captain Michael Matthews, now  
14 retired Colonel Matthews; that's correct, isn't it?

15 A. Yes, he had the primary policing duties and it was a -- you have  
16 to understand, military policing is integrated within a combat  
17 environment and so it is interrelated very closely.

18 Q. And to understand -- to be precise here, Colonel Matthews, as  
19 the MP commander, he was responsible for Gjilan, and his area of  
20 operations mimicked essentially Task Force 126 up as far as the  
21 Russian sector; is that correct? As Kamenica I believe they went up  
22 as far as.

23 A. He -- well, we had responsibility for Kamenica, Novo Brdo, and  
24 Gjilan opstinas initially in our zone.

25 Q. You touched briefly on the importance of the MPs being involved

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1 in the law enforcement. And remembering that UNMIK were not there to  
2 provide the civil policing role as had been previously envisaged, do  
3 you recall it being the case that they -- the MPs only had training  
4 as far as law enforcement, policing, and military situation and had  
5 no training or experience in civilian policing? Is that how you  
6 recall it?

7 A. I would have to defer to Mike Matthews on what the training  
8 level of military -- specific training he received. I know military  
9 police were very well capable of operating in a combat environment if  
10 need be, where they were trained in infantry-type weapons and skills  
11 as well. But to his specific training for the mission, I would defer  
12 to him.

13 Q. Okay. Well, on that, did Colonel Matthews ever share with you  
14 concern that the military police were not prepared or had not been  
15 prepared for the situation as you found it in summer 1999?

16 A. I think it would be fair to say to the entire KFOR coming in,  
17 having been asked by our nations, by our alliance, and literally by  
18 the world, to insert ourselves into a 600-year-old hatred, as we  
19 sorted out to try to delineate who was who and what was what, that we  
20 all wished that we had more adequate force and we had more adequate  
21 personnel.

22 Q. Well, on the first one, and I want to just take you to  
23 Colonel Matthews' statement.

24 MR. TULLY: And can I have on screen, please, 106826-TR-ET  
25 Part 1 on page 9, please. Thank you. And if you go to line -- if



1 you scroll down, please. Yeah, thanks.

2 Q. So Colonel Matthews is describing here, I believe mirroring what  
3 you're saying, that the MPs were highly trained, highly skilled in  
4 the specific role that they performed in the military. But in the  
5 time leading up to it, and these are his words:

6 "... in the time leading up [to it], we didn't have a lot of  
7 time to train specifically for this mission. We certainly couldn't  
8 replicate it in a training environment."

9 Is this a concern that was shared by you, amongst KFOR, or is  
10 this specific to the MPs?

11 A. I think -- I mean, I have to take Colonel Matthews at his word.  
12 I think every warrior wishes he had more preparation prior to going  
13 into environments where his life is at risk.

14 Q. Okay. And attached to the MPs were the CID referred to before,  
15 the Criminal Investigations Division. He describes it as this. I'm  
16 not a military expert, but for -- the separation between the MPs and  
17 CIDs is more complex, obviously. But in terms of investigations, MPs  
18 generally carry out investigations into misdemeanors allegedly  
19 committed by soldiers; CID would investigate felonies allegedly  
20 committed by soldiers. Does that conform to your [Overlapping  
21 speakers] ...

22 A. It's actually much broader. And having commanded large numbers  
23 of forces in other places in combat environments, the CID soldiers,  
24 they also -- they do -- I'm trying to think of the term. They  
25 process our casualties. They do investigations of homicides.

1 They -- they literally do forensics and autopsies or are involved in  
2 that type of work. It's very extensive on a broad level.

3 Q. But to the specifics of this mission and the investigative  
4 functions carried out by CID, is it -- are you aware of or was it  
5 ever discussed with you that the MPs and CIDs were not envisaged to  
6 carry out such investigations on a wide scale as they then ended up  
7 having to do in Kosovo in 1999?

8 A. I think we understood it was our mission to enforce the MTA with  
9 set deadlines, as I recall, K-plus 7, K30, K60, K90, these were  
10 benchmarks with which to meet, and they had criteria which should be  
11 met at each stage. And I think we felt that we were as equipped as  
12 any other human beings on the planet. We had good training, good  
13 equipment. We might have felt inadequate in some ways. But compared  
14 to other troops in the world, we were probably the most competent and  
15 best able to try to do what we were attempting to do.

16 Q. I understand that, lieutenant-colonel. And to be clear, I'm not  
17 criticising any of the troops or any of their competency or the  
18 preparation that must have gone into this, but the circumstances can  
19 sometimes get away from us. Would you agree with that?

20 A. That's probably why we're here.

21 Q. Okay.

22 A. Yes, I suppose that's true.

23 MR. TULLY: So if we can go forward to the next page, please on  
24 that statement. I just want to go down to line 15 -- oh, excuse me.  
25 Sorry, can go to page 11. Sorry. Yeah.

1 Q. I just want to read out -- because this is specific to the  
2 question I was asking is:

3 "... going back to Kosovo now," this is line 15, "put aside the  
4 sort of policing of the military, was it envisaged that among the  
5 things you might do there would also be serving sort of an  
6 investigative function for crimes committed by people living in the  
7 area, either against US military or against one another. Was that  
8 within the range of things that you were preparing to be able to do  
9 or not?"

10 And he answered:

11 "Not to the extent that [it would end up] happening."

12 So he is describing being overwhelmed by the scale and scope of  
13 what was being asked of the MPs and CIDs. Would you have any reason  
14 to dispute that?

15 A. I think as I read it, when he would be referring to "ended up  
16 happening," it wouldn't be for lack of capacity -- or capability,  
17 rather, it would be lack of capacity with assets available.

18 Q. Yes, this is the -- in terms of the capability, this is the --  
19 I'm really focusing on the capacity with the assets available and  
20 being stretched too thin. This is what I'm getting at.

21 A. I'm sure he felt the same way that I felt. As a task force  
22 operations officer, we had roughly nine companies' worth of mission  
23 and we were holding it down with three or four. So it would not be  
24 surprising that people felt they had inadequate personnel to do the  
25 mission. But we still were required to do it, and we believe that we

1 focused in on the priority things to do the best that we could.

2 Q. So then would you agree then with the statement that the scale  
3 and scope was beyond what KFOR was capable of doing?

4 A. No --

5 Q. [Overlapping speakers] ...

6 A. -- I wouldn't agree with that. I mean, we see that we've had a  
7 generation where things have largely stabilised, thankfully. So,  
8 obviously, the groundwork that we laid initially laid a very good  
9 foundation. It was very tense and it was very troubling, but we were  
10 up for the task. We really had no choice.

11 Q. Okay.

12 MR. TULLY: If I can go to the next page of that statement,  
13 please. And down to line 15.

14 Q. And this is really his words here, and he's describing a --  
15 manning an equivalent of a 911 system, and it wasn't 911, and he  
16 finishes with this quote. He says:

17 "We would receive calls. We would dispatch the military police  
18 from my unit to those calls. They would record the incident and  
19 respond at really is -- you know, as best ... as best we could. The  
20 scale and scope was beyond really what we were capable of doing at  
21 times. We ... certainly did our best."

22 So are you in dispute with what Colonel Matthews says there?

23 A. His company often called upon our infantry to assist, to  
24 augment, to even go and investigate things that he could not cover,  
25 and he was very good about that. In many cases we would try to

1 attach small elements of his company into our elements so that we  
2 would at least have a military policeman present and that way we were  
3 able to cover more territory. We tried to assist one another as best  
4 we could.

5 Q. Okay. And you talked about staffing issues or personnel issues.  
6 So -- and to be clear, so you don't think there's a trick here, these  
7 are his words, and I'm quoting from page 29 of that statement, that  
8 there weren't enough military police to execute law enforcement to  
9 standard in Gjilan. Would you defer to Colonel Matthews and his  
10 estimate regarding the ability to execute law enforcement to standard  
11 in Gjilan?

12 A. What I can say -- I can't speak for Mike Matthews. I take him  
13 on his word on his statements. But what I can say is that when UNMIK  
14 was able to provide initially what became some augmentation and then  
15 ultimately they were able to stand alone on their own mission, that  
16 policing became more of a civil function rather than a military  
17 function.

18 However, in absence of civil function, we understood as warriors  
19 that we would be the stability until institutions could be  
20 re-established. That was never not understood by us as soldiers  
21 entering that mission.

22 Q. I don't think there's any question about it being understood.  
23 He's really talking about again, what we discussed already, capacity,  
24 and what he focused on here was "we didn't have enough military  
25 police to execute law enforcement to standard in Gjilan." And I

1 understand it was alleviated later on by UNMIK, but because I'm not  
2 -- I'm not clear, are you in dispute with what he's saying there?

3 MR. HALLING: Objection, asked and answered.

4 MR. TULLY: Well, he didn't answer the question.

5 PRESIDING JUDGE SMITH: Overruled. You can answer.

6 THE WITNESS: Thank you, Your Honour.

7 I take Mike Matthews at his word, at his level. At our level,  
8 we were responsible. Although his military police mirrored the size  
9 of our task force area of operation, we had more than just his  
10 military police assets to cover the hot-spots or the incidents or the  
11 things that happened. We had many other assets available in our  
12 infantry task force to try to do our mission.

13 And so while if you imagine that a single military police  
14 company could handle three opstinas worth of work, that would  
15 definitely be difficult. If you augment that with an infantry task  
16 force and even further potential reserves, which our brigade had in  
17 MNB East, then we could apply the proper pressure at the proper time,  
18 and I believe that we did so.

19 MR. TULLY:

20 Q. In your preparation session, you referred to lawyers at every  
21 level and a special judge advocate. That's from paragraph 25 of prep  
22 2.

23 A. Yes.

24 Q. You recall saying this?

25 A. Yes, we -- each infantry task force, based upon US infantry

1 battalions, at the battalion level, you were assigned a staff judge  
2 advocate, and every level up from there also had judge advocate  
3 representation.

4 Q. At battalion level. But understandably then, not at a lower  
5 level than battalion?

6 A. That's never been the habit of our forces to have it below that.

7 Q. Okay. Well, I want to read to you again from Colonel Matthews'  
8 statement.

9 MR. TULLY: This is page 15, and line 13, please.

10 Q. And he's talking about the detention process. And here at  
11 line -- well, I'll read out the whole quote:

12 "... what would happen ... at that point? Like, who would ...  
13 be the prosecuting authority in that situation?"

14 His answer:

15 "I don't know. I ... was displaced from that process for the  
16 most part. I ... did not run that detention facility, so I don't  
17 know how that worked." He's talking about Bondsteel. "We did have  
18 local lawyers that would opine on -- oh, geez, what's the right word.  
19 But they would opine on whether or not evidence was sufficient to  
20 detain."

21 Do you recall the MPs consulting with local lawyers to assess  
22 the evidence?

23 A. He would be referring -- because we were there under  
24 United Nations mandate, there also was United Nations presence. And  
25 as I recall, at Camp Bondsteel, you had this apparatus under the

1 United Nations structure that was certainly concerned with the rule  
2 of law, so we tried to interface with that as best we could.

3 Q. Well, my question was specifically about local lawyers.

4 A. I --

5 Q. Did you have consultations with local lawyers?

6 A. I don't think he's meaning, you know, so-and-so attorney-at-law  
7 with a shingle in Gnjilane. I think he's referring to those that  
8 came in under the United Nations mission.

9 Q. Well, he specifically says "local" though. He doesn't say  
10 anything about the UN and he never says anything about judges  
11 advocate or UN [Overlapping speakers] ...

12 A. You would have to ask --

13 Q. [Overlapping speakers] ... mission.

14 A. You would have to ask Mike Matthews. I don't recall --

15 THE INTERPRETER: Speakers are kindly asked not to overlap --

16 THE WITNESS: Oh, I'm sorry.

17 THE INTERPRETER: -- because the interpreters really cannot  
18 follow if you are speaking very quickly and also interrupting each  
19 other. Thank you very much.

20 THE WITNESS: My apologies to the translators.

21 MR. TULLY:

22 Q. That's our first warning, hopefully last.

23 A. I've lost my train of thought. I'm sorry.

24 Q. You said you deferred to Mike Matthews on the matter.

25 A. I defer to Mike Matthews on what his viewpoints were. You would



1 have to ask him on what "local" means. In terms of the chain of  
2 custody and how we would process people that would be detained, it  
3 would go from our initial detention. We had a very small temporary  
4 holding cell, but that was really not intended for any long-term  
5 anything. It was for immediate transport from there to Camp  
6 Bondsteel.

7 So what the local lawyers would be in that chain, you would have  
8 to ask Colonel Matthews.

9 Q. Very well. Finally on this point, I just -- you referenced  
10 yesterday a statistic that you brought up as well in your preparation  
11 session. This was that 82 per cent of the violence had been Albanian  
12 on Serb, and this, you said, came from the military police --

13 A. Yes.

14 Q. -- on investigations up until September.

15 MR. TULLY: So I want you to go to page 29 of this current  
16 document, please. And it's at line 12.

17 Q. So he's talking again about doing "the best we could." And he  
18 says:

19 "... we weren't the only unit doing ... law enforcement sort of  
20 tasks."

21 I think this was something that you were referring to.

22 "In other words, the other units that were there as part of 126  
23 Infantry were also doing security-like tasks."

24 And he says:

25 "... we would -- they would have people approach them at

1 checkpoints and other things, describing crimes that had occurred to  
2 them, ... so there were incidents like that that occurred that would  
3 have ... never [come] to my attention."

4 So just bearing in mind what we have just spoken for the last 20  
5 minutes about the difficulties faced by everybody in the AO, in  
6 particular the military police in regards to their -- their, perhaps,  
7 training gap carrying out civil policing and so on, how confident  
8 would you be in the ability of the MPs to even gather a figure like  
9 that, let alone its accuracy?

10 A. I would be confident in their chain of command. Colonel -- I  
11 believe it was Lieutenant-Colonel Rick Swengros who was the MP  
12 battalion commander.

13 I was struck by that figure when it was presented in, I believe,  
14 it was close to K90, because we were trying to gain an assessment.  
15 So K90 would have been September 20th, perhaps, somewhere in that  
16 vicinity. I don't recall the exact date. But it struck me. And it  
17 was also consistent with what we were witnessing and seeing. And,  
18 again, I would like to provide what that criminal activity meant.  
19 This wasn't looting. This wasn't a stolen car --

20 Q. Sir --

21 A. This was --

22 Q. Sir, excuse me, this is --

23 MR. HALLING: The witness should be allowed to finish his  
24 answer.

25 PRESIDING JUDGE SMITH: Let him finish his answer.

1 THE WITNESS: When we were talking about criminal activity and  
2 what we meant by that and tracking it, we were talking about the  
3 employment of weapons against other human beings to cause them or  
4 their property damage. That was typically what made the list. It  
5 wasn't the small things. It was the big things to make the killing  
6 and the destruction of property stop. That -- that was top of list.

7 MR. TULLY:

8 Q. Very well. I want to move on then to -- briefly to something  
9 that you discuss with the Prosecution, and you were shown cards. And  
10 perhaps it's easier if I -- well, you remember the cards that had the  
11 "Ministry of Public Order" written on them that you were shown  
12 yesterday?

13 A. We were instructed, according to the technical agreement, and  
14 the enforcement under the --

15 Q. Well, sir --

16 A. -- UN resolution --

17 Q. Sorry. Just to keep us on track, I just asked you if you  
18 remember, you recall being asked questions about those cards; right?

19 A. I do, yes.

20 Q. So would I be correct in assuming that KFOR was not in contact  
21 with that ministry, as far as you were aware, so was not keeping a  
22 log of who had and who had not been issued one of these cards?

23 A. As I -- I'll wait. As I was stating, our instructions were any  
24 cards that were not from the Joint Implementation Commission or were  
25 not IOM or something official from the United Nations, we were

1 instructed to seize. If they had any association with the UCK to  
2 show some ministry or capacity or civic function, we were instructed  
3 to seize them.

4 Q. And the question was you were not in contact with that ministry  
5 at any point to check or to keep a log of who had or had not been  
6 issued one of those cards? You were simply interested in seizing  
7 them; correct?

8 A. We were under orders under the technical agreement to seize them  
9 and we did.

10 Q. And is that a no to the question, you did not contact the  
11 ministry?

12 A. From our perspective, as we were given the orders, there was no  
13 legitimate institutions yet formed under the UN mandate --

14 Q. Is that a --

15 A. -- and those that were purporting to be acting in that capacity  
16 were doing that illegally, and so we would seize things to show that  
17 on one side or the other.

18 Q. Can I take that to be a no?

19 A. You can take it however you wish, sir.

20 Q. Is it a no?

21 A. You're asking a very complex question and are wanting a simple  
22 answer.

23 Q. Well, did you or did you not contact the ministry to find out if  
24 these cards had been issued by them?

25 A. Which -- are you talking a UCK ministry?

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1 Q. I'm talking about the Ministry of Public Order.

2 A. Whose ministry?

3 Q. Let me get the cards on the screen.

4 MR. TULLY: This is at P01534.

5 Q. You remember this card?

6 A. Yes.

7 Q. And you've answered questions on this. Do you -- are you aware  
8 whether the KFOR was in contact with that ministry to keep a log of  
9 who had and had not been issued one of these cards?

10 A. It was not a United Nations-issued identity card. There was no  
11 legitimate reason to contact a pretending ministry as we were viewing  
12 it --

13 Q. Very well.

14 A. -- because they were not legitimate under the mandate.

15 Q. Then I can take it, then, that you were not interested in  
16 finding out whether that ministry had or had not issued one of these  
17 cards to --

18 A. How --

19 Q. -- those individuals.

20 A. -- could we contact a ministry who had no authority to exist?

21 Q. And you weren't keeping track of the people that you seized  
22 these cards from, were you?

23 A. We would photograph them, which is why we have copies of them  
24 here today, and we would process them through our intelligence and  
25 police functions.

1 Q. Well, in fact, I don't have any photographs from the photographs  
2 you turned over. You said you took them at the football game. I  
3 understand that. But you're not aware of a register that the US was  
4 keeping of who had been seized with these cards?

5 A. What happened -- what happened to them after they were  
6 processed? Sometimes we would get reports back in kind of a  
7 summation of intelligence or what it might mean. But as to the  
8 actual logs that were kept by the legal authorities above us,  
9 political in nature, that was not our mission.

10 Q. Now, looking at the cards themselves, and you can see it on the  
11 screen, I want you to look at the original on the left. This is a  
12 quite simple piece of cardboard with a name written in ballpoint pen,  
13 passport over it, no holograph or sophisticated watermark to  
14 replicate this template.

15 Given the circumstances of the time as you've described them,  
16 the vacuum of law enforcement and criminality present, were you  
17 concerned that these cards might be sold on the black market? Was it  
18 a concern of KFOR?

19 A. I recall that there were things being issued under the auspices  
20 of civic government such as car tags, registries, things of that  
21 nature. We would seize them every time that we saw them, because the  
22 idea was we were under pretty clear guidance not to legitimise  
23 anything that had not been legitimised by the United Nations mandate.

24 Q. But my question -- leave aside the civic government themselves.  
25 But in the situation you found it, was there a concern that there was

1 a black market for these things besides the illegality you see in the  
2 civic government? I understand that part.

3 A. When we would seize documents, we might have had our opinions,  
4 but we left it to our intelligence services and our military police  
5 and also the legal authorities to make that determination.

6 Q. Very well. I'm going to move to my final topic.

7 MR. TULLY: And if I can have on the screen P01539.

8 Q. And you recall being shown this document, lieutenant-colonel,  
9 don't you?

10 A. Yes.

11 Q. I want to focus on some very obvious things from this document.  
12 But there's -- well, first of all, you seized from various other  
13 people documents that were -- as far as you could see, are purported  
14 to be official documents from the KLA during your time in Gjilan;  
15 isn't that correct?

16 A. The date on this document would have been post administrative  
17 building raid.

18 Q. Well, just -- the question, lieutenant-colonel, was you seized  
19 documents from people purported to be issued by the KLA during your  
20 time in Gjilan in 1999, didn't you; yes or no?

21 A. We seized them at illegally operated places where KLA was  
22 present --

23 Q. Is --

24 A. -- yes.

25 Q. If you can stick to a "yes" or a "no," please, sir, I'm limited

1 time here.

2 A. And I'm trying to provide accurate answers to complex questions.

3 Q. Well, you did seize documents purporting to be from the KLA, so  
4 you are familiar with what they looked like. So on the document in  
5 front of you here, there's no official letterhead or emblem of the  
6 KLA, is there?

7 A. And as I was explaining, when the administrative building that  
8 was --

9 Q. There -- sir --

10 A. -- illegally operated --

11 Q. -- there is -- sir --

12 A. -- was taken down --

13 Q. Sir, please, there is no need for an explanation here. I'll --

14 PRESIDING JUDGE SMITH: Let him continue the answer. I'm  
15 interested to know what he's going to say about this.

16 MR. TULLY: Okay.

17 THE WITNESS: Thank you, Your Honour.

18 We seized large amounts of official letterhead, we seized  
19 computers, and we seized many of the types of things that would  
20 process documentation. What we also had were reports, and we saw it  
21 thereafter, that many of the reporting and official papers took on a  
22 more crude form.

23 MR. TULLY:

24 Q. Well, if you can look very closely then at this document,  
25 there's no protocol number or date in the top left-hand corner which



1 would identify who's sending it, is there?

2 A. I -- you would have to, I guess, compare it to what was before  
3 the raids and what was --

4 Q. Well, sir --

5 A. -- after --

6 Q. Sir, you can see it on the screen. It's right in front of you.  
7 Is there a date or is there a protocol number in the top left-hand  
8 corner above?

9 A. There is a date on it of 10 August as I read it --

10 Q. No --

11 A. -- but it is not located in the location that you're suggesting,  
12 no.

13 Q. Would that be the date -- are you suggesting that's the date of  
14 the draft of the document?

15 A. I'm not suggesting anything. I'm trying to answer your  
16 question.

17 Q. Very well. You notice that the document is covered in patches  
18 of blue ink, obviously. So would you agree that they appear to be  
19 the remnants of corrections made to the document?

20 MR. HALLING: Objection, calls for speculation.

21 MR. TULLY: Well, we can look right at the --

22 PRESIDING JUDGE SMITH: Sustained.

23 MR. TULLY: Can we zoom, please, at the very top at the word  
24 that says "*informate*," please. Zoom in even -- yeah, there we go.  
25 And if you can scroll across to the right.

1 Q. Do you see there appears to be an "e" faded from what appears to  
2 a watermark at the end of "informate"? That's there, isn't it?

3 A. You're asking me?

4 Q. Yes.

5 A. I'm sorry. Yeah, I -- it could be, yes. I'm not familiar with  
6 Albanian and Croatian to the extent that perhaps you are. But that  
7 could be possible.

8 Q. I'm not familiar with it at all.

9 A. Okay.

10 Q. Mine's about as good as yours. And then down to -- I won't  
11 belabour this, but down to the second line after the word "*publik*,"  
12 there appears to be some sort of writing that is also faded by water.  
13 Now, to your eyes, without knowing the language, I don't think you  
14 need to know the language, those appear to be corrections to a  
15 document, don't they?

16 MR. HALLING: Objection, calls for speculation.

17 PRESIDING JUDGE SMITH: Sustained.

18 MR. TULLY:

19 Q. Okay. Well, if you go to the very top of this document, do you  
20 see here the first three words, I get that your Albanian isn't great,  
21 but you recognise those three words at the top?

22 A. I recognise, I think, Kosovo.

23 Q. Okay. Well, would you know the perhaps shortened version UCK?

24 A. Ah, now it would appear. Yes.

25 Q. Well, do you see that second word, it appears that the person

1 has misspelled the C in UCK.

2 A. Perhaps from fat fingers. I don't know.

3 Q. Maybe. If we can then go to the content of the document. Now,  
4 I just want to ask you questions that touch on what the Prosecution  
5 asked you yesterday. The raid that you carried out in the dormitory,  
6 it was hardly carried out in secrecy. I think that's quite obvious.

7 A. Are you talking the day of or --

8 Q. The day of, yes.

9 A. We were executing it under full knowledge of Task Force Falcon.

10 Q. And the -- it became quite the local event as several hundred  
11 people ended up being outside the gates and causing quite a  
12 disturbance.

13 A. If you are suggesting that we made a spectacle of it, that would  
14 be very inaccurate. It was done with the intention to do the entire  
15 raid as quickly as possible. We estimated two hours. The reason it  
16 would take that length was because of the photographing necessary and  
17 then having to show the photographs to one of the victims, the  
18 alleged victims. So we estimated that we could do the raid in about  
19 two hours. It was not intended that we would remain. It was not  
20 intended that we would have anything to disturb the ongoings of the  
21 flow of Gnjilane that day. We wanted to get in and out, I assure  
22 you.

23 Q. I understand that. I wasn't suggesting that you were making a  
24 spectacle of it. This was a simple factual question: Several  
25 hundred people ended up, through the circumstances beyond your

1 control, being around the compound and being very aware of what you  
2 were doing there; isn't that correct?

3 A. By the afternoon, that was correct.

4 Q. So looking at the document, there are no details here that  
5 wouldn't have become known to the wider and perhaps close-knit  
6 population in Gjilan, is there?

7 A. I think it would have been difficult from somebody that was  
8 outside the compound to have deduced what was going on on the inside  
9 of the compound. There was an outer crowd, there was an inner ring,  
10 and then there was a protective ring of the ten that was detained.  
11 And that would have been very hard to deduce from a soccer fan  
12 outside the gates.

13 Q. Well, I'm talking about the days afterwards, perhaps. Do you  
14 think word would have spread quite quickly?

15 A. I don't. Not from our perspective in terms of these levels of  
16 details stated in this document regarding ten soldiers being  
17 detained. I don't know how that could be deduced.

18 We were exhausted from the long day's work and the ongoing  
19 operations that we still were responsible for. We had to process and  
20 write many of these reports over the next two to three days just to  
21 assimilate what had happened.

22 Q. And to your knowledge, the KLA soldiers lived among the  
23 population; isn't that right?

24 A. As I understand it, some were allowed to bunk at the assembly  
25 area in Malisevo. They were allowed there as UCK until K-plus 90 and

1 then that would cease. In terms of any other location, they could  
2 reach out to the IOM offices, the International Office of Migration.  
3 But in terms of where they were housed, I couldn't say.

4 Q. And you believe that the detail of ten soldiers would have  
5 remained obscure from anybody else in the population?

6 A. What the man on the street would discuss would not be known to  
7 me unless he were fluent in English or German and I would have heard  
8 it, so I can't say.

9 Q. Very well. So on the document then that -- would you agree with  
10 me that it appears to your eyes to be an unfinished draft?

11 MR. HALLING: Objection, calls for speculation.

12 PRESIDING JUDGE SMITH: Sustained.

13 MR. TULLY:

14 Q. Well, if we can go to the bottom of this document, there's no --  
15 I just wanted to wait for you to be ready.

16 A. Oh. No, I'm listening. I'm sorry.

17 Q. At the bottom of the document there is no signature or stamp of  
18 office, is there?

19 A. I can't account for signatures. But stamps we probably had in  
20 our possession.

21 Q. Okay. And as we discussed, the only date there is the date of  
22 10 August.

23 MR. TULLY: Now if we can go back up on the document.

24 Q. You've pointed out too that that date is incorrect, isn't it?

25 A. If referring to the raid, it would have been the 9th. We also

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1 noted that there were -- because of the length of the raid and the  
2 reports that came, obviously, the next morning, that it was confused  
3 even in the press as being on the 10th.

4 Q. Well, you can see that the author -- or at least there's no mark  
5 over the number 10 there to correct it, is there? It's clear from  
6 any blue ink.

7 A. I have notes in my own journal where I refer to it as the 10th  
8 and I was there.

9 Q. Sir, the question was that there's no blue ink over the 10, is  
10 there? [Overlapping speakers] ...

11 A. On which side of the document --

12 Q. The 10 --

13 A. -- the translation -- or the --

14 Q. The trans --

15 A. -- one to the right?

16 Q. On the original.

17 A. I don't see one.

18 Q. Great. If we can move finally then to -- if we scroll down to  
19 the bottom where it says "Fatmir Mehmeti" and it lists him as MP  
20 commander. Now, you've consistently stated in your interviews and in  
21 your preparation session that Shaqir Shaqiri was the head of police  
22 or security as you understood it. And just to be clear, I'm going to  
23 read from your statement.

24 MR. TULLY: This is P01510.2, page 2.

25 Q. You said:

1           "... the head of security, Shaqir Shaqiri, he went around with  
2 a -- you know, an official type of vehicle with an unauthorised UCK  
3 car tag ... he was the head of their security ... he wore a black  
4 uniform most of the time with a PU on it."

5           You recall saying that?

6           A.    Yes.

7           Q.    And in the two photographs you handed over that have the man who  
8 you believe might have been called Fatmir Mehmeti as the subject,  
9 he's wearing regular camouflage fatigues, no PU insignia.

10          MR. TULLY:  And for reference, that's from 105816 to 106095 at  
11 pages 105978 and 106095.

12          Q.    So you've also said that you never saw Mr. Mehmeti wearing  
13 anything other than army fatigues; isn't that correct?

14          A.    That's correct.  We did see variations with others but not with  
15 him.

16          Q.    Okay.  So yesterday you said this, and this is at the  
17 provisional transcript, page 49, lines 17.  You're asked about an  
18 indication that Fatmir may have been involved with the military  
19 police, and you answered:

20                "I think there's no question given the circumstances we've seen  
21 not only on that day but with the kidnapping and interaction that he  
22 had with Shaqir Shaqiri, who fashioned himself as ... the head of  
23 these black shirts and others.  They had constant coordination,  
24 sometimes even in our presence."

25          Do you recall saying that?

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1 A. Yes.

2 Q. So I'm curious about it because I reviewed your statements and  
3 this is the very first time you've mentioned anything about constant  
4 coordination on either occasion that you were interviewed by the SPO  
5 in 2021 and 2022. Are you aware of that?

6 A. I am aware that -- of what I said. It was interesting that when  
7 we initiated the raid that it -- it was almost instantaneous that  
8 Fatmir appeared and he showed up along with Shaqir Shaqiri. There  
9 was obviously talk among themselves. We had seen in our own  
10 observations and surveillance of the Internat and other areas that we  
11 had our scouts that were surveilling, we took note of certain  
12 vehicles, certain destinations, and we did see this type of liaison  
13 going back and forth.

14 Q. So I want to look at the -- what you said in your preparation  
15 session. And you said that you only saw -- excuse me. He was  
16 interrelated -- excuse me. This is referring to Fatmir.

17 "... he was interrelated in some way with the military police  
18 because he was at the Internat with Shaqir Shaqiri."

19 So based simply looking at the two men conversing with one  
20 another and being with each other at the same place, this is the  
21 assumption you make of the interrelation between the two; is that  
22 right?

23 A. It would have been -- it would have been broader than that. We  
24 saw examples of the same individuals, the mix of uniforms at various  
25 locations to include Malisevo. And then also in our surveillance we



1 would see the interaction of these elements as a matter of routine.

2 We looked at them all literally as the UCK. There were no  
3 policing organisations authorised.

4 Q. But the connection between the two was an assumption you made  
5 based on those observations?

6 A. We had actual -- had seen them in conversations and seen their  
7 vehicles departing and entering the different facilities, yes.

8 Q. Very well. One final question then. You've agreed with me that  
9 there, obviously, is no signature on this document. So without that  
10 signature, there's no way of telling whether Fatmir Mehmeti ever saw  
11 this document, is there?

12 A. I have no idea.

13 Q. Very well. I wish you a safe journey home. Thank you.

14 MR. TULLY: Those are my questions.

15 PRESIDING JUDGE SMITH: Thank you, Mr. Tully.

16 Mr. Ellis. We will take a break at 10.00.

17 MR. ELLIS: [Microphone not activated].

18 Just give me a moment.

19 Cross-examination by Mr. Ellis:

20 Q. Good morning, Witness.

21 A. Good morning.

22 Q. My name is Aidan Ellis and I'm representing Jakup Krasniqi. I  
23 have some questions for you this morning. You've heard, I think a  
24 moment ago, that we will be taking a break at 10.00, but I'll try and  
25 get through some of the first questions before we get there.

1 I wanted to start by asking you some questions about the  
2 record-keeping procedures within your unit, within MNB East. I think  
3 you've told the Prosecution in interview that as a military historian  
4 with a master's in history, you understand the importance of good  
5 record keeping? That's right, isn't it?

6 A. I think it's essential.

7 Q. And I want to understand the documentary records that should be  
8 available in relation particularly to the raids that your unit  
9 carried out. I think you've said already that whilst planning a raid  
10 you would typically surveil the location in advance. That's right,  
11 isn't it?

12 A. It's desired but not always possible.

13 Q. And if there was surveillance, there would be a log of what that  
14 surveillance noticed, wouldn't there?

15 A. There would be reports, yes.

16 Q. For example, if you had snipers observing a suspected KLA  
17 location, there should be a log of what they saw when they were  
18 looking at it?

19 A. You would have reports.

20 Q. And in relation to the seeing people in conversation which you  
21 mentioned a moment ago to Mr. Tully, if that had been observed whilst  
22 carrying out surveillance it would be in the report, wouldn't it?

23 A. And they were.

24 Q. Very well. And in relation to the actual raids themselves,  
25 would there be a detailed log made of events as they unfolded?

1 A. It is not as if we had a stenographer there as we were in tense  
2 situations. We would have to do, obviously, an outbrief as we would  
3 assemble the key personnel and we would have to get their reports,  
4 and that may be verbal or that may be written as we would assemble  
5 final reports.

6 Q. So there would be a process after the event in which what were  
7 initially verbal reports would be reduced to writing. Is that --

8 A. If possible.

9 Q. And we've spoken -- you've spoken already this morning about the  
10 policing assets that were available to your unit - the military  
11 police, the Criminal Investigations Division. It would have been for  
12 them, wouldn't it, to take witness statements from alleged victims of  
13 crime and other people?

14 A. It would depend. It would depend upon the nature of what it was  
15 that was being investigated. It would also depend upon what was  
16 available. CID teams are very small. They would not have been --  
17 there would not have been very many in all of MNB East. So in  
18 absence of that, there may have been other ways to do that. I would  
19 defer to the military police and how they handled that type of  
20 investigation.

21 Q. Of course. Just help me with the detail. When you say CID  
22 teams are very small, there would not have been very many of those in  
23 all of MNB East, do you remember how many teams and how roughly how  
24 many people per team?

25 A. I don't recall.

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1 Q. Well --

2 A. We had visibility of the 1st MP, and then we had, obviously, the  
3 request and liaisons through Task Force Falcon, our headquarters, for  
4 additional requests and assets.

5 Q. I see. And the 1st MP is the unit with -- led by Mike Matthews  
6 you were speaking about earlier?

7 A. That's correct.

8 Q. That's right? And can you help with the size of that unit?

9 A. Typically a military -- a combat military police company I'm  
10 guessing would have been around 65 soldiers in a heavy task force.  
11 That's a guess.

12 Q. All right. Now, you've spoken about documents that were seized  
13 in the course of your raids. Did I understand your evidence  
14 yesterday correctly that the operational unit may have carried out an  
15 initial triage, you said, of the documents, with the help of a  
16 translator obviously, but the detailed analysis is done by the  
17 military police or the intelligence at a later point?

18 A. Are you referring to a specific raid or in general?

19 Q. No, I'm asking you in general about the procedure that you  
20 followed.

21 A. It would depend. We tried to have -- on more coordinated raids  
22 where a number of our assets and different units were involved, we  
23 would have military police present and embedded in those raids. If  
24 they were raids of opportunity or urgency, it would be with whatever  
25 was at hand.

1 Q. I see.

2 A. And if they were smaller raids, I might add, it would be with  
3 whatever was at hand.

4 Q. And I presume that a log should be taken of exactly what  
5 documents were taken from each location. That's right, isn't it?

6 A. It would depend. To the infantry soldiers, their task was  
7 largely to secure and to seize certain things based on sets of  
8 criteria, and then they would alert people to it. And then we would  
9 try to get our intel section to look at those documents and make  
10 determination.

11 Q. Okay.

12 PRESIDING JUDGE SMITH: Mr. Ellis, we'll take the break now.

13 MR. ELLIS: Thank you, Your Honour.

14 PRESIDING JUDGE SMITH: We'll give you a short ten-minute break.  
15 Be back to the courtroom in ten minutes. You may leave the courtroom  
16 now with the Court Usher.

17 [The witness stands down]

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

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

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

21 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness  
22 in.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: You may be seated.

25 All right. Mr. Ellis, you may proceed.

1 MR. ELLIS: Thank you, Your Honour.

2 Q. I'll just finish the topic that we were dealing with on  
3 documentations.

4 Now, I appreciate that you've said you didn't know what happened  
5 to people once they'd been detained by the unit. But in general  
6 terms, there should be records, shouldn't there, of how long they  
7 were detained for, whether they were interviewed by the military  
8 police during that detention?

9 A. Those records would have been at Camp Bondsteel with Task Force  
10 Falcon. They would not have been done by our task force.

11 Q. Quite. And it's right, isn't it, that the documents you've seen  
12 in preparation for your evidence with the Prosecution, the documents  
13 we have before us in this trial, are a small proportion of the total  
14 documents that your unit would have created and archived?

15 A. I -- in related to the time window that we're discussing or more  
16 broadly?

17 Q. In terms of what you've been shown in preparation for your  
18 evidence.

19 A. I suppose, yes.

20 Q. Fine.

21 A. I'm not sure what has survived. I know much would have been  
22 recorded or written, but I don't -- I don't know as to the  
23 availability of things today. It's 25 years ago.

24 Q. Of course. And I'm not challenging whether it exists in the  
25 archive or whether 25 years have done their work. What I'm saying is

1 what we're seeing now is very significantly less than what would have  
2 been available immediately at the time. That's right, isn't it?

3 A. With regard to what specifically?

4 Q. Well, with regards to all the categories of documents that we've  
5 been talking about in the last 15, 20 minutes.

6 A. Yes, I suppose.

7 Q. Thank you. Now, I want to move on to talk about -- it's a  
8 different topic, to an individual called Florim Kllokoqi who you  
9 encountered in Novo Brdo, in particular. You recall that gentleman?

10 A. Yes, I do.

11 Q. Now, you were asked about this area by the Prosecution, and I'll  
12 read back what you said. It's P1510.2, page 2, lines 5 to 10, and  
13 you said:

14 "I think they were trying to broaden areas of footprint. There  
15 was a small opstina called Novo Brdo which had a zinc mine and an  
16 ancient castle, and it wasn't very large but it was officially an  
17 opstina of Kosovo. And they tried to exert and set up some  
18 leadership there with a young man."

19 Do you recall giving that answer to the Prosecution?

20 A. Yes.

21 Q. So just to be clear, what you thought at the time was this  
22 wasn't an established KLA presence. It was something that was trying  
23 to be set up at that time.

24 A. Initially, we weren't sure. After we raided it, we were. It  
25 had been established, I believe, mid-June. We shut it down in

1 mid-July.

2 Q. I see.

3 MR. ELLIS: Well, let's have a look at -- can we see on screen  
4 106016, please, which I think the English translation is P1522, but  
5 the Albanian original is part of that large body of documents.

6 Q. Now, in terms of the document to the right of your screen,  
7 that's in the Albanian and that's a little hard to read because  
8 that's a photo -- that's not the original document. That's a  
9 photograph that KFOR took during the raid; is that right?

10 A. Yes. I saw the document when we captured it.

11 Q. And did you seize the original document?

12 A. Yes, I did.

13 Q. Right. So the original document should be somewhere in the  
14 archive?

15 A. And I believe better pictures were submitted. I can't account  
16 for the poor one here.

17 Q. I see. And was there a log of all the documents seized on that  
18 particular raid, do you recall?

19 A. We did have a general sense of what was there. We secured all  
20 of it. What specifically was processed by our intel sections and the  
21 like, I'm not for certain. But I know that there were a number of  
22 things that we discovered while there.

23 Q. I appreciate that. I'm not asking at the moment about the  
24 processing. I'm asking when these documents were seized, was a log,  
25 a list, written of everything that you had seized that day?



1 A. By me?

2 Q. By the unit that you were aware of, sir.

3 A. Our intel, as I've explained, our intel section, they would have  
4 processed the documents. And when I say "processed," they make note  
5 of what is there.

6 Q. Are you saying they were with you at the time of the raid when  
7 the documents were taken?

8 A. The raid was conducted with some amount of force. We were not  
9 certain as to its volatility, and that proved to be the case because  
10 there was a bit of combat action that morning. We had to divert the  
11 air assault, which was from our B Company. They landed with  
12 helicopters and we secured all of the points.

13 As a part of that, when you put together a complex operation,  
14 you also bring along elements that would know how to do these types  
15 of searches, and our infantrymen also were tuned in to know what to  
16 look for.

17 Q. Now, I'm going to put the question a slightly different way and  
18 just ask for a yes-or-no answer: Do you know if a list was made of  
19 all the documents that were seized at that raid in the course of the  
20 raid?

21 A. In the course of the raid that would have been problematic  
22 because you wouldn't want to linger at a place that had already  
23 exhibited danger. You would take all of the items and then you would  
24 process them.

25 Q. But I notice you're saying "you would take them." I'm just

1 asking specifically on this occasion was a list made at the scene;

2 yes or no?

3 A. That would not be standard procedure.

4 Q. I see. And do you know whether a list was made later on this  
5 specific occasion?

6 A. I would assume whatever got processed would have had to have  
7 been recorded.

8 Q. Right. Now, in relation to this document you see to the right  
9 of the screen, you weren't shown a clearer copy than what we see on  
10 screen during your preparation session with the Prosecution, were  
11 you?

12 A. I have seen this document when it was taken at the raid. We  
13 immediately honed in on it because of the stamps and the official  
14 letterhead. I wanted to know what it said. An Albanian translator  
15 who was embedded with us, a Category 3 translator, he told me what it  
16 was, we understood that to be pretty important and a violation of UN  
17 Resolution 1244, and so it became a hot item.

18 Q. And that's the reason why the original document would have been  
19 an important one to seize, log, and process?

20 A. No question.

21 Q. Right. Now, just dealing with what we can make out in the  
22 English translation then. You have what on its face it seems to be  
23 an appointment of this Florim Kllokoqi; yes?

24 A. Yes, he presented the document.

25 Q. Now, you've spoken about your occasional meetings with Ahmet

1 Isufi, but you haven't mentioned whether you confronted Mr. Isufi  
2 about this document and asked him whether he had appointed Florim  
3 Kllokoqi. You haven't mentioned that in your statements, have you?

4 A. I did mention that in the occasions that we did meet about the  
5 illegal operations that were set up and the illegal policing that we  
6 had encountered, and that would have comprehensively included places  
7 like Novo Brdo.

8 Q. Right. Now, you were asked by the Prosecution yesterday morning  
9 if you recognised a particular signature of Ahmet Isufi. And what I  
10 wanted to understand was in preparation for today with the  
11 Prosecution, were you shown a series of documents with Ahmet Isufi's  
12 signature?

13 A. We had seen a series of documents even before. We had  
14 interfaced with him. We had captured a number of other documents in  
15 like raids or different events. This looked official to us.

16 Q. But I'm not for the moment asking you about what you saw in the  
17 raids in 1999. I'm asking what you were shown in the course of the  
18 last week in your preparation. Were you shown a series of documents  
19 with Isufi's signature so that you could place them side by side and  
20 compare?

21 A. I'm not sure. I would need to consult with legal counsel on  
22 what they would be allowed to share on preparation. I don't know how  
23 to answer that.

24 Q. Right. And in your meetings with Mr. Isufi, are you saying you  
25 actually saw him signing documents with your own eyes?

1 A. Mr. Isufi signing this document?

2 Q. Signing any document.

3 A. No.

4 Q. Right. So when you're being asked by the Prosecution whether  
5 you recognise the signature, what you're doing is you're trying to  
6 assist the Court with what you remember seeing 25 years ago in 1999.  
7 That's the bottom line, isn't it?

8 A. Unlike anyone else in this court, sir, I was on this raid, I was  
9 at that site, I saw this actual document first-hand. It was  
10 presented to us by Florim Klllokoqi. I remember it.

11 Q. Right. Now, I'm going to go through a series of more questions  
12 about the document. I'll try and remember the interpreters' warning  
13 to pause after answers, but I would ask you just to answer the  
14 question that I'm asking so that we can move forwards and complete  
15 the evidence. Okay? And if we need further explanation, I or Their  
16 Honours the Judges will ask, I'm sure. Okay?

17 Now, on its face this appears to be an appointment to lead the  
18 1st Battalion 1st Company 3rd Unit composed of either three to five  
19 or ten to fifteen members. Do you see that on the face of the  
20 document?

21 A. I see it on the translation, yes.

22 Q. And so that I've understood the hierarchy correctly, you should  
23 have -- the battalion would be higher, and then the company, and then  
24 the unit at the bottom; is that right?

25 A. Are you asking me in our organisation?

1 Q. Yeah, I'm asking you in a military organisation, sir.

2 A. Typically a battalion would be over a company, yes.

3 Q. And a company would be over a unit, yes?

4 A. It depends on the size of the unit.

5 Q. Well, the size of the unit here is either three to five or ten  
6 to fifteen members. And that would be the lowest level of command,  
7 wouldn't it?

8 A. I suppose. I'm not familiar with the UCK's lowest level of  
9 command.

10 Q. And can I just go back a step to the signatures. And I just  
11 want to confirm, during the preparation session that you had with the  
12 Prosecution with Mr. Halling, who sits in court, you were not given  
13 the signatures of Mr. Isufi to place side by side and compare?

14 A. I was asked if this was Isufi's signature in my opinion, and I  
15 stated yes, it was.

16 Q. Right. And it's -- thank you.

17 A. To the best of my knowledge, it appeared to be legitimate. That  
18 was true on the day of the raid, and I still believe it today.

19 Q. Thank you. Now, when you were interviewed about Florim  
20 Kllokoqi, you said that it was -- that he fell, as far as we  
21 understood, under the command of Isufi. And that's from your  
22 interview with the Prosecution, P1510.2, page 12, line 14. Do you  
23 recall --

24 A. Yes.

25 Q. -- giving that answer?

1 A. I do.

2 Q. Now, from this document, at least in theory, it would be for  
3 Florim Klllokoqi to report to the company, to the 1st Company, who  
4 would then report to the 1st Battalion, who would then report  
5 upwards. That would be --

6 A. No.

7 Q. -- how it would work in theory?

8 A. He, as you can see on the translation, sir, he was given the  
9 leadership of the forming battalion of the element in that to lead  
10 the 1st Battalion 1st Company 3rd Unit, or whatever size element was  
11 supposed to be in charge of Novo Brdo. This is what he stated to us,  
12 that he was the legitimate commander of Novo Brdo, and he presented  
13 the document to back that up.

14 Q. Right. But were you aware of a unit called the 1st Company or a  
15 unit called the 1st Battalion, sir?

16 A. We were about maybe two weeks into the mission at this point  
17 where we had actual control of the task force, so we were still  
18 trying to determine what was out there. We had this element under  
19 surveillance. We had reports of violence and killings in the area,  
20 and that was one of the reasons that we went in with a heavy force to  
21 shut it down.

22 Q. I understand that, but I'm afraid it doesn't quite answer the  
23 question that I was trying to get at.

24 A. Okay. Could you repeat it, please?

25 Q. I will. Were you aware of a unit called the 1st Company in the

1 KLA in your area?

2 A. As I related, we were trying to learn that. So, no. We became  
3 aware, as we would do these raids, what was purported to be the  
4 structure in each place.

5 Q. And it would be the same answer in relation to the  
6 1st Battalion, you weren't aware of that at the time you conducted  
7 these raids; yes?

8 A. Only that an element was in Novo Brdo.

9 Q. Right. And so you wouldn't personally know what communications  
10 they had between them or how the line of reporting worked in  
11 practice, would you?

12 A. I take Mr. Kllokoqi at his word that he was appointed to this  
13 command by whom he stated when he presented this document.

14 Q. I see. You also said to the Prosecution that:

15 "... I believe that was also associated with some type of  
16 purchase for him to obtain that position."

17 What did you mean by "some type of purchase"?

18 A. Florim was able to speak some German as well as myself. I  
19 believe he had done some driving work in German-speaking places, and  
20 he had related that he had to pay a large sum of Deutschmarks for the  
21 position.

22 Q. And so your only source for this comes from a conversation with  
23 Florim Kllokoqi himself; is that right?

24 A. It was a direct conversation. Yes, sir.

25 Q. I see. And in terms of the specific raid on Novo Brdo, I think

1 there had been reconnaissance of what you regard as the illegal  
2 assembly point at the former MUP building is there; is that right?

3 A. Yes.

4 Q. There would be a written record of that reconnaissance, would  
5 there?

6 A. Yes. And I believe it is even presented or it showed that we  
7 had inserted snipers and scouts prior to the raid and what had led us  
8 to it. It is in the records presented.

9 Q. And presumably there would also be records identifying the  
10 people detained by your unit and various other records created in the  
11 course of their detention. That would be right, wouldn't it?

12 A. One should hope.

13 Q. Very well. Now dealing then with a different raid, and you've  
14 already been asked about this, so I'll keep it short. This is the  
15 administrative building in Gjilan where the computers were seized.

16 Were there logs kept of surveillance of that premises before the  
17 raid?

18 A. We had reports of activity going on there that led us to do the  
19 raid.

20 Q. Written reports?

21 A. Yes. We had reports from snipers and scouts that were posted in  
22 the area. We also had conversations and reports with regard to  
23 1st MP of an administrative entity that was functioning in Gnjilane,  
24 and that would have been a violation of the technical agreement.  
25 They were supposed to only be in Malisevo.



1 Q. Very well. And those written reports would be of great  
2 assistance in seeing today who was going in and out of that building  
3 and how long it was operating for, presumably?

4 A. I'm sure it would be of interest.

5 Q. Right. And again in relation to this raid, was a log kept of  
6 the documents that were taken from that raid whilst in the course of  
7 the raid itself?

8 A. There must have been for us to know what type of documents had  
9 been processed and determined from it.

10 Q. Very well.

11 A. Which is listed in what I've already stated in the record.

12 Q. Now, I want to move on to go back to Mr. Ahmet Isufi. And in  
13 answers yesterday, you confirmed that you had occasional meetings  
14 with him. You were not the commander of the task force, you were the  
15 operations officer, but you would meet with him from time to time.

16 And my question is there should have been records kept of those  
17 meetings, shouldn't there?

18 A. Yes.

19 Q. And those records would assist in identifying how often you met  
20 with Mr. Isufi, who else was there, what was discussed in those  
21 meetings; correct?

22 A. I would relay the information back to my commander and also to  
23 our intelligence officer and would give out briefs to what was  
24 discussed.

25 Q. Right. And you were not shown by the Prosecution in the course

1 of your preparation session last week those records of your

2 conversations with Mr. Isufi, were you?

3 A. I only recall the statements that I had given in my interviews.

4 Q. I see.

5 A. And then other items that had been submitted either from journal  
6 excerpts or from the historical items that had been presented.

7 Q. Yes. Because the problem is, after 25 years, it's difficult to  
8 recall the -- to pinpoint dates of meetings and exactly what was  
9 discussed at each meeting.

10 A. Sure.

11 Q. That's why the records exist, isn't it?

12 A. Yes. Thank God we kept some. None of us would be here.

13 Q. Now, can I go back then to the dormitory, the Internat location.  
14 And, again, I'll just read back to you something from your interview  
15 with the Prosecution.

16 MR. ELLIS: It's P1509 at page 42 beginning at line 4.

17 Q. You said:

18 "Our snipers were posted with their high-speed telescopic  
19 cameras and other things, and we got a picture of a lot of these guys  
20 when they were early on at that. So Isufi was physically there at  
21 the site, at the place, you know, sometime, long ... before this,  
22 with uniformed personnel and others."

23 You recall that answer, sir?

24 A. Yes. And I stated even earlier today we saw a flow in and out  
25 of different individuals.

1 Q. Exactly. And given the potential importance of that, there  
2 would have been a record kept at the time of who the surveillance  
3 team, the snipers were seeing going in and out; correct?

4 A. To the extent that they could identify them, I suppose.

5 Q. And in relation to Mr. Isufi specifically, the document  
6 should -- the record, the log should show how they identified him,  
7 when he entered, how long he was there for; correct?

8 A. I can give you a specific example where he was identified. I  
9 believe it was 1 August.

10 Q. I'll come to that in a moment, because we've seen the  
11 photograph, I'll come to it now, in fact, since you've raised it  
12 [Overlapping speakers] ...

13 A. Well, he was identified and that's what alerted everyone to what  
14 was going on and why was he there.

15 Q. Well, 1 August, you explained to the Prosecution last week when  
16 you had a chance to, I think, check the date, that's the date of a  
17 soccer match that was going on next to the Internat, isn't it?

18 A. That was the explanation, yes.

19 Q. And there was a crowd of people there for the soccer match  
20 including Mr. Isufi in uniform; yes?

21 A. And a parade and a formation of UCK soldiers. That's what  
22 caused alarm.

23 Q. But at this point, apart from that incident on 1 August, you  
24 can't now say whether Mr. Isufi was observed going into the dormitory  
25 at any other time or how long he was there for or even what he was

1 doing there, can you?

2 A. I've given you specific examples where he was present.

3 Q. Well, you've given one specific example of 1 August.

4 A. He was --

5 Q. We've seen the photographs.

6 A. -- there on 9 August as well.

7 Q. Oh, of course, because that's the date of the raid. Am I --

8 A. Yes.

9 Q. Am I right about that?

10 A. Yes.

11 Q. Very well. You were asked in your interview whether you got a  
12 sense for how long that location had been operational, and your  
13 response was that it was hard to say. And I think it's right that  
14 you were doing reconnaissance on the Internat in late July, early  
15 August 1999; correct?

16 A. We had been alerted to it early on. The initial explanations  
17 were the number of military-aged men and the activity there was  
18 perhaps related to the International Office of Migration activity.  
19 We took that at face value, but we began to investigate it more as  
20 time developed.

21 Q. And the time -- to the best of your recollection, the time when  
22 you start investigating it more is late July. That's --

23 A. Yes.

24 Q. -- right? And it follows, doesn't it, that you wouldn't be able  
25 to say what activity was going on there before late July because you

1 haven't got the reconnaissance in place?

2 A. We had documents that showed quite a bit of activity had been  
3 occurring there. As an example, meal cards, dispatches of vehicles.  
4 There were PT schedules for physical fitness. This showed a level of  
5 complexity and organisation that would not have been consistent with  
6 IOM. And these were documents that were discovered on the raid on  
7 the 9th. So I can say that the place had been used for military  
8 activity for some time.

9 Q. Now, you've said -- and those are documents that, in the main,  
10 we don't have before us, aren't they?

11 A. We have the memory of them.

12 Q. I see. Now, you said yesterday that there were a bloodstain on  
13 the floor of one of the rooms which was not damp but you thought was  
14 fairly fresh. And I wanted to ask you this: Are you aware that  
15 there's a whole field of forensic expertise that specialises in the  
16 analysis of bloodstains, blood spatters?

17 A. I'm sure there is.

18 Q. Can you help us with what forensic investigation was carried out  
19 by the military police or the Criminal Investigation Department of  
20 that room?

21 A. I would have to defer to Colonel Matthews and perhaps some of  
22 the MP records on that.

23 Q. Very well. And you've told the Court that when he arrived on  
24 the scene on 9 August, you took Mr. Isufi to the room and showed him.  
25 But you don't know whether he was aware of that before you showed it

1 to him, do you?

2 A. He kept his emotions to himself and he said very little.

3 Q. Exactly. He didn't say anything either way, did he?

4 A. No, and that's on the record.

5 Q. Yeah, very well. Now, in answer to questions yesterday from  
6 Ms. Tavakoli in front of me, you explained that you didn't recall  
7 dealing directly with anybody above Mr. Isufi in the KLA structure,  
8 and you didn't deal personally with anyone in the KLA General Staff.

9 Now, earlier in the day you'd been asked by the Prosecution a  
10 series of questions beginning: Did the KLA leadership that you  
11 interacted with ever refer any investigations to you? And my  
12 question, sir, is when you gave answers about the KLA leadership that  
13 you interacted with, you must have been speaking about the people  
14 that you dealt with, namely, at its highest, Mr. Isufi and the other  
15 KLA people in Gjilan? That's right, isn't it?

16 A. It would have been the people that were there in MNB East if  
17 they had come to us with something, I suppose.

18 Q. Exactly. Because you certainly haven't mentioned in your  
19 statements or evidence that you had any dealings at all with  
20 Jakup Krasniqi, have you?

21 A. No. That's not why I was called to come to this Court.

22 Q. I see. And although you've said that there are occasions when  
23 Isufi might have said that something had to be coordinated at a  
24 higher level, you haven't actually witnessed him coordinating with  
25 anybody above himself, have you?

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1 A. In the UCK chain of command?

2 Q. Yes.

3 A. No, only that he would be present at a speech in Zegra where you  
4 had leaders that were there that were higher level.

5 Q. I see.

6 A. That would be one thing I would recall.

7 Q. Could I have on screen -- moving on to a different topic, sir.

8 MR. ELLIS: Could I have on screen, please, 0351-5084 to  
9 0351-5384 at page 5117. I'm sorry, I think I made a mess of reading  
10 that out. The page reference was 5117. We think it's around page 34  
11 in the PDF if that assists. Yes, I think that's it. Thank you.

12 Q. This is a document you were shown by the Prosecution last week  
13 in your preparation session. And you told them, I think, that you  
14 hadn't seen this before. That's right, isn't it?

15 A. That's what I said.

16 Q. And you said as for the specific information reported, your unit  
17 did not have operational control before 10 July 1999. That's --

18 A. That's correct.

19 Q. -- right, isn't it? And you said that you never attempted to  
20 discuss or negotiate the release of a specific prisoner from the  
21 Internat, the dormitory. That's right, isn't it?

22 A. I don't recall being asked about an Internat dormitory release.  
23 What are you referring to there?

24 Q. Well, I'm just reading back to you what your preparation note  
25 with the Prosecution says, and it says the only KLA prison in Gjilan

1 that you knew of was the one in the Internat, and you never attempted  
2 to discuss or negotiate the release of a specific prisoner there.

3 You recall giving that answer last week?

4 A. I think that that's out of context. There was no legitimate KLA  
5 prison anywhere.

6 Q. No, I appreciate that. I'm asking you about what it says about  
7 you. You said that you never attempted to discuss or negotiate the  
8 release of a specific prisoner there. That's right, isn't it?

9 A. I would like to, I guess, see what the -- the whole statement of  
10 what I said rather than cherry-pick something that I couldn't be  
11 accurate on.

12 Q. Very well.

13 MR. ELLIS: Could we have Preparation Note 2 on the screen.  
14 It's 122338 is the page that I'm looking at. The ERN begins 122336  
15 for the whole document. And it's paragraph 21.

16 Q. Sorry, I wasn't trying to cherry-pick, sir. I was just putting  
17 back to you what's been [Overlapping speakers] ...

18 A. No, this context helps. Thank you for that.

19 Q. I'm grateful. So it's right, isn't it, you did not have  
20 operational control before 10 July 1999?

21 A. That's correct.

22 Q. And a conversation like this would not have happened before  
23 that; yes?

24 A. That's correct.

25 Q. And it's right that you never attempted to discuss or negotiate



1 the release of a specific prisoner there?

2 A. Not me specifically, no.

3 Q. Right. And you carried on over the page to say that you suspect  
4 "the provider of this information is somehow mistaken as to the  
5 details. The mistake could be in relation to the timeline, to  
6 confusing the [KLA's] prison with KFOR's prison, and/or whether the  
7 person spoke with [you] or another person."

8 Again, that's what you said last week?

9 A. I think that's -- yes, that's correct.

10 Q. I see.

11 MR. ELLIS: Thank you. The document can be taken down.

12 Q. And I just want to end here, Witness. At the end of your  
13 exchange with Ms. O'Reilly at the end of yesterday, you gave -- and  
14 it's page 144 in the provisional transcript. You gave a figure of  
15 3.000 members of the MUP killed during the conflict. And my question  
16 for you, sir, is where did that figure come from?

17 A. It was one that I recall from the time. I don't remember its  
18 source.

19 Q. Right. And when you say "from the time," this would be dealing  
20 with events that happened before your own deployment into Kosovo.  
21 That's right, isn't it?

22 A. It would have been in relation to 1999 and the preparations  
23 thereof.

24 Q. I see. Now, I don't have the document on the presentation  
25 queue, but if I suggest to you that on the Humanitarian Law Centre's

1 web site, which is the NGO associated with Natasa Kandic, it has a  
2 figure of around 1.700 Serbs killed in the conflict, that covering  
3 the VJ, MUP, and civilians, could it be your figure of 3.000 is  
4 completely wrong, sir?

5 A. I suppose it's up for debate depending upon what the source  
6 would have been at the time. As I remember the explanation of it, it  
7 was related over a period of years in that particular unrest. It  
8 wasn't all in 1999.

9 Q. Very well.

10 MR. ELLIS: Thank you, Your Honour.

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

12 Any redirect?

13 MR. HALLING: None, Your Honour.

14 PRESIDING JUDGE SMITH: Questions?

15 Judge Barthe, seated to my left, your right, will have some  
16 questions for you now.

17 THE WITNESS: Yes, Your Honour.

18 JUDGE BARTHE: Thank you very much, Judge Smith.

19 Questioned by the Trial Panel:

20 JUDGE BARTHE: And good morning, Mr. Russell.

21 A. Good morning, sir.

22 JUDGE BARTHE: As the Presiding Judge just told you, the Panel  
23 has a few more questions for you on a number of issues which we  
24 believe require further clarification or elaboration.

25 And my first question is about what you told the Prosecution

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1 during your preparation last week. In paragraph 32 of Preparation  
2 Note 2, the following is recorded in relation to a photograph you  
3 also discussed with Ms. Tavakoli from the Thaci Defence yesterday. I  
4 quote:

5 "This is a picture of a soldier from the 1 August 1999 soccer  
6 match. W04868 does not know why this man would specifically be  
7 referred to as a 'UCK thug' in the title of the slide, but the  
8 reality was that W04868's unit was spending the majority of its time  
9 trying to enforce international agreements against the very people  
10 they were trying to save. There were incidents of looting and other  
11 crimes, but most of the time violations could be tracked to people  
12 from the KLA."

13 Now, Mr. Russell, my question is can you please tell us again  
14 why most of these violations could be tracked to people from the KLA;  
15 in other words, how could the violations or crimes be attributed to  
16 the KLA?

17 A. Yes, Your Honour. When we would -- aside from the raids and the  
18 documents that have been thoroughly discussed so far, when we would  
19 see the killings and attacks and the events that would occur, it was  
20 done with a level of organisation that would not be afforded to  
21 ordinary people.

22 For example, many of the killings were done with indirect fire  
23 weapons systems, like mortars. They were done with 75-millimetre  
24 recoilless rifles. These are crew-served weapons that would have a  
25 level of training, and their ability to transport and to find the

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1 ammunition and the training to utilise them to conduct such killing  
2 would have had a level of training consistent with all of the other  
3 factors that we were seeing in our raids when we would capture things  
4 or we would capture weapons systems.

5 That would also be true of -- I personally observed on an  
6 observation prior to Novo Brdo raid what appeared to be what we would  
7 have called an L-shaped ambush. The distance, the men were dressed  
8 in black, so it's impossible to know who they were. We were not able  
9 to get to them in time to save the Serb man that was killed there.  
10 But it was conducted in such a way that infantrymen would recognise  
11 the tactics and what -- it would be in an L so that a person trying  
12 to flee one direction would be caught by the other. And that level  
13 of sophistication and training seemed to point to military forces.

14 JUDGE BARTHE: Thank you. My next question is about a similar  
15 issue. Mr. Russell, have you ever heard of allegations that in  
16 summer 1999 criminals from Albania or from elsewhere came to Kosovo  
17 to commit crimes disguised or dressed as KLA soldiers? Have you ever  
18 heard of that?

19 A. We -- Your Honour, we had reports on both sides that there would  
20 be criminal elements. Some were calling them Albanians; some were  
21 calling them Chetniks if it were on the Serb side. All spoke to that  
22 it wasn't their people in their village or their folks. And so we  
23 would hear in conversation things that might be consistent with that.

24 JUDGE BARTHE: Thank you. Assuming these allegations were true,  
25 how could you be sure that the people you or your comrades thought

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1 were KLA actually belonged to the KLA and were not such criminals?  
2 In other words, what did you do to verify whether the people in front  
3 of you were actually from the KLA?

4 A. The ones that we would detain, Your Honour, many times would  
5 have identification showing such, or they would be taken from places  
6 that were purported to be authorised UCK locations, even though there  
7 were only two in our area. So that would have tied them to that.

8 In terms of the other, it would be unlikely that small random  
9 criminal elements would have the capacity or the capability to  
10 operate sophisticated infantry-type weapons systems.

11 JUDGE BARTHE: And you also talked about flags or emblems you  
12 found in several -- or during your raids, the raids you conducted.

13 A. Yes.

14 JUDGE BARTHE: Is that also a factor which was relevant to your  
15 assessment that the people who you encountered were actually from the  
16 KLA?

17 A. Yes. The -- in the case on the Internat raid, Your Honour,  
18 there was a unit flag. It was distinguished from the national flag,  
19 the Albanian two-headed eagle flag. Those were everywhere. But when  
20 they would be stencilled with units or geographical markings on them,  
21 this denoted a unit, and we did encounter that.

22 JUDGE BARTHE: You were asked by the Defence about your  
23 knowledge about black markets and what you could or one could buy on  
24 black markets, such black markets. Are you aware that these flags or  
25 emblems, KLA uniforms were available, could be bought on black

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1 markets or at black markets?

2 A. Your Honour, there were, like, vendor stands that I remember  
3 with souvenirs and small trinkets that were in downtown Gnjilane by  
4 the summer that developed, late summer. But in terms of  
5 distinguishing between trinkets and souvenirs, that was much  
6 different. When taken together with documents and people from an  
7 area and then a battle flag of a unit, all of that taken together  
8 seemed to point to its cohesion.

9 JUDGE BARTHE: So, in other words, you had no doubts that the  
10 people you encountered during your raids were actually from the KLA  
11 and not criminal elements from Albania or from elsewhere?

12 A. That would have been the case on the Internat raid. Yes,  
13 Your Honour. The building was also -- even our surveillance, it was  
14 stencilled with a large UCK mural that was placed on the wall. That  
15 was in direct violation of the Military Technical Agreement. And  
16 this was an exterior wall in view of the public.

17 JUDGE BARTHE: And what about the other raids you participated  
18 in? Did you have any doubts that the people you encountered there  
19 were from the KLA, members of the KLA?

20 A. In the initial probing and reconnaissance and reports,  
21 sometimes, like the case of the Novo Brdo raid, it would be a direct  
22 ask. And as we determined what was allowed and what was not allowed  
23 to be in theatre, then we would shut it down. In the case of Novo  
24 Brdo, it was simply stated, you know, here they are, this is a UCK  
25 headquarters -- or maybe not "headquarters" is the accurate word, but

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1 that's essentially what its function was. It was the element there  
2 in that area.

3 JUDGE BARTHE: Thank you very much, Mr. Russell. That's all  
4 from me.

5 A. Yes, Your Honour.

6 JUDGE BARTHE: Thank you.

7 PRESIDING JUDGE SMITH: Judge Mettraux.

8 Oh, it's 11.00. We'll break for a half hour at this time and  
9 we'll finish up with the Judges' questions.

10 Please do not speak with anyone about your testimony, and you  
11 may leave the courtroom now in the company of the Court Usher.

12 THE WITNESS: Yes, Your Honour.

13 [The witness stands down]

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

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

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

17 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness  
18 in.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: Please be seated.

21 All right. Mr. Russell, as I said, Judge Mettraux, on my right,  
22 your left, will now have some questions for you.

23 THE WITNESS: Yes, Your Honour.

24 JUDGE METTRAUX: Thank you, Judge Smith.

25 And good morning, Mr. Russell. I'd like to ask you about

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1 something you told the Prosecutor last week during your preparation  
2 session which you briefly touched upon yesterday with the Prosecutor.  
3 And for the record, it's Preparation Note 2, ERN 122336 to 122342.

4 And I will ask the Registry to please go to page 122339 and to  
5 focus on paragraph 27. Thank you.

6 Now, Mr. Russell, that's the record that we received of your  
7 meeting of last week with the Prosecutor, and it records you as  
8 saying the following, paragraph 27:

9 "Had KLA leaders referred crimes of their soldiers to U.S. KFOR,  
10 these would have been investigated by U.S. KFOR. W04868," that's  
11 you, "is not aware of any such referral occurring - what was instead  
12 being reported by KLA leaders were alleged violations by Serbs and  
13 U.S./Russian KFOR. The only other KLA reporting W04868 could recall  
14 were from certain low level KLA infantry, who became friendly with  
15 U.S. KFOR and provided some information about non-KLA crimes."

16 Do you recall saying that to the Prosecutor, Mr. Russell?

17 A. Yes, I do, Your Honour.

18 JUDGE METTRAUX: And does that correctly reflect what you said  
19 last week?

20 A. Yes, it does.

21 JUDGE METTRAUX: Now, I want to ask you a bit more specificity  
22 about the process or procedure that was in place for such report or  
23 referral to be made to you as KFOR. Can you tell us what procedure  
24 was in place for that purpose and who was in charge of receiving  
25 these referrals or requests?



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1 A. I'll do my best, Your Honour. If it were something that would  
2 be a violation of the technical agreement, for example, then that  
3 would get resources involved at the task force level because that  
4 would necessarily have the attention of our chain of command. If it  
5 was lower level, then our unit commanders could deal with that as a  
6 matter of course.

7 For example, suppose some citizen of Gnjilane would come up and  
8 say, "They're in my home, they're breaking in, they're looting," and  
9 you would have cases of that, then maybe an infantry soldier from our  
10 B Company who was in the city, his chain of command, they would deal  
11 with that, they would handle that, they would implement whatever they  
12 would need to do to adjudicate that. Typically, early on it might be  
13 to find an MP. But if it was something that was violation of the --  
14 or just make it stop. You know, seize the goods, you know, whatever.  
15 But if it were a violation of the agreements, then that would come to  
16 our level and then we would take it at a greater depth.

17 JUDGE METTRAUX: And just for clarification, what was the  
18 procedure to record or to receive such a complaint? Let's say a KLA  
19 member wanted to come to you to make such a report. What was in  
20 place to receive it and make a record of it?

21 A. They had access to us through direct liaison. We had -- there  
22 was an element in the city of Gnjilane that we allowed. We got  
23 authorisation for it. It -- it became what we called the UCK mini  
24 assembly area. It was understood, and argued by the KLA and our own  
25 soldiers, that a constant shuttle to and from Malisevo could consume

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1 a lot of coordination and time, and so a mini assembly area was  
2 authorised to stay in the downtown area. That was shut down on  
3 20 September to meet the requirements of the technical agreement.

4 But in terms of how somebody might report, we had a liaison that  
5 was stationed at that mini assembly area. Mike Matthews also would  
6 have had -- they would have been able to access him at the police  
7 station. So people knew where we were if they wanted to come to us.

8 We also -- we were in the old VJ army barracks that belonged to  
9 an artillery unit, I believe. That became Camp Monteith. And people  
10 knew where that was and they would often come to the gate and they  
11 would ask. We had reports even informally where maybe workers on the  
12 camp, most of them Albanian, and, you know, they were very useful to  
13 everything that we did to function, they might report something, and  
14 we would try to investigate and act on that.

15 Or we would, in our visits to villages, whether they were  
16 Albanian, Serbian, or in the small enclaves of Roma, we would take  
17 their -- you know, their complaints or investigations and we would  
18 record them. This was routine by all of the leaders that circulated  
19 in the zone.

20 JUDGE METTRAUX: Thank you, sir. And just so that we understand  
21 the reach, if you wish, of your competence, were those reports  
22 limited to what was happening at the time when you were on the  
23 ground, or was it also possible for KLA members to report what had  
24 happened before your arrival on the ground?

25 A. I don't recall -- well, I take that back. There were reports on

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1 both the Serb and Albanian side that reported of mass graves and  
2 wanted us to investigate things of that nature. They would report of  
3 crimes that had occurred before any NATO forces had arrived and that  
4 in such-and-such case they were buried here, or they would be over  
5 there. And we did try to investigate that because we reported that  
6 up. That would be big news, you know, for anyone to try to  
7 investigate mass graves and find their locations.

8 And so those types of reports would typically come from those in  
9 villages or those that we interrelated with, and we got reports -- I  
10 don't recall any from the Roma population, but I do recall we had  
11 similar types of reports from both Albanian and Serb.

12 JUDGE METTRAUX: And what would you do with that information?

13 A. We would try to assess it accurately. We would record the name  
14 of the individuals that were reporting it. We would ask them where  
15 we could find them. Obviously, in many cases, they would be in a  
16 residence of the village. In some cases they might be current  
17 residents in a village but weren't there when it had occurred. They  
18 had been displaced. And so we would still take that seriously.

19 I remember a particular village called Vlastica, south of  
20 Pasjani, that became an item of interest in that regard, and there  
21 was much investigation around it and to search for these mass graves,  
22 which, at least by the time we left, had not materialised. They did  
23 find a small grave but it was -- it proved to be mixed population  
24 upon examination.

25 JUDGE METTRAUX: Thank you. In the record of your meeting of

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1 last week, you make reference to KLA leaders who you say alleged  
2 violations by Serbs and US/Russian KFOR. Do you have any  
3 recollection of the names of any of these KLA leaders you refer to  
4 here?

5 A. I don't recall the names. I do recall the complaints,  
6 Your Honour.

7 JUDGE METTRAUX: And to your knowledge, were similar mechanisms  
8 or procedures available in other zones? I mean zones other than the  
9 one you were in charge of.

10 A. That would be a yes, Your Honour, because when the Russians  
11 occupied Kamenica, for example, there were concerns from the local  
12 populations that the Russians would not be fair to the Albanians, and  
13 that there were concerns from the Serbs that the Russians' presence  
14 might stir up and intimidate the circumstances in Gnjilane provinces.  
15 And so there was a lot of nervousness just from the rank-and-file  
16 people that lived in the villages.

17 So we would get complaints about actions of Russian patrols, and  
18 then we would take it to the Russian commanders, and, you know, the  
19 same type of thing. We finally landed at the best way to achieve it  
20 was to just do joint patrols, and I actually participated in the  
21 first one. And I sat on top of a BTR-80 Russian infantry vehicle and  
22 just went on patrol with them, and it was quite fascinating. And the  
23 reactions that I got in the different villages were telling.

24 And then when they would see American -- a couple of American  
25 soldiers on top of the Russian vehicle with them, then certain

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1 gestures would change to peace signs. So it was -- it was  
2 interesting.

3 And then the opposite was true when we would go into Serbian  
4 villages, where it would be one reaction, oh, here's the Russians,  
5 and then they would see the Americans and they would be more guarded.  
6 But we felt that this would be a way that we could be at least  
7 unified in effort with the forces that we had at hand to make  
8 violence stop.

9 JUDGE METTRAUX: And in the context of looking into these  
10 complaints or reports that you were receiving, did you either seek or  
11 receive any form of assistance from KLA members or former KLA  
12 members?

13 A. I don't recall specifically my involvement with that, but I  
14 suppose, Your Honour, that in particular this village of Vlastica  
15 that I mentioned, that there were some queries being made as to the  
16 nature of what the crimes were and what the locations might be. And  
17 that would have been true in the city of Zegra as well with the  
18 regard to the things that had happened there on both sides with great  
19 suffering. It was a 60/40 village, and so it was quite divided.

20 JUDGE METTRAUX: And just to be clear, when you say that some  
21 queries were made, you made queries with the KLA as to what happened?  
22 Do I understand that correctly?

23 A. We -- well, I -- as I said, on the investigations where it got  
24 into the -- kind of the massacres or whatever you want to call them,  
25 we had to take that dead serious and to look at that, but that would

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1 go outside of my daily operations in enforcing combat operations or  
2 at least in a combat environment, which it definitely was later  
3 recognised as combat operations, and it should have been. But we  
4 were primarily focused on that mission rather than investigations of  
5 the other nature.

6 JUDGE METTRAUX: Understood. I have a last question, and I  
7 simply want to make clear that I understood your evidence of  
8 yesterday correctly.

9 I understood you to suggest that the responsibility for both  
10 policing and investigation of crimes once you were on the ground was  
11 within the exclusive competence of KFOR and then the UN, and that the  
12 disciplinary responsibility remained with the KLA. Did I understand  
13 your evidence on that point correctly?

14 A. The -- I'm not sure, Your Honour, I understand the context of  
15 the disciplinary. Are you talking about within the UCK ranks  
16 themselves or policing in general in the -- in the opstinas?

17 JUDGE METTRAUX: I meant within the KLA itself.

18 A. We assumed that they would take care of their own, yes.

19 JUDGE METTRAUX: And could you tell us what was the basis of  
20 this assumption or understanding that they maintained that  
21 responsibility within the ranks?

22 A. They were allowed, under the Military Technical Agreement, until  
23 K-plus 90, to continue to have their own internal structures, and so  
24 that's why we -- when we would see things that were more of an  
25 institutional or civic or ministry nature, we would crack down on

1 that. But in terms of things within their own ranks and militaries  
2 as related to being able to turn in heavy weaponry and weapons to  
3 weapons storage sites, being able to assemble and register former UCK  
4 soldiers so that they might be turned over to the IOM and that might  
5 necessitate assembling them at an assembly area like Malisevo, so we  
6 understood that they still had to maintain until K-plus 90 some level  
7 of organisation in order for them to accomplish their part of the  
8 agreement.

9 JUDGE METTRAUX: I'm grateful. Thank you, sir.

10 A. Thank you, Your Honour.

11 PRESIDING JUDGE SMITH: Judge Gaynor, do you have any questions?

12 JUDGE GAYNOR: Thank you, Judge Smith.

13 Good morning, Mr. Russell.

14 A. Good morning, Your Honour.

15 JUDGE GAYNOR: I'd like to ask you a few questions which follow  
16 on from what you've just been discussing, and it concerns really the  
17 interaction between what you said about illegal police activity on  
18 the one hand and the obligation to investigate war crimes on the  
19 other.

20 So you said, I think, you told the SPO, this is page 30 of  
21 P1509.2:

22 "Any time we would get indication of illegal police activity, we  
23 got on that very quickly because it wasn't authorised."

24 You recall that --

25 A. Yes, Your Honour.

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1 JUDGE GAYNOR: -- sentence? Yes. Now, you'll be familiar with  
2 the general obligation on each party to an armed conflict to  
3 investigate war crimes by its own forces?

4 A. Yes, Your Honour.

5 JUDGE GAYNOR: Now, would you say that the creation of KFOR and  
6 UN Security Council Resolution 1244, would you say that that released  
7 either the Government of Serbia on the one hand or the KLA on the  
8 other from the obligation to investigate war crimes by their own  
9 armed forces?

10 A. Your Honour, in answering that, I -- I think the hope was they  
11 would get there. But in the early days of the mission, particularly  
12 the first six months, it literally was to try to keep property from  
13 being burned and people from being killed. And so you had hope that  
14 there would be some of that institutional structure that would  
15 formulate. We certainly thought that there should be accounting on  
16 both sides, and even third party such as populations like the Roma  
17 who had no advocate.

18 But in terms of responsibility, I don't think we ever viewed  
19 that they shouldn't step up to that responsibility. But at the boot  
20 level, in its execution, we were focused on, one, making the violence  
21 stop; two, setting an environment where institutions could be  
22 re-established through UN guidance and UN tutelage. And then from  
23 there, the hope would be the institutions would become more  
24 strengthened, and then you would envision a day where NATO forces  
25 could even no longer be necessary.



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1 JUDGE GAYNOR: And, as a matter of fact, did you ever encounter  
2 a situation where a representative of the KLA indicated a wish to  
3 investigate crimes by their own armed forces and you told them, "No,  
4 you're not allowed to investigate crimes by your own armed forces"?

5 A. No, Your Honour, that would not have been my response. If  
6 someone had come to me with a serious allegation and a geographic  
7 location, even in general, and said, "This happened. What are you  
8 going to do about it?" that certainly would have got some attention.

9 JUDGE GAYNOR: Thank you. I'd like to move to a separate issue  
10 and it concerns a sentence in the historical review which caught my  
11 eye. We can bring that up. It's P1518. And if we can go to page  
12 105934.

13 And here you describe an incident. And I'm not so much  
14 concerned about the incident as I am in your experience as a  
15 commanding officer. I think you told us earlier today that you've  
16 commanded large numbers of soldiers in combat environments.

17 A. That's correct, Your Honour.

18 JUDGE GAYNOR: Now, in the paragraph which is number 7, in the  
19 middle, it says:

20 "BG Peterson was concerned about danger to U.S. Troops in  
21 villages and outposts. He ordered all task forces to think about how  
22 to conduct operations solely from Camps Bondsteel and Monteith.  
23 Subordinate commanders unanimously opposed the proposal."

24 And then the paragraph goes on into some detail.

25 Now, again, I'm not very interested in this incident. I'm

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1 interested in the part which says:

2 "Subordinate commanders unanimously opposed the proposal."

3 And my question to you is this: Over the course of your  
4 experience, is it fairly standard procedure for a commander to seek  
5 out the views of subordinate commanders on a particular proposal?

6 A. I can speak for the American army. Yes. You certainly value  
7 the experience and the things that people are seeing first-hand and  
8 on the ground. Many times these are human missions rather than  
9 combat missions. And if you are more circulating with the people,  
10 whether it's Iraq, Afghanistan, Kosovo, Kuwait, wherever, and I've  
11 been to all of those places, if you begin to view everything outside  
12 the gate as them, it has a dehumanising effect. And so if you are  
13 embedded in the villages with them, then you have an understanding of  
14 what it is they're going through.

15 JUDGE GAYNOR: And would it be fairly standard practice for  
16 subordinate commanders sometimes to unanimously oppose a proposal  
17 which you have put to them or which they've received from a  
18 commanding officer?

19 A. Not only does it happen, it often will advise and change the  
20 decision of the commander. Now that said, Your Honour, if the  
21 commander is adamant that, sorry, that's the order, go do it, then  
22 that's what we go do. And it's our tradition that not only do we go  
23 do it, but we go do it as if the order were our own and we execute it  
24 properly.

25 JUDGE GAYNOR: And on the basis of your experience, would you

1 say that a situation where subordinate commanders unanimously oppose  
2 a particular proposal, would you say that that negatively affects the  
3 integrity of the command structure in any way?

4 A. I would not say that, Your Honour. In our culture, we're  
5 constantly -- I mean, everybody gets a vote. What do you want for  
6 dinner? Oh, I want this, that, or the other. I mean, every decision  
7 oft-times is invited to have interaction, culturally, and so I think  
8 it's part of that. And then oft-times, commanders, they recognise  
9 that in a tough decision you want your subordinate commanders to have  
10 buy-in, and if they've had a chance to discuss and articulate  
11 concerns, then they at least feel like their voice has been heard and  
12 that helps on execution.

13 JUDGE GAYNOR: So it's, in fact, good practice, in your  
14 experience, for the high levels of command to seek out the views of  
15 the subordinate commanders?

16 A. In my decades of military service, I never knew any other way of  
17 operation. It was encouraged for people to speak up.

18 JUDGE GAYNOR: Those are my questions. Thank you very much.

19 A. Thank you, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you.

21 Mr. Halling, any questions that arise from the Judges'  
22 questions?

23 MR. HALLING: Nothing further.

24 PRESIDING JUDGE SMITH: Ms. Tavakoli?

25 MS. TAVAKOLI: Yes, please.

1 Further Cross-examination by Ms. Tavakoli:

2 Q. When questioned earlier by Mr. Tully about the Ministry of  
3 Public --

4 PRESIDING JUDGE SMITH: No, these are questions about the  
5 Judges' questions.

6 MS. TAVAKOLI: Sorry, this is in relation to Judge Gaynor's  
7 questions.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. TAVAKOLI: Sorry, about the obligation, I think it's being  
10 implied, of the KLA to investigate itself.

11 Q. In relation to Mr. Tully's questions, that sits behind me, you  
12 were shown those cards, I think is it the Ministry of Public Order,  
13 and you didn't recognise that as a valid ministry, did you?

14 A. It was our understanding, ma'am, that it was associated with the  
15 UCK in a ministerial rather than a military function.

16 Q. But you didn't recognise it as having any authority at that  
17 time?

18 A. Not in a ministry capacity, no, ma'am.

19 Q. And when you referred to Hashim Thaci's speech in the historical  
20 review, you referred to Hashim Thaci then as the self-proclaimed  
21 Kosovan president. So can I take those words at face value, he  
22 proclaimed himself the Kosovan president? He didn't have authority  
23 in your eyes in terms of KFOR or UNMIK?

24 A. I think it would be better understood, ma'am, in the context  
25 that they were entering the political process, that there were

1 parties that were endeavouring to lead Kosovo in a new direction of  
2 which he was a participant, and so the statement should be understood  
3 in that context. It had not been decided yet who that new leader  
4 would be.

5 Q. Exactly. It hadn't been decided yet. So the authority on the  
6 ground at that time was KFOR. It was you, wasn't it, not these  
7 fledgling or self-proclaimed ministries and so on? You had the  
8 authority, didn't you?

9 A. We had the ultimate authority, yes.

10 Q. And --

11 A. Under the UN mandate. I mean, they had the civil authority. We  
12 had the military authority.

13 Q. So if at that time these black shirts had set up parallel  
14 structures to investigate, would that have been usurping your  
15 authority?

16 A. That would have been a violation of the Military Technical  
17 Agreement. In fact, ma'am, we were even ordered to seize the  
18 identification cards, to record the policing efforts, to eliminate  
19 it. It became a hot topic in United Nations meetings and others that  
20 the policing needed to stop.

21 Q. So, in fact, at that time there wasn't a KLA police that would  
22 have been able to investigate that. That would have, perhaps, been a  
23 future point and, in your words, hopefully they would step up into  
24 that responsibility in the future; is that correct?

25 A. We were informed that UNMIK was doing recruiting and that that

1 process would take some days. And you had all parties, and even  
2 Serbs, that were trying to evaluate how they could enter the  
3 recruitment process and be a part of this new police force.

4 Q. Thank you. So, in fact, at that time the KLA couldn't have done  
5 it. It could have done it potentially at a future date but not at  
6 that time pending recruitment, et cetera?

7 A. Done what, ma'am?

8 Q. Investigate itself. Because it was supposed to be shutting  
9 down, wasn't it?

10 A. No. Internally, military matters, they had that authority and,  
11 as I stated to the Panel of Judges, that on military matters they  
12 could and should investigate themselves. But when it came to outside  
13 efforts, violence, when it came to village incidents, crimes,  
14 whatever, that was a different matter.

15 Q. So the attacks -- the purported attacks on civilians, is that  
16 what you're saying, those crimes that you witnessed, that was  
17 something they couldn't investigate themselves? Is that the  
18 differentiation -- I'm just trying to understand the differentiation  
19 that you're making.

20 A. I suppose that they could have and should have investigated  
21 whether or not any of their elements were participating in that, and  
22 they should have because they were. But in terms of should the KLA  
23 step up and try to come in and assist UNMIK or military policing  
24 authorities other than providing, "yes, I was a witness," or "I was  
25 there," or something of that -- but wearing black shirts and going

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1 around with investigative powers, that was a clear violation of the  
2 United Nations mandate --

3 Q. Thank you.

4 A. -- as I've stated many times.

5 MS. TAVAKOLI: [Microphone not activated].

6 PRESIDING JUDGE SMITH: Ms. O'Reilly, any questions?

7 MS. O'REILLY: No, I've no further questions, Your Honour.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. TULLY: And none from me, Your Honour. Thank you.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. ELLIS: Thank you, Your Honour.

12 PRESIDING JUDGE SMITH: Mr. Russell, your testimony is  
13 completed. I'm sure you're glad to know that. We appreciate you  
14 being with us and sharing your knowledge.

15 I also want to thank Major Kyle, Ms. Hart, and Ms. Satpathy for  
16 being with us under your obligations. So you may leave the courtroom  
17 now at this time with our thanks, and the Court Usher will escort you  
18 out.

19 THE WITNESS: Thank you, Your Honour. Thank you, Panel.

20 [The witness withdrew]

21 PRESIDING JUDGE SMITH: We'll step aside for ten minutes so the  
22 new team can come in.

23 Yes, Mr. Ellis.

24 MR. ELLIS: Thank you, Your Honour. Just before Mr. Halling  
25 leaves the room, there was one procedural matter that we had

1 mentioned to him this morning.

2 We're due to file, I think on Friday, a response to the  
3 remaining Rule 154 witnesses. It's a consolidated response to  
4 filings 2450, 2460, and 2465, concerning 16 witnesses. And I'd  
5 simply seek an extension of the word limit to respond to that. We  
6 had discussed with Mr. Halling, and he did not oppose but left it to  
7 Your Honours, an extension of 4.000 words to 10.000, given that it's  
8 responding to three filings and 16 witnesses.

9 PRESIDING JUDGE SMITH: That's granted.

10 MR. ELLIS: I'm grateful.

11 PRESIDING JUDGE SMITH: Thank you.

12 [Trial Panel and Court Officer confers]

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 We were told you need 15 minutes, not 10 minutes. So we will  
15 step aside for 15 minutes.

16 We're adjourned.

17 --- Break taken at 12.04 p.m.

18 --- On resuming at 12.18 p.m.

19 PRESIDING JUDGE SMITH: We begin now hearing the evidence of  
20 Prosecution Witness W03871.

21 Madam Court Usher, please bring the witness in.

22 [The witness entered court]

23 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear?

24 THE WITNESS: [Interpretation] Good morning. Yes, I can.

25 PRESIDING JUDGE SMITH: Can you hear me all right?



1 THE WITNESS: [Interpretation] Yes.

2 PRESIDING JUDGE SMITH: I'm not getting a translation.

3 THE WITNESS: [Interpretation] Yes, I can hear you.

4 PRESIDING JUDGE SMITH: The Court Usher will now provide you  
5 with the text of the solemn declaration which you are asked to take  
6 pursuant to Rule 141(2) of our rules. Please look at the document  
7 and then read it out loud. Read it aloud.

8 THE WITNESS: [Interpretation] Solemn declaration: Rule 141(2):  
9 Conscious of the significance of my testimony and my legal  
10 responsibility, I solemnly declare that I will tell the truth, the  
11 whole truth, and nothing but the truth, and that I shall not withhold  
12 anything which has come to my knowledge.

13 WITNESS: W03871

14 [The witness answered through interpreter]

15 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated  
16 now.

17 Witness, today we will start your testimony, which is expected  
18 to last approximately one to two days. As you may know, the  
19 Prosecution will ask you questions first, and then the Defence has  
20 the right to ask questions of you, and members of the Panel might  
21 also have questions for you.

22 The Prosecution estimate for your examination is two hours. The  
23 Defence estimates that it will need close to four and a half hours.  
24 As regards each estimate, we hope that counsel will be judicious in  
25 the use of their time. The Panel may allow redirect examination if

1 conditions for it are met.

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

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

12 Please also speak into the microphone and wait five seconds  
13 before answering a question, and then speak at a slow pace for the  
14 interpreters to catch up.

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

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

22 If you feel the need to take a break, please let us know and we  
23 will do our best to accommodate you.

24 We begin now with the questions from the Prosecution, who are  
25 seated to your left.

Examination by Mr. Pace

1 Mr. Pace, you may begin.

2 MR. PACE: Thank you, Your Honour.

3 Examination by Mr. Pace:

4 Q. And good afternoon, Witness. We have met before but I'll  
5 introduce myself again. I am James Pace, a Prosecutor with the SPO.  
6 And as the Judge said, I'll be asking you questions for the next  
7 two hours or so.

8 Before I ask the Judge to move into private session to elicit  
9 some of your personal background information, I note that, as  
10 explained during your preparation session last week, rather than  
11 asking you questions about every relevant issue you may have  
12 information about, it may be possible to admit some of your prior  
13 statements containing such information into evidence. In order to do  
14 so, there are a number of procedural steps to follow, which I'll turn  
15 to after we establish your identity for the record.

16 MR. PACE: And, Your Honour, to do that, we need to move into  
17 private session for a minute or two given the witness's in-court  
18 protective measures.

19 PRESIDING JUDGE SMITH: Into private session, please,  
20 Madam Court Officer.

21 [Private session]

22 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18790

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18791

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18792

Examination by Mr. Pace

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Witness: W03871 (Private Session)

Page 18793

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18794

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18795

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18796

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18797

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18798

Examination by Mr. Pace

1 [Private session text removed]

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21 [Open session]

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

23 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.

24 Now, Mr. Pace, you may proceed.

25 MR. PACE: Thank you, Your Honour.

1           And as I was saying in private session, I'm now going to read a  
2 summary of the statements for this witness which have now been  
3 admitted into evidence.

4           W03871 joined the KLA around March 1998. He served in multiple  
5 locations training KLA soldiers and acting as commander. W03871  
6 provides evidence concerning the formation, structure, tasks,  
7 membership, and reporting of the KLA units he was in and of other KLA  
8 units he has knowledge of.

9           W03871 provides information about meetings he attended with  
10 other KLA members.

11           W03871 also provides information about the detention of a person  
12 by KLA members. This person was accused of being a spy during his  
13 detention.

14           And following that public summary, I ask to move into private  
15 session for the remainder of my questions for this witness given his  
16 in-court protective measures.

17           PRESIDING JUDGE SMITH: Back into private session, please,  
18 Madam Court Officer.

19   [Private session]

20   [Private session text removed]

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Witness: W03871 (Private Session)

Page 18800

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18801

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18802

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18803

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18804

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18805

Examination by Mr. Pace

1 [Private session text removed]

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1 [Private session text removed]

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9 [Open session]

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

11 PRESIDING JUDGE SMITH: Thank you. Now we're adjourned.

12 --- Luncheon recess taken at 1.02 p.m.

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

14 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness  
15 in.

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: You may be seated.

18 Witness, we will continue now with the questions from the SPO.

19 Go ahead, Mr. Pace.

20 MR. PACE: Thank you, Your Honour. And if we could move back  
21 into private session in view of the witness's in-court protective  
22 measures, please.

23 PRESIDING JUDGE SMITH: Into private session, please.

24 [Private session]

25 [Private session text removed]

Witness: W03871 (Private Session)

Page 18807

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18808

Examination by Mr. Pace

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Witness: W03871 (Private Session)

Page 18809

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18810

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18811

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18812

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18813

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18814

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18815

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18816

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18817

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18818

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18819

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18820

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18821

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18822

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18823

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18824

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18825

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18826

Examination by Mr. Pace

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Witness: W03871 (Private Session)

Page 18827

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18828

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18829

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18830

Examination by Mr. Pace

1 [Private session text removed]

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Witness: W03871 (Private Session)  
Procedural Matters

Page 18831

1 [Private session text removed]

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4 [Open session]

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

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

7 --- Break taken at 3.31 p.m.

8 --- On resuming at 3.44 p.m.

9 PRESIDING JUDGE SMITH: As to MFI P01547, it has the same  
10 minimal relevance, but there is enough identification to meet the  
11 *prima facie* standards of Rule 138. It will be admitted. We'll give  
12 it the weight we think appropriate.

13 Madam Usher, you may bring in the witness.

14 Regular order for questioning? Do you want to begin first?

15 MR. MISETIC: Yes, Mr. President.

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: All right. Witness, we will begin now  
18 with cross-examination. Mr. Misetiç, who is standing over here, who  
19 represents Mr. Thaci, will begin with cross-examination questions.  
20 Please give him your attention.

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

22 Cross-examination by Mr. Misetiç:

23 Q. Good afternoon, Witness.

24 A. Good afternoon.

25 MR. PACE: [Microphone not activated].

Witness: W03871 (Private Session)

Page 18832

Cross-examination by Mr. Misetic

1 MR. MISETIC: Yes, if we could go into private session, please.

2 PRESIDING JUDGE SMITH: Private session, please.

3 [Private session]

4 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18833

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18834

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18835

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18836

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18837

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18838

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18839

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18840

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18841

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18842

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18843

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18844

Cross-examination by Mr. Miletic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18845

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18846

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18847

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18848

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W03871 (Private Session)

Page 18849

Cross-examination by Mr. Misetic

1 [Private session text removed]

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1 [Private session text removed]

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8 [Open session]

9 THE COURT OFFICER: Your Honours, we are now in public session.

10 PRESIDING JUDGE SMITH: Thank you.

11 We are adjourned until 9.00 a.m. tomorrow.

12 --- Whereupon the hearing adjourned at 4.31 p.m.

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