

1 Tuesday, 21 January 2025

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.01 a.m.

5 PRESIDING JUDGE SMITH: Mr. Court Officer, please call the case.

6 THE COURT OFFICER: Good morning, Your Honours. This is the
7 file number KSC-BC-2020-06, The Specialist Prosecutor versus
8 Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi. Thank
9 you, Your Honours.

10 PRESIDING JUDGE SMITH: For the record, I note that all the
11 accused are present in the courtroom today.

12 Today we will continue hearing the evidence of Prosecution
13 Witness W02183. Before the witness is brought in, the Panel will
14 issue an oral order on filing F02837.

15 The SPO submitted that granting the request for video-conference
16 testimony would ensure the witness's health and well-being,
17 facilitate the expeditiousness of the proceedings, and would not be
18 prejudicial to the accused.

19 In oral submissions yesterday, the various Defence teams for the
20 accused indicated that they did not object to the granting of video
21 conference testimony for W02714.

22 The Registry confirmed the feasibility of conducting the
23 testimony of 2714 via videolink in correspondence 713.

24 The Trial Panel recalls that while video-conference testimony
25 should be considered only on an exceptional basis, the presence in

1 the courtroom of a witness during testimony remains the preferred
2 option. The Panel also considered the witness's health, situation,
3 and is satisfied that the witness's personal situation warrants his
4 testimony via video-conference. The Panel also considered the fact
5 that the Defence does not oppose the request for video-conference
6 testimony.

7 The Panel is satisfied that allowing W02714 to testify via
8 video-conference will not result in undue prejudice to the accused as
9 the Defence will remain fully able to cross-examine the witness.

10 The Panel is also satisfied that receiving W02714's testimony
11 via video-conference will contribute to the expeditious conduct of
12 the proceedings.

13 For these reasons, the Panel grants the SPO's request in F02837
14 and authorises W02714's testimony to take place via video-conference
15 in accordance with Rule 144.

16 This concludes the Panel's oral order.

17 Madam Court Usher, please bring the witness in.

18 MR. MISETIC: Mr. President, good morning.

19 PRESIDING JUDGE SMITH: Good morning.

20 MR. MISETIC: While I'm -- while we're waiting for the witness,
21 I would like to tender two documents that I used at the conclusion of
22 yesterday's testimony.

23 PRESIDING JUDGE SMITH: Hold on just a second. All right.

24 MR. MISETIC: The first is DHT04111 to DHT04113, a *Guardian*
25 article of 9 August 1999.

1 PRESIDING JUDGE SMITH: Yes, I have that as not yet being
2 offered.

3 Do you have an objection?

4 MS. IODICE: No, Your Honour.

5 PRESIDING JUDGE SMITH: DHT04111 to DHT04113 is admitted.
6 Please assign a number.

7 THE COURT OFFICER: Thank you, Your Honours. It will be
8 assigned Exhibit 1D00238. And it's classified as public. Thank you.

9 MR. MISETIC: Thank you. The next document is DHT04153 to
10 DHT04157, a press briefing by former acting special representative
11 De Mello.

12 PRESIDING JUDGE SMITH: Any objection?

13 MS. IODICE: No, Your Honour.

14 PRESIDING JUDGE SMITH: DHT04153 to 04157 is admitted.

15 [The witness takes the stand]

16 THE COURT OFFICER: This will be assigned Exhibit 1D00239,
17 classified as public. Thank you, Your Honours.

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. MISETIC: Thank you.

20 PRESIDING JUDGE SMITH: Good morning, Mr. Strohmeyer.

21 THE WITNESS: Good morning, Your Honour.

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

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 23999

Cross-examination by Mr. Misetic (Continued)

1 Also, please try to indicate the basis of your knowledge of
2 facts and circumstances upon which you will be questioned.

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

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

8 I remind you that you are still under an obligation to tell the
9 truth as stated by you in your solemn declaration yesterday. I also
10 remind you that the assurances provided to you on Thursday by the
11 Panel -- I'm sorry, that shouldn't be in there.

12 WITNESS: HANSJOERG STROHMEYER [Resumed]

13 PRESIDING JUDGE SMITH: So, are you ready to proceed?

14 THE WITNESS: Yes.

15 PRESIDING JUDGE SMITH: Mr. Misetic still has the floor.
16 Go ahead.

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

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

19 Q. Good morning again, Mr. Strohmeier.

20 A. Good morning.

21 MR. MISETIC: Mr. Court Officer, could we please have
22 Exhibit P1968, please, at paragraph 70, page 18.

23 Q. Mr. Strohmeier, we're going to pull up your statement again, and
24 the next topic for my examination is the Kosovo Transitional Council,
25 which you discuss in your witness statement. And you see paragraph

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24000

Cross-examination by Mr. Misetic (Continued)

1 70 there. You say that Mr. Thaci, with respect to the Kosovo
2 Transitional Council, put forward only names of KLA members, and that
3 he was "not concerned about being inclusive, and he did not want to
4 include Serbs or other minorities, and even minimise the influence of
5 other Kosovar Albanian groups, like the LDK." Do you see that?

6 A. Just -- if you -- just reading it. Yeah.

7 Q. Okay. First, as a preliminary matter, the Kosovo Transitional
8 Council, it was comprised of various political parties and ethnic
9 communities in Kosovo; correct?

10 A. Yes.

11 Q. Okay. And do you recall that on -- we'll call it the KTC. On
12 the -- as well on the KTC, there were also representatives of UNMIK
13 and KFOR; correct?

14 A. On the --

15 Q. On the KTC.

16 A. That I don't even remember anymore.

17 Q. Okay. Do you recall that on the KTC there were to be nine
18 representatives of the Kosovo Albanian community?

19 A. I mean, multiple, yes. I mean, not only one. Yeah.

20 Q. Okay.

21 MR. MISETIC: I'd like to take -- if we could keep the English
22 version of your statement on the right-hand side, and I'd like to
23 call up DHT04951 to DHT04954, please.

24 Q. And this is an article authored by a well-known author in the
25 Balkans, Laura Rozen, titled "The short, unhappy return of

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

Page 24001

1 Ibrahim Rugova," dated 16 July 1999.

2 MR. MISETIC: And if we could turn to page 2, please.

3 Q. And if we could see the paragraph that begins:

4 "Rugova and his allies are refusing to participate in the
5 UN-backed transitional council unless they get more seats than the
6 other key political forces in Kosovo, particularly the KLA and the
7 rival LBD party.

8 "That position conflicts with the agreement struck at the failed
9 Rambouillet peace talks in France on Feb. 23. There, Rugova agreed
10 that his LDK party, the KLA, the LBD party and two independent
11 journalists would each get two seats in a provisional government that
12 would govern until elections are held, and that would be led by
13 30-year-old KLA leader Hashim Thaci as prime minister.

14 "Now Rugova's party is demanding that his LDK party get a third
15 seat, and has boycotted international talks to form a Kosovo
16 provisional government until he gets it.

17 "UN administrators in Kosovo increasingly consider Rugova and
18 his close allies a nuisance. 'Please, if you have any opportunity,
19 tell [a close Rugova ally] to stop obstructing the formation of the
20 transitional council,' one frustrated UN adviser told a reporter last
21 week in Pristina. 'The UN will simply go on without the LDK and
22 Rugova if it keeps up.'"

23 And then a quote from Mr. Kouchner:

24 "'I am sad that the LDK has chosen not to participate in that
25 first meeting,' said Bernard Kouchner, the former French health

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

Page 24002

1 minister and founder of Doctors Without Borders ..."

2 And then it continues that he chaired the meeting:

3 "... UNMIK, at the opening of the meeting Friday which Rugova
4 boycotted. 'They are unhappy about the current composition of the
5 council.'"

6 Now, does this refresh your recollection that it was Mr. Rugova
7 and the LDK that was boycotting the KTC because it wanted to have
8 more representation in the KTC than the KLA; correct?

9 A. I believe that's correct. Yeah, I don't have a clear memory of
10 that, but yeah.

11 Q. Okay. As an aside, if we turn to page 3 of this article.

12 MR. MISETIC: Scroll down a bit. Yes, right at the bottom.

13 Q. It says:

14 "But on Thursday ..."

15 This is talking about Mr. Rugova's return to Kosovo:

16 "But on Thursday Rugova, looking tanned and fit ... in a crisp
17 white shirt and tie and business suit, declared that he still
18 considers himself president of Kosovo.

19 "'Yes, I am president,' Rugova said, upon his arrival in
20 Pristina, accompanied by Christopher Hill. 'I am very happy to be
21 back in free Kosovo.'"

22 Do you recall whether UNMIK acknowledged Mr. Rugova's status as
23 president of Kosovo or was he also ignoring 1244?

24 A. You mean around that return visit of Mr. Rugova?

25 Q. Yes. It's clear --

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24003

Cross-examination by Mr. Misetic (Continued)

1 A. Look, I -- if you're asking me whether I have any concrete
2 recollection whether anyone referred to him as President Rugova, I
3 don't. And I mean, I -- I believe the fact that we were pushing for
4 Mr. Rugova to join the KTC is -- testifies to the fact that we were
5 asking him to play by the same rules that we were asking everyone to
6 play; namely, by the rules of 1244.

7 Q. Yes. But the reason that he and the LDK didn't participate is
8 because they were boycotting the KTC; correct?

9 A. Yes, I mean, as I said, I don't have a very concrete memory,
10 but, yes, that seems to be the case.

11 Q. Okay. And the way the UN -- UNMIK itself allocated the seats
12 initially for representatives of the Kosovo Albanian community, as
13 you can see in the article, was based on the agreement to form the
14 provisional government in February, but you don't have a recollection
15 of that; correct?

16 A. I wasn't really involved. I mean, I was sort of -- of course,
17 the dynamics leading up to the KTC, and I think I was at the first
18 KTC meeting, but I wasn't really very intimately involved in the
19 development of the KTC or the --

20 Q. But as legal adviser, wouldn't you have had a role in how the
21 executive -- sorry, how the KTC would be set up?

22 A. Maybe I should have in addition to all the other jobs that I
23 already had as legal adviser, but the reality is that this was more
24 of a -- driven more by our political department. But I am just
25 saying -- I am not saying that I was excluded from this, but I didn't

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24004

Cross-examination by Mr. Misetic (Continued)

1 have a central role in the establishment of the KTC.

2 Q. Okay.

3 MR. MISETIC: Mr. President, I tender the article into evidence.

4 PRESIDING JUDGE SMITH: Any objection to the article?

5 MS. IODICE: No, Your Honour.

6 PRESIDING JUDGE SMITH: DHT04951 to DHT04954 is admitted.

7 THE COURT OFFICER: And will be assigned Exhibit 1D00240,
8 classified as public. Thank you, Your Honours.

9 MR. MISETIC: Thank you. Now, if we could, on the right-hand
10 side, turn the page, please -- or, sorry, keep it at 71.

11 Q. It says you were shown a code cable dated 3 July 1999 which are
12 notes of a meeting on 30 June 1999 "between the SRSG and Albanian
13 representatives including Hashim Thaci and Jakup Krasniqi ..."

14 MR. MISETIC: And if we turn the page, please.

15 Q. It says:

16 "Thaci did not want the KTC at first, but he accepted it and
17 tried to control it by bringing his people on board. I believe that
18 by making himself a prominent member of the KTC, Thaci sought to
19 place himself as a frontrunner to lead Kosovo when the KTC evolved
20 into the next stage."

21 Now, if we turn, actually, to the document that you were shown,
22 that you're commenting on in that paragraph.

23 MR. MISETIC: If we could go, please, on the left-hand side to
24 Exhibit P1975, document not to be broadcast to the public, please.

25 MS. IODICE: Your Honour, to discuss this document, could we

Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24005

Cross-examination by Mr. Misetic (Continued)

1 maybe move to private session.

2 MR. MISETIC: I'm not sure why we need to go to private session.

3 PRESIDING JUDGE SMITH: What is the reason?

4 MS. IODICE: There's Rule 107 conditions regarding the use of
5 this document.

6 PRESIDING JUDGE SMITH: Into private session, please.

7 [Private session]

8 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24006

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24007

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24008

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24009

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24010

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24011

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24012

Cross-examination by Mr. Misetic (Continued)

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9 [Open session]

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

11 Thank you.

12 MR. MISETIC: Thank you.

13 Q. Mr. Strohmeyer, now we've talked about the demobilisation
14 agreement, and I'd like to turn to one specific provision in the
15 agreement, which is --

16 MR. MISETIC: If we could go to P01444, please.

17 THE COURT OFFICER: If I may have a clarification. Would you
18 like to have it broadcasted next to the --

19 MR. MISETIC: Yes, please.

20 THE COURT OFFICER: Perfect. Thanks.

21 MR. MISETIC: Now, if we could go to -- I believe it should be
22 the last page, 078204. Yes.

23 Q. This is paragraph 25 of the agreement. Take a look at it. Have
24 you seen -- do you recall that provision in the agreement? Sorry,
25 not agreement, the undertaking.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24013

Cross-examination by Mr. Misetic (Continued)

1 A. Yes. I mean, I've just read it now. Yeah.

2 Q. You've read it. Were you aware of that provision before you
3 read it now?

4 A. I assume I was at the time. I wouldn't -- if you had asked me
5 about this five minutes ago, I wouldn't have remembered.

6 Q. Okay. So there was a provision in the undertaking where the KLA
7 specifically says that it's making the undertaking, but that it's
8 asking for consideration to be made for, among other things,
9 inclusion of UCK members into the police forces and the formation of
10 an army in Kosovo on the lines of the US National Guard; correct?

11 A. Yeah.

12 Q. Okay.

13 Mr. MISETIC: Now, if we could turn, on the left-hand side
14 again, to 1D00210, please.

15 Q. And this is a *New York Times* article reporting on the fact that
16 the undertaking had been signed, and the headline is: "Crisis in the
17 Balkans: The overview; NATO to consider letting Kosovars set up new
18 army." And if we scroll down, the first paragraph says:

19 "The agreement reached early today to disband the Kosovo
20 Liberation Army included, at the insistence of its commanders, a
21 pledge by the NATO allies to consider letting the rebels form a
22 provisional army for Kosovo modelled on the National Guard in the
23 United States."

24 If we go to page 2, it's towards the middle, in that paragraph
25 that starts: "What to do ..." In the middle, there's a sentence that

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Cross-examination by Mr. Misetic (Continued)

Page 24014

1 begins:

2 "But even some NATO allies, particularly Germany, opposed
3 including the pledge in the final document. The objections, from
4 NATO's political arm, delayed its approval and signing until the
5 early hours of this morning, even though rebel commanders and NATO
6 military officials had reached agreement late Saturday night,
7 toasting it with Bushmill's Irish whiskey at General Ceku's wartime
8 home in the mountains of central Kosovo.

9 "Germany relented only after Secretary of State Madeleine K.
10 Albright met the German Foreign Minister, Joschka Fischer, over
11 dinner on Sunday night at the conference of major industrial powers
12 in Cologne and explained that the rebel leaders would not agree to
13 disarm unless the agreement included the provision."

14 If we go to page 5 of the document, please, paragraph that
15 begins "In fact," in the middle.

16 A. Yeah.

17 Q. "... that part of the agreement proved to be the final obstacle
18 in talks that began on the military level in Albania on Tuesday and
19 continued straight through Saturday, when Mr. Thaci became involved
20 as the rebels' 'commander-in-chief.' The paragraph dealing with an
21 army was repeatedly inserted and taken out, until NATO's negotiators
22 realised that the rebels would not agree without it.

23 "'We had to show them respect,' the senior diplomat said.

24 'These are fighters who have been through a lot.'

25 "With the concessions, the rebel leaders clearly were pleased

Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24015

Cross-examination by Mr. Misetic (Continued)

1 with the agreement, even though, for now, it means handing over their
2 weapons to NATO. 'The KLA has been fighting to achieve what we have
3 achieved today,' Mr. Thaci said."

4 Now pausing for the interpreters for a minute.

5 Now, Mr. Strohmeyer, all of this is published in *The New York*
6 *Times*, so hence it's known all over the world that the KLA would not
7 sign the undertaking unless that provision was included in the
8 agreement. You would have known this at the time; correct?

9 A. I assume, yeah.

10 Q. Okay. It was understood that the KLA would continue to pursue
11 these goals after the signing of the agreement; correct?

12 A. Yes.

13 Q. Okay.

14 MR. MISETIC: Mr. President, I need to go into private session
15 due to Rule 107 restrictions.

16 PRESIDING JUDGE SMITH: Into private session, please,
17 Mr. Court Officer.

18 [Private session]

19 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24016

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24017

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24018

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24019

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24020

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24021

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24022

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24023

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24024

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24025

Cross-examination by Mr. Misetic (Continued)

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19 [Open session]

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

21 Thank you.

22 PRESIDING JUDGE SMITH: We'll take a ten-minute break at this
23 time.

24 Ten-minute break, please, Witness.

25 [The witness stands down]

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24026

Cross-examination by Mr. Misetic (Continued)

1 MS. IODICE: Your Honour, could we have an indication of the
2 cross-examination so that we know when --

3 PRESIDING JUDGE SMITH: I'm about to do that. Yes.

4 MR. MISETIC: Yes. I have three pages left, Mr. President. I
5 will finish --

6 PRESIDING JUDGE SMITH: We've been about four and a half hours
7 so far.

8 MR. MISETIC: I know. I'm finishing before 11.00. And we've
9 talked to the other Defence teams, so we shouldn't be off schedule in
10 terms of the overall Defence estimates.

11 PRESIDING JUDGE SMITH: Okay.

12 MR. MISETIC: Thank you.

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

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

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

16 PRESIDING JUDGE SMITH: Please bring the witness in.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: All right. Mr. Misetic, you may
19 continue.

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

21 Mr. President, could we go into private session, please, for
22 Rule 107 restrictions.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 Please take us into private session.

25 [Private session]

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24027

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24028

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24029

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24030

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24031

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24032

Cross-examination by Mr. Misetic (Continued)

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19 [Open session]

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

21 Thank you.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. MISETIC: Thank you.

24 Q. Mr. Strohmeyer, at page 9 of your Preparation Note 1, which is

25 P1969, you say that you never saw Mr. Thaci give an order to

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24033

Cross-examination by Mr. Misetic (Continued)

1 General Ceku; correct?

2 A. That's the note that was just --

3 Q. Yes.

4 A. -- done a few days ago; right?

5 Q. Yes.

6 A. Yes.

7 Q. That is correct?

8 A. That is correct.

9 Q. And you never saw Mr. Thaci give an order to anyone in the KLA;
10 correct?

11 A. I mean, I have no recollection of whether ever yes or ever no,
12 you know. I don't --

13 Q. You don't recall?

14 A. That I don't recall.

15 Q. Yes, okay. Now --

16 A. But in front of me, I never saw him give orders that would infer
17 sort of a commander or recipient of orders relationship. I've been
18 asked about this several times. Because Mr. Thaci didn't attend the
19 JIC meetings. And so the -- I think the only meeting or one or two
20 meetings that I had with both of them together where I could have
21 observed this were those meetings around the beginning of July, and I
22 did not see that.

23 Q. Okay. Thank you. In one of the preparation notes from last
24 week at paragraph 3, Preparation Note 2, you say:

25 "... UNMIK learnt who was the go-to person, and that was Ceku on

1 the military side and Thaci on the political side."

2 Is that correct?

3 A. Yeah, that was my practical sort of perception, recollection.

4 For political matters we would go to him. And for these undertaking
5 and JIC matters, we went to -- we thought that Mr. Ceku was the go-to
6 person.

7 Q. Okay.

8 A. I mean, if I could just qualify. I mean, I think in our minds
9 there was -- without this being expressed through orders or whatever,
10 but there was a hierarchy. I mean, I do think, broadly speaking, if
11 anyone -- if you had taken a poll, let's say, around UNMIK who is the
12 key person in the KLA, everyone would have said Mr. Thaci.

13 Q. But we're not interested in polls here --

14 A. No, I'm just --

15 Q. Yeah.

16 A. -- giving you the reflection of the time.

17 Q. Right. I'm just interested in what you saw --

18 A. Yeah.

19 Q. -- heard, observed.

20 A. Exactly.

21 MR. MISETIC: Now, my final topic, Mr. President, you'll be
22 happy to hear, needs to be in private session due to Rule 107
23 restrictions.

24 PRESIDING JUDGE SMITH: All right. Back into private session.

25 [Private session]

Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24035

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24036

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24037

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24038

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24039

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24040

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24041

Cross-examination by Mr. Misetic (Continued)

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)
Cross-examination by Mr. Dixon

Page 24042

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5 [Open session]

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

7 Thank you.

8 MR. MISETIC: Thank you.

9 Q. Mr. Strohmeier, I thank you for answering my questions. That
10 concludes my cross-examination.

11 MR. MISETIC: And I thank the Panel for its indulgence. Thank
12 you.

13 PRESIDING JUDGE SMITH: Thank you.

14 Mr. Dixon.

15 MR. DIXON: Thank you, Your Honours.

16 Cross-examination by Mr. Dixon:

17 Q. Good morning, Mr. Strohmeier.

18 A. Good morning.

19 Q. My name is Rodney Dixon. I act on behalf of Mr. Kadri Veseli.
20 And I have a few questions for you. I hope that can be done swiftly.
21 I do urge you to try and answer with whether you agree with what I am
22 saying or not, and I think we can move through it then as rapidly as
23 possible.

24 I wanted to start with what you had said in your Preparation
25 Note 2, and this is at paragraph 21, it doesn't have to be brought

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24043

1 up, but do you recall saying you do not remember whether you met
2 Mr. Kadri Veseli or what his role was?

3 A. Correct. I mean, at least from today's point of view, I don't
4 have any recollection.

5 Q. Yes. So can we take it that you don't recall having any
6 meetings with him when you were in Kosovo or telling him anything; is
7 that right?

8 A. I mean, that's -- as of this moment, that's my recollection. I
9 wouldn't know.

10 Q. Yes. Thank you. You may know this or you may not, but
11 General Jackson gave a statement. I'll leave it at that and simply -
12 we don't have to call it up - indicate what he said about Mr. Veseli.

13 MR. DIXON: And this is at paragraph 70 for those following.

14 Q. He said:

15 "I do not have any recollection of interactions with
16 Kadri Veseli or ZKZ/SHIK."

17 Do you know, from what you can recall now, whether he ever said
18 anything to you about Mr. Veseli?

19 A. You mean General Jackson?

20 Q. Yes.

21 A. No. I don't recall that.

22 Q. Yes. So can we agree then that from both the civilian and the
23 military side, it is correct that there was no contact with
24 Mr. Veseli at this time when you were there? Is that how you
25 remember it?

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24044

Cross-examination by Mr. Dixon

1 A. Well, I can only speak to myself. I don't know whether others
2 had information from the civilian side. But as for myself, as I said
3 before, I don't remember. I have no recollection of any interaction
4 with Mr. Veseli.

5 Q. Yes, thank you. Now, there is evidence in the case, and I'm not
6 going to ask you to comment on that.

7 MR. DIXON: And this is, for those following, at 2D00018.

8 Q. That Mr. Veseli was abroad, outside of Kosovo, for much of this
9 time. Were you aware, looking back now, that he was outside of
10 Kosovo for much of this time?

11 A. Because I didn't, I mean, really have any -- I mean, in my
12 recollection, I didn't probably know even who Mr. Veseli was at the
13 time, so that's why I didn't really care about whether he was inside,
14 outside, or any -- I just didn't -- this was a non-issue, non-entity
15 for me in a way.

16 Q. Yes, thank you. Well, could I then ask you this, whether you
17 were aware at the time, you may not be able to say, or maybe you can
18 answer it in general terms, that there were intelligence meetings
19 happening abroad between national intelligence from Kosovo and
20 national intelligence services from other countries, both on the
21 civilian side, to assist with setting up a national intelligence
22 structure inside Kosovo? So much the same as what UNMIK was doing on
23 the civilian side in Kosovo, there was also a similar process going
24 on for intelligence but that was outside of the country.

25 MS. IODICE: Objection, foundation.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24045

Cross-examination by Mr. Dixon

1 PRESIDING JUDGE SMITH: Overruled.

2 Go ahead.

3 THE WITNESS: I have no recollection of that. I have no
4 recollection of either the fact that an intelligence capacity outside
5 of UNMIK was being set up nor do I have any recollection of or have
6 been privy to conversations of certain Member States helping or
7 supporting such effort.

8 MR. DIXON:

9 Q. Yes, very well. Would you agree, though, from your experience
10 in the UN and common experience dealing with these post-conflict
11 situations, that it is important for national intelligence services
12 to be working together, both those who are in country and outside, to
13 look to be able to have proper intelligence services that can get
14 information to help keep the country secure and prevent conflict
15 re-emerging?

16 MS. IODICE: Objection, speculation and argumentative.

17 MR. DIXON: I'm asking from his experience whether he's seen
18 this before.

19 PRESIDING JUDGE SMITH: First, let's have the predicate. Find
20 out if he's had any experience with that.

21 MR. DIXON: Yes.

22 THE WITNESS: Just to clarify, if I may, you mean countries
23 outside of Kosovo in this, I mean, international Member States?

24 MR. DIXON:

25 Q. Mm-hmm. Yes.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24046

Cross-examination by Mr. Dixon

1 A. So it's -- we assume that that's the case. And I have to say
2 in -- I don't want to go into details, but, for example, in
3 East Timor, we would work closely with Australia, and they definitely
4 had information that wasn't just -- that went beyond sort of our
5 civilian observations. So we assume -- and in other cases I may
6 have -- I remember in Sudan, for example, I was very much involved
7 with the intelligence services on all sides.

8 So we -- I have full understanding that there are intelligence
9 operations happening while we were there.

10 Q. Thank you.

11 A. That was a general -- just a general assumption. That's what we
12 assume, you know, that these --

13 Q. Yes.

14 A. -- types of things happen, without drawing any specific
15 conclusions from it or not. But it may -- if I may? It may
16 sometimes help to design or fashion your approach to a certain
17 country. So if you have a country where you assume that they have a
18 more active intelligence service or they would have details or assets
19 on the ground, you would probably go and check certain occurrences or
20 certain things with them, not necessarily with their intelligence
21 people, but with the ambassador or with the embassy staff to say, "Do
22 you have information on this? What is your impression?" so --
23 because we assume that they have sometimes a better handle on the
24 situation than we have.

25 And I think I also read it somewhere, we were struggling not

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24047

Cross-examination by Mr. Dixon

1 only with the set up of UNMIK overall with the civilian capacity, but
2 we also lacked that genuine information capacity and consultation
3 capacity, that intelligence capacity of our own for a long time, so
4 that's why we probably would have approached Member States that we
5 assumed had information that was superior to ours, you know.

6 Q. Yes. And from your experience again, is it right that in these
7 post-conflict circumstances, and in Kosovo as well, having a properly
8 trained and robust intelligence service in the future is a critical
9 part of ensuring security and stability for the country going
10 forward?

11 A. You now mean a genuine sort of Kosovar intelligence --

12 Q. Yes.

13 A. -- service.

14 Q. So a national civilian intelligence service.

15 A. I mean, if I can be very honest, I -- I didn't think about that.
16 But if, let's say, you look at Kosovo today as an independent
17 country, most definitely. I mean, a country requires also an
18 intelligence service. If you ask me now specifically of whether they
19 should have had their own intelligence service at the time that UNMIK
20 was there and setting up under 1244 the administration, I would have
21 said no, because that is an institution that is parallel to what we
22 were trying to do.

23 Q. And, in fact, you didn't come across any national civilian
24 intelligence service in --

25 A. No.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24048

1 Q. -- Kosovo when you were there?

2 A. Not personally, no.

3 Q. Can I then move on to ask a few more general questions.

4 MR. DIXON: If we can go to paragraph 20 of your statement.

5 That's P1968. We can put that up on the screen if that helps. It's
6 paragraph 20, please.

7 Q. And it's in the middle of the paragraph there where you say:

8 "Early on, there was enormous pressure to deal with the law and
9 order vacuum, and in particular with people being arrested by KFOR.
10 The UN had no significant institutional expertise or experience in
11 setting up judicial systems at the time. There were no dedicated
12 judicial capacities, rosters or blueprints to draw from."

13 Would you agree with me, from your experience there at the time,
14 that it, indeed, was a very challenging and demanding task to set up
15 a police force that could investigate and bring cases to court from
16 scratch?

17 A. Absolutely.

18 Q. And you weren't having to deal with hostilities at the time.
19 You weren't having to fight off anyone. You had the sole ability to
20 focus on this issue and yet it was still very demanding; is that
21 right?

22 A. I mean, in the first few weeks, if we describe the situation, I
23 wouldn't say that there were hostilities, but it was not as if I
24 could just sit all day in my office and work on plans and blueprints.
25 I mean, we did have to react to a situation, and I think that's what

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24049

Cross-examination by Mr. Dixon

1 I'm trying to make clear at the beginning of paragraph 20.

2 And if I may say, we had -- we encountered a very, very similar
3 situation in East Timor later where the Australian INTERFET at that
4 time, sort of comparable force to the role that KFOR played here,
5 also immediately came and said, "We have made arrests for whatever
6 reasons. We are not mandated to prosecute or perform law and order
7 functions. Where are you? What are you doing?" So in these both
8 transitional administrations, from the get-go, from the first day, it
9 was not just about developing that system but also reacting to
10 arrests and realities on the ground.

11 Q. Yes. So you had to do it very much on an *ad hoc* basis and over
12 time try and develop the system, but you couldn't set it up from day
13 1. That's right, isn't it?

14 A. It's correct. And so the *ad hoc* is exactly what is reflected in
15 these emergency decrees, probably far from perfect, but we wanted to,
16 number one, react to the refusal, in a way, of NATO to perform these
17 functions, which operationally I understand very well. At the same
18 time, we wanted to -- because, as I said, in some discussion, our
19 entire project, as the UN, as UNMIK, as 1244, was to bring sort of an
20 administration there that is about transparency, that is rules based,
21 and so we wanted to, from the get-go, demonstrate that if arrests
22 were being made, regardless of who was being arrested, that we would
23 provide a measure of due process and transparency.

24 So what you call *ad hoc* would connect best with this ambition to
25 offer some measure of due process as early as we could.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24050

1 Q. Yes. And it's right - I don't think we need to go to this part
2 in your statement because it's uncontroversial - that you say here at
3 paragraph 12:

4 "Never before had the UN been given such wide-ranging executive
5 powers and responsibilities over a territory."

6 This was unprecedented. You were really there to take
7 responsibility for everything?

8 A. Yes. I mean, Sergio would always refer to me in German as his
9 *Bundesminister*, you know, so his minister of justice, which I sort of
10 didn't like very much, but, I mean, that was *de facto* the situation.

11 Q. And you go on - and once again, we don't have to go there - to
12 say that it was actually unlawful for the KLA to be forming police
13 units or executing any police functions. This is at paragraph 34.
14 That was because you had the sole responsibility for undertaking all
15 of these functions, investigating and prosecuting, at the time?

16 A. Under -- I mean, "you" meaning UNMIK?

17 Q. UNMIK, yes.

18 A. Under Resolution 1244, yes.

19 Q. Precisely. So it was something that whether it was the KLA or
20 the LDK FARK that you forbid, that they could not be involved in
21 conducting any investigations themselves; is that right?

22 A. That's correct. That was our understanding. In fact, if I may
23 just add. While we were setting up the police service, one of the
24 major delays and problems were that while we had countries who were
25 willing to provide police officers sort of as an -- at an observation

1 level or as a Chapter 6 police force, the executive mandate, the fact
2 that, you know, an international person not from Kosovo had to carry
3 arms and perform an executive mandate, meaning could have used force
4 or could have used their gun, was a major, major hindrance for many
5 states initially to provide police personnel into the street.

6 So it was that executive element that we had to defend every
7 single day while we were not, in a way, getting adequate support from
8 the Member States -- the members -- the membership, more broadly, to
9 actually perform that mandate.

10 Q. Yes. These are the difficulties that you've highlighted
11 already.

12 MR. DIXON: Can I then go back to paragraph 20 again. If that
13 can be put up so we can see that.

14 THE WITNESS: I have it in front of me.

15 MR. DIXON: It should still be there. Yes.

16 Q. You say here:

17 "While Serbia did play a major role in the violent events
18 following the breakup of Yugoslavia, of course, no group of people
19 are really 'bad guy' per se ..."

20 So you rightly identify here that in your role, particularly as
21 the UN, one should not make sweeping generalisations about groups.
22 It really should be done, should it not, on the basis of the evidence
23 on a case-by-case basis?

24 A. Yes. I mean, in this context it was also specific experience
25 that I -- as I mention here, from Bosnia. I have to say, when I came

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24052

Cross-examination by Mr. Dixon

1 to Bosnia, the atmosphere was not dissimilar, at least in Sarajevo,
2 that, you know, I mean, people tended to be quicker in condemning
3 Serbs. And while there were many problems there and individuals, you
4 would also always encounter people you could work with and who would
5 very much subscribe and hope for the same conditions that we wanted
6 to create.

7 So that's, in a way, the sentiment that I wanted to bring out
8 here.

9 Q. Yes, and rightly so. And it would then surely apply equally to
10 the Kosovo Albanians. One couldn't generalise about them as a group
11 and the KLA or any other body. You had to look at it based on the
12 evidence. Isn't that the right approach to be following?

13 A. As I stated, I think yesterday, in response to one of the
14 questions, I mean, my impression, in fact, was not, from my vantage
15 point in those early weeks, that we were encountering sort of a
16 Kosovar population, civilian population, that was out for revenge and
17 bloodthirsty and just going for any occasion. That was not my
18 impression. I mean, those things existed, but -- so I think I --
19 I've, hopefully at least, qualified this. That's my general
20 attitude. There are no per se bad guys in any of these conflicts.

21 Q. And one has to proceed cautiously when deciding whether to point
22 the finger here or there, one has to surely base it on very clear
23 evidence?

24 A. Presumably, yes.

25 MR. DIXON: Your Honours, perhaps that is an appropriate time,

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24053

1 because I have a few documents to go into which I can do after the
2 break, and I won't be longer than about 15 minutes.

3 PRESIDING JUDGE SMITH: We'll give you a half-hour break at this
4 time.

5 THE WITNESS: Okay. Thank you.

6 [The witness stands down]

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

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

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

10 PRESIDING JUDGE SMITH: Please bring the witness in.

11 [The witness takes the stand]

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. DIXON: Thank you, Your Honours.

14 Could we please call up P743.4.

15 Q. Mr. Strohmeyer, just so you know, this is the forward that you
16 were shown yesterday to Sandra Mitchell's report "As Seen, As Told."
17 It's the forward by Mr. Kouchner. You were shown a part of it
18 yesterday regarding individuals committing the alleged crimes not as
19 a policy. I wanted to refer you to another part of that forward to
20 get your response to that.

21 MR. DIXON: And if we could go, for that purpose, to 076682,
22 which is the first page of the forward, and if you could go to the
23 paragraph at the bottom starting: "In many of the cases ..." Ah, it's
24 even highlighted.

25 Q. If I could just read that out for you, Mr. Strohmeyer, while you

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24054

Cross-examination by Mr. Dixon

1 go through it:

2 "In many of the cases documented by the OSCE in this report ..."

3 This is the report by the director of human rights, Sandra
4 Mitchell.

5 "... there are serious indications that the perpetrators of
6 human rights violations are either members of the former UCK, people
7 passing themselves off as members of the former UCK or members of
8 other armed Albanian groups. In other cases the alleged perpetrators
9 are members of Serb armed [forces]. In many cases it has been so far
10 impossible to identify exactly those responsible. Whatever their
11 identity, these armed groups seem to operate in an organised fashion
12 and have some form of hierarchy, command and control. Therefore, it
13 is incumbent on those holding positions of influence in all of
14 Kosovo/Kosova's communities to condemn human rights violations and
15 their perpetrators.

16 "It is up to us, representatives of the international community,
17 to reinforce this message."

18 Do you see that there?

19 A. Yeah, I mean, I saw the highlighted. The last part is --

20 Q. Ah, it's over the page --

21 A. No, but I understood. I understood.

22 Q. -- as well --

23 A. Yeah.

24 Q. -- the part I read.

25 PRESIDING JUDGE SMITH: Mr. Dixon, you're talking over each

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24055

1 other.

2 MR. DIXON: Sorry about that, Your Honours.

3 If we could just go over the page as well so you could see the
4 end part about the international community.

5 THE WITNESS: Yes, thank you.

6 MR. DIXON:

7 Q. Now, just so that you have the full picture, this particular
8 forward was also shown to Sandra Mitchell when she testified - and
9 that's at page 108574 for those following - and she agreed with that
10 assessment of Mr. Kouchner.

11 So my question to you is, from what you know, from what you
12 recall at the time, is this an accurate assessment of the situation
13 where it is outlined that there are various potential groupings that
14 could be responsible for violations, and that in many cases it was
15 not known who exactly was responsible?

16 A. If I remember correctly from yesterday, this is a November
17 report; right?

18 Q. Yes.

19 A. Kosovo. So I do think it is important to understand that our
20 understanding -- and it goes to your earlier question on the
21 intelligence capacity and so on. So the longer we were on the
22 ground, the more of a refined understanding did we have. And I do
23 think that this may very well reflect accurately the situation
24 throughout, but it is something that was probably clearer in November
25 than it presented itself to us in June or July.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24056

Cross-examination by Mr. Dixon

1 Q. So can I just clarify then from your answer. You accept that
2 what this reflects is an accurate assessment of the situation over
3 the whole period starting from June going up to November when this
4 was written? It covers the entire period?

5 A. Well, I cannot -- I cannot say that. But what I can say is that
6 when this was written, this may very well have been the assessment,
7 the judgment passed on the entire period because we had more
8 information and more granularity to our information. The way it
9 presented itself to us in -- or at least to me in June and early
10 July, particularly in those first six weeks that I was there, or five
11 weeks, the situation was not as clear as it is now articulated here.

12 Q. Yes, but you would accept what is there is the accurate position
13 because the OSCE was, in fact, investigating these cases and getting
14 evidence to substantiate its findings?

15 A. Well, I cannot say that. I mean, that's not my call. I can
16 only say what I saw. And as I said, my perception - our perception -
17 at the beginning was not as -- would not reflect exactly this
18 situation which is more balanced, more granular. But I appreciate
19 that in hindsight, which I didn't have at the time, in hindsight,
20 this may have been the accurate of interpretation of events
21 throughout.

22 Q. So, yes, with the benefit of hindsight and looking at all the
23 relevant evidence, you would agree that this presents an accurate
24 assessment as set out here?

25 MS. IODICE: Objection, asked and answered.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24057

1 PRESIDING JUDGE SMITH: Sustained.

2 MR. DIXON:

3 Q. Well, can I ask it this way: Now that you've had an
4 opportunity, with hindsight, to look at everything, would you agree
5 then that it was an overreach to say that all of the crimes were
6 committed by the KLA? In fact, there were a range of groupings that
7 were potential perpetrators, and in many cases it was unknown who the
8 perpetrators were?

9 MS. IODICE: Objection, foundation.

10 MR. DIXON: Well, the foundation is the document I've just shown
11 [Overlapping speakers] ...

12 PRESIDING JUDGE SMITH: If he has an opinion on -- if he has an
13 opinion on that, he can state it.

14 THE WITNESS: I would like to just repeat what I said before. I
15 mean, I can testify to what I saw and the conclusions and the
16 impressions that we had. This is an assessment, as I said, that was
17 undertaken over the course with more information later on. I wasn't
18 there. I have no contribution to this. And I don't think it's my
19 call to judge whether this is accurate or more accurate than what we
20 observed.

21 What I can attest to is the impression and the conclusions that
22 we drew from some of the facts as they presented themselves to us
23 in -- or at least to me in the first few weeks.

24 MR. DIXON:

25 Q. And you would agree with me then, as you just referred to here,

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24058

Cross-examination by Mr. Dixon

1 it was really an impressionistic assessment. It wasn't based on you
2 conducting any of your own individual investigations into cases, was
3 it?

4 A. No, I never personally conducted investigations. Human rights
5 cases at the time were primarily followed up by Sandra Mitchell's
6 department of the OSCE. And then we, of course, set up these panels
7 and the nucleus of a judicial process to follow up and ascertain
8 whether these -- whether some of these things were correct or not.

9 So, if you will, and it goes back to the very first point,
10 Mr. Defence Counsel, on intelligence services, we had very clearly
11 incomplete intelligence in the first few weeks. And in that case, a
12 lot of it was based on conversations that we had, on reports that we
13 would read, but I don't think that many people or anyone had a full,
14 complete picture.

15 So as things evolved over weeks - and that's why I keep on
16 saying everything matters - we understood each other, we understood
17 the actors better. We also understood the points, as Mr. Kouchner
18 said it before, that may have been technically suggesting a certain
19 way forward but politically needed to be addressed differently. So
20 although it was only maybe three or four months later, that was a
21 long time in the setup phase of Kosovo, and that's why one could
22 arrive at a more informed and more granular understanding of the
23 situation.

24 Q. Yes, I follow that. Thank you.

25 MR. DIXON: That document can be taken down. It's already in

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24059

1 evidence, the entire forward.

2 Q. I do want to then go on to one final topic regarding the laws
3 which you've touched on.

4 MR. DIXON: And just to bring up on the right-hand side your
5 statement at paragraph 60 and 61 on this. And then on the left-hand
6 side, if we could have DKV1641 to 1658.

7 Q. Mr. Strohmeyer, this is a report by Professor Marc Weller, who
8 you might know, on the laws in Kosovo. It's called "The Crisis in
9 Kosovo 1989-1999." I'll ask you some questions about it now, but
10 let's look at your statement first.

11 Yes, that's Professor Marc Weller's report there, and then your
12 statement on paragraph 60 and 61 on the right side.

13 MR. DIXON: If we can go to the end of paragraph 60 first.

14 Q. Here you're talking about revenge, which you've mentioned
15 before, and you say:

16 "This would have also gone against the basic approach of
17 peaceful resistance advocated by Rugova and supported by many
18 Kosovars."

19 And you go on to say:

20 "Against this backdrop it was quite tangible that the KLA took a
21 far more aggressive stance towards assuming power in Kosovo and
22 turning Kosovo into a 'Kosova-for-Kosovars-only' place."

23 And then you go on in 61 to talk about the laws and how "Kosovo
24 Albanians could not accept the then-applicable law, which they viewed
25 as the law of the Serb occupiers. In my experience, most criminal

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24060

1 laws are fairly similar except for a few key provisions that needed
2 change or deletion. But for the KLA the idea of using the existing
3 criminal code was not even negotiable."

4 And you go on further down to say:

5 "For them, it was all about putting a Kosovo label on it, which
6 was a very important cause."

7 Now, if we can go over, bearing that in mind, to what Professor
8 Weller has written. Do you know of him? He has served as a legal
9 adviser in the UN, including in Syria where you have worked, and is
10 regarded as an expert mediator in the UN as well. Do you know that?

11 A. I don't recall. I don't think I know him.

12 Q. Okay. If we can go in that to PDF page 16, it's a heading
13 "Substantive Findings." This is after he's examined a number of the
14 applicable laws in Kosovo.

15 A. May I just ask you -- sorry for interrupting. May I just ask
16 you what's the date of his article on this?

17 Q. It's 1999.

18 A. Okay.

19 Q. So he refers to a number of laws going up until March 1999 we
20 will see in the index that we've just gone through. So "Substantive
21 Findings," he says there at the top, if you can just read that:

22 "The direct and unsubtle nature of Yugoslav/Serb action in
23 Kosovo remains startling. When committing grave crimes against
24 humanity in Croatia and Bosnia and Herzegovina, the leadership in
25 Belgrade had attempted to cloak its actions in rather implausible

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24061

Cross-examination by Mr. Dixon

1 denials. But in relation to Kosovo, repression was conducted very
2 much officially, and under a veritable legislative programme. Serbia
3 had formally established the purported new and subordinated status of
4 Kosovo in constitutional law. It had also downgraded the ethnic
5 Albanian majority in Kosovo from a 'nationality' to a minority. More
6 than that, many of the openly discriminatory practices applied to the
7 territory were contained in formal acts of legislation ..."

8 And he goes on to say this included decisions where individuals
9 could be removed from positions of responsibility in commercial
10 enterprises.

11 And then the next heading below that, "General discrimination,"
12 there, if you read through that, he refers to a number of decisions
13 taken by the UN, the Special Rapporteurs, the UN General Assembly,
14 the Commission on Human Rights, and the Committee attached to the
15 Convention on the Elimination of Racial Discrimination, all which
16 condemned the application of those laws in Kosovo. Do you see that
17 there? And then there are a lot of examples given. I'm not going to
18 go through the whole list. Arbitrary arrests, torture are mentioned
19 in the following pages.

20 Now, I want to find out whether you were aware when you went
21 into Kosovo of the position that the UN Special Rapporteurs, the
22 committees had taken on the law that applied in Kosovo at the time?

23 A. I couldn't say that I had a detailed knowledge of this, but I
24 was -- at the very beginning when I worked in Bosnia, I was a member
25 of the staff of the Special Rapporteur on Human Rights in the former

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24062

Cross-examination by Mr. Dixon

1 Yugoslavia, Madam Rehn, and so we would also read snippets of reports
2 on Kosovo, because she would monitor the entirety of the former
3 Yugoslavia and not only Bosnia. So I had some idea and some
4 knowledge but not to the level of detail that Mr. Weller expresses in
5 his article.

6 However, after the meeting I had with Mr. Thaci, and he
7 explained -- I think we had two meetings, and I think the second one,
8 in the end the conclusion was that we would have some kind of
9 roundtable, at least that's my recollection. So in the lead-up to
10 that, and around that, and after this, I worked with some of the
11 Kosovo Albanian lawyers who conveyed a much more detailed
12 understanding.

13 And so that's what I was referring to earlier. That then led to
14 quite some discussion between us in the mission - me as the legal
15 adviser - with the headquarters of the United Nations, where I think
16 when we initially approached this subject of the applicable law, we
17 were maybe looking at it much more from sort of -- as I think also is
18 expressed in my statement, from a criminal procedure kind of point,
19 and we thought that we could weed out the non-applicable provisions
20 through a human rights -- European human rights law and so on.

21 But once we understood much more the profound sense of
22 discrimination and everything else from this, as I also said before,
23 I did understand that people had found it difficult to accept this.
24 And so then it was explained to us that this was, at the end of the
25 day, an issue that was related to the status and the conversations

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24063

Cross-examination by Mr. Dixon

1 around the status of Kosovo, whether this was still a part of Serbia,
2 so that the Serb -- those laws had to continue to apply, or whether
3 it was an entity that was different of its own and could have its own
4 body of law. That's broadly how I remember --

5 Q. Yes.

6 A. -- the conversations going.

7 Q. But it's correct, isn't it, that it wasn't just the KLA that
8 were saying there was a problem with the laws from the past. There
9 was a rich history of the UN and many bodies condemning this law as
10 being contrary to international human rights standards. That's
11 right, isn't it?

12 A. Correct.

13 Q. And in order to deal with this situation, you, as you said
14 earlier on, were part of formulating a regulation on it where you
15 said the law applies prior to 24 March 1999 but it cannot conflict
16 with international human rights standards. So you took into account
17 that it would have to be changed in order to meet those standards.
18 Is that right?

19 A. That was the compromised formula we reached at the end.

20 Q. Yes. So you took into account that it was going to be necessary
21 to change those laws to some extent in order to comply with what the
22 UN's directives were?

23 A. Yes. And -- sorry, just to qualify, when I said this was the
24 compromise we reached, I meant this was the compromise we reached
25 between headquarters and us on the ground, and this gave us a vehicle

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24064

Cross-examination by Mr. Dixon

1 to, in part or in whole, declare certain laws as inapplicable.

2 Q. Yes. So it wasn't the KLA trying to put a Kosovar label on
3 everything to the exclusion of others or to discriminate, was it? It
4 was really the KLA and many other bodies, including the UN, saying
5 the discriminatory laws from the past had to be abolished?

6 A. Yes, but it's not -- I mean, what this is referring to, if
7 you're referring to my statement now --

8 Q. Yes, I am.

9 A. It's in the conversation, it was also made very clear that this
10 is -- this is unacceptable. And as I said, we were trying to reach
11 this compromise. I do believe that I tried to explain that through
12 this -- the status issue and through this human rights half sentence,
13 we would be able to get to a similar point. But there was a
14 rejection of that.

15 And I do not recall -- while others certainly also had their own
16 views, it was very forcefully -- I mean, in the form of Mr. Thaci
17 with me directly, but it was very -- most forcefully the KLA who
18 would make this point and sort of make it basically a central point
19 in our engagement. I mean, the SRSG and everyone was involved in
20 this issue, and that's why he asked me, Mr. Kouchner directly, to
21 meet with Mr. Thaci directly. So this was played at that -- at that
22 level became the central issue. And that was not with every single
23 group or party. That was specifically with the KLA.

24 Q. Yes. Well, are you aware that Mr. Rugova, who you referred to,
25 had made exactly the same calls going back to 1992 that the law had

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24065

Cross-examination by Mr. Dixon

1 to be abolished? It wasn't just the KLA saying it. I'm trying to
2 explore the full context here. It wasn't just the KLA that you've
3 picked on. It was a whole range of bodies making that demand.

4 A. Yeah, I don't think that I've picked on the KLA. I'm just
5 stating that that was my interlocutor. I didn't speak to Mr. Rugova.
6 I was probably made aware. And I did say that I did have an
7 understanding, a profound understanding for this increasingly --
8 specifically after we had spoken to some of those -- the Kosovar
9 lawyers and so on, and I don't deny that at all.

10 But what this is also in response to -- to questions, obviously,
11 what this is referring to is that this was another example of a
12 conversation where in a way against -- in this case more the
13 headquarters's interpretation than ours, but the interpretation of
14 1244 was being challenged specifically by the KLA and much more
15 forcefully. Mr. Rugova may have said this before or may have said it
16 elsewhere, but in terms of daily pressure on us, to make this sort of
17 a key issue of our collaboration and even existence in Kosovo, at
18 least to me, this was the KLA and as not only exclusively but also
19 represented by Mr. Thaci.

20 MR. DIXON: Well, could we, just so that I can explore the
21 situation with Mr. Rugova, go to PDF 11 in the same document that's
22 on the screen. This'll come up on the left-hand side. This is a
23 letter to the Commission on Security and Cooperation in Europe. This
24 goes back to May 1992.

25 And if we can go over the page and over the page again so we can

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24066

Cross-examination by Mr. Dixon

1 see that this was written by Mr. Ibrahim Rugova, Coordinating Body of
2 Kosova's Political Parties; and Adem Demaci, Chairman, Council for
3 the Defence of Human Rights and Freedoms in Prishtina. So it's one
4 more page after that so we can see this letter.

5 Q. It's included in Professor Weller's report to show the positions
6 of all parties during this time. You see at the bottom there? It's
7 a letter sent including by Dr. Ibrahim Rugova. I just want to take
8 you to one part of this letter, which is in the previous page just
9 above the bullet points.

10 MR. DIXON: If we could just go one page back.

11 Q. "Immediately," that's where I want to read from:

12 "Immediately after the violent ruin of Kosovo's autonomy," and
13 he's referring here to 1990, "Serbia started with the approval of
14 special programmes and laws on Kosova, by which the discrimination
15 and apartheid were to be institutionalised up to the level of
16 genocide. A direct means of functionalisation of this concert is the
17 so-called 'Programme on the realisation of peace, freedom, equality,
18 democracy and prosperity in the Socialist Autonomous Province of
19 Kosova'" that was published in the Gazette on 30 March 1990.

20 "This programme, which has been cynically euphemised by this
21 title, is a typical programme of colonisation by its content and
22 nature. It foresees a number of concrete and systematic measures to
23 be undertaken by Serbia in Kosova and against Albanians, in order to
24 alter the ethnical structure of the population. For the realisation
25 of this programme, Serbia approved a series of unconstitutional laws,

1 which are being applied only in Kosova and against Albanians."

2 And then these are all listed. I'm not going to go through all
3 of them.

4 Were you aware, when you were there, of Mr. Rugova's stance on
5 the laws and the need to abolish them?

6 A. I don't think initially when -- I mean, the -- if I recall
7 correctly, the work on regulation number 1 took, like, six weeks or
8 something like that. It took a very long time. So I couldn't say
9 whether over the course of this discussion, the discussions around
10 regulation number 1, I wasn't being made aware of this by some of the
11 lawyers we would also then interact with. Certainly, I was shown a
12 lot of those laws and even some articles that some of the Kosovo
13 Albanian lawyers had written about some of them.

14 So to the extent that I myself had a -- had the sense that we
15 could not just simply say the law that was applicable on, whatever,
16 at 10 June continues to be applicable. And, hence, the compromise
17 that we thought we found and that we tried to offer to say on that
18 human rights half sentence that all of this would be subject to sort
19 of a human rights review, which would then, in total or in part --

20 Q. Yes.

21 A. -- allow us to rescind these laws.

22 Q. Yes. You have very fairly said today that there was a
23 compromise struck which is reflected in the regulation. Is this also
24 another case, though, of, with hindsight you would say that really it
25 was a case of a whole range of organisations and leaders calling for

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24068

Cross-examination by Mr. Dixon

1 the law to change, not just the KLA? That should have been reflected
2 more wholistically in your witness statement?

3 A. But in my statement, Mr. Defence Counsel, I'm speaking about a
4 conversation with Mr. Thaci, and you also have to look at -- if I may
5 for a moment appeal to the context here. This is a statement where I
6 wasn't asked to sort of recall the history of law making and our
7 interactions in Kosovo, but it was -- I was being asked questions
8 around Mr. Thaci, whether I remember this, and so on. So I'm
9 replying also to questions.

10 And in that sense, I probably said I recalled that I had these
11 one or two meetings where I was being picked up. And I want to say,
12 and as I said it yesterday, they were very, very friendly, and not
13 tense, and I found them very constructive. So I have nothing to say
14 about this, these meetings, in a negative sense. And as you can see
15 from the whole paragraph, you know, I even felt comfortable enough to
16 ask sort of questions on the side. We touched upon a few other
17 issues.

18 But what was very clear to us in UNMIK, and that was the reason
19 for being asked to speak to Mr. Thaci, that he was the one who
20 expressed it as a fundamental challenge almost, as a *sine qua non* or
21 something to our further cooperation around 1244. And I do
22 understand why, and I understood not only through this conversation
23 but also from the exchanges with others increasingly better and well
24 why that sentiment was the case, but I then highlight that this was
25 another case, basically, to challenge our authority here.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Dixon

Page 24069

1 So that's the context and that's why I arrive at this statement.

2 So I wasn't -- I wasn't being asked at the time, "Did you know of
3 Mr. Rugova?" If I had been asked about this, I said -- I would have
4 said I didn't know and I may have learned later, so then I would have
5 referred to Mr. Rugova. That was not the case.

6 Q. Yes, it's just you do say here "they," and I'm not referring to
7 one particular meeting, but they, the KLA, wanted to put this Kosovo
8 label on the law. You're quite explicit about that. But given that
9 you're testifying today in person, your evidence is that it wasn't
10 just the KLA, it was a number of groupings, including the UN, that
11 had said the law needs to change. And, in fact, you adopted that
12 then in your compromised position.

13 A. Yeah, there was an increasing recognition --

14 Q. Is that your evidence today?

15 A. There was an increasing recognition already at the time, and
16 certainly from today's perspective I would agree with this, that one
17 couldn't just hold the original position.

18 Q. Yes. Thank you, Mr. Strohmeyer.

19 MR. DIXON: Your Honours, if I could. I've finished with my
20 cross-examination, but simply ask that those pages are introduced
21 into evidence. It's --

22 PRESIDING JUDGE SMITH: The Weller analysis?

23 MR. DIXON: Yes, the Weller analysis, that's what's on the left
24 side, together with the attachment, the letter from Mr. Rugova. The
25 full range is, if I can just get it here --

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24070

Cross-examination by Mr. Tully

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 I have DKV1641 to 1658.

3 MR. DIXON: Yes, that's correct, Your Honours. That's what we
4 ask to be admitted into evidence.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MS. IODICE: No, Your Honour.

7 PRESIDING JUDGE SMITH: DKV1641 to DKV1658 is admitted.

8 MR. DIXON: Thank you, Your Honours. Those are my questions.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 THE COURT OFFICER: Yes, Your Honours. This will be assigned
11 Exhibit 2D00039, and it's classified as public. Thank you,
12 Your Honours.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 Mr. Tully.

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

16 Cross-examination by Mr. Tully:

17 Q. We are past 12.00, so good afternoon, sir. My name is
18 Eric Tully, and I represent Rexhep Selimi. And I have some questions
19 for you for roughly half an hour.

20 First, I've looked over your career experience up until you
21 joined UNMIK in 1999, and without going into too much depth with
22 them, but I'm correct that all of those posts, from you being a trial
23 judge in Germany up until the legal adviser in UNMIK, they were all
24 legal posts; is that correct?

25 A. Yeah.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24071

Cross-examination by Mr. Tully

1 Q. Okay. And had you ever worked in law enforcement? As in
2 police?

3 A. No.

4 Q. No? Okay. So the role you were recruited for was specifically
5 as a legal adviser, and that was reflective of your three years in
6 Bosnia.

7 MR. TULLY: This is from Prep Note 1, paragraph 18.

8 Q. And you were the authors of -- one of the authors of criminal
9 law, criminal procedure codes, and familiar with the legal framework
10 of Yugoslavia. That was your stated recruited role; that's correct?

11 A. Yes.

12 Q. So in Prep Note 1 -- I'm sorry, I'll keep my pause. I'd like to
13 make one cross-examination where I don't anger the interpreters.

14 You said in Prep Note 1, paragraph 21, that:

15 "The military police and law and order issues would not normally
16 be dealt with someone -- by someone with 2183's," that's you, "role,
17 but this is what happened."

18 So I'm right in saying that this is not unusual, especially with
19 a start of mission, that due to the exigencies that might exist on
20 the ground, especially as one as large as UNMIK and what it proposed
21 to do, for you to take on a role that wasn't necessarily one that you
22 were recruited for or that you had direct professional experience in.
23 Would that be fair?

24 A. Yeah, that's fair. And maybe just to say the entire team was --
25 I think we arrived there with six or seven people, it was a very

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24072

Cross-examination by Mr. Tully

1 small team. So it's -- I mean, that's not even the beginning of a
2 mission. So I don't think that -- except in my case, they brought me
3 along to this team because of my legal knowledge. But in a way,
4 everyone there was an adviser to the SRSG, and it's sort of only over
5 the next few days or weeks then shaped up into what that meant in
6 terms of position in UNMIK.

7 There was no organigramme. So we were not filling -- none of us
8 was filling a specific position in an organigramme. So all of us
9 were, with different backgrounds, sort of advisers to the SRSG.

10 Q. So you were acting -- if you forgive the vernacular, acting as a
11 Swiss Army knife of sorts to the --

12 A. If you want to call it that way, yes.

13 Q. And you were required to learn on the job of issues that you
14 hadn't necessarily anticipated before you went there; is that right?

15 A. Correct.

16 Q. Okay. Thank you. I'm going to move to one other topic now, and
17 this is your knowledge and interaction with Mr. Selimi.

18 MR. TULLY: Now, I would like to have on screen, please, the
19 witness's statement. This is P01968. If we can go to paragraphs 24
20 and 25, please, on one side of the screen; and I'll take Prep Note 2,
21 that's 124648 to 124653, on the other side of the screen, please.
22 Thanks.

23 Q. While I'm waiting for the prep note to come up, I don't need
24 that for these questions. You've mentioned Mr. Selimi twice in your
25 statement. And in paragraph 24, you mention the arrival of black

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24073

Cross-examination by Mr. Tully

1 limousines, and then you say:

2 "Another person [I may have seen was] Rexhep Selimi."

3 So you're not certain whether you saw him there or not?

4 A. No.

5 Q. Okay. And the second mention is in paragraph 25, and you said
6 also there:

7 "Among the participants in the meeting were Hashim Thaci and
8 Rexhep Selimi."

9 So am I correct that you're more certain that you saw him in the
10 second meeting?

11 A. I was more certain that I saw him in the second meeting, but --

12 Q. Still not 100 per cent?

13 A. -- I mean, this is what I said then and --

14 Q. Okay. Okay.

15 MR. TULLY: Can I have then --

16 Q. Oh, sorry. And just to reiterate, in Prep Note 1 in paragraph
17 13, I don't need it on screen, you don't remember what Mr. Selimi's
18 role would have been at the time or whether he introduced himself?

19 A. Maybe I did know, but I don't recall --

20 Q. Okay.

21 A. -- right now anymore.

22 Q. Okay.

23 MR. TULLY: Can I have on the screen then, please, in place of
24 the witness's statement, P01169, please. And on Preparation Note 2,
25 can I go to paragraph 9. Thank you.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Tully

Page 24074

1 Q. And it's recorded here in Preparation Note 2 that you did not
2 recognise the younger man on the photo, that would be the person
3 standing on the right side of the photo, when you were shown it by
4 the Prosecution last week; correct?

5 A. Correct.

6 Q. Okay. And just to confirm that you also told the Prosecution
7 that you've no recollection of any particular incident involving
8 Rexhep Selimi as recorded here in the note; is that correct?

9 A. In my recollection as of today, I don't.

10 Q. Very well. Thank you. I'm going to move on to the main topic I
11 have for you, and these are -- this is more a legal topic.

12 MR. TULLY: And can I take off the screen the picture, please,
13 and if we can have back the witness's statement and go to paragraph
14 33, please.

15 THE COURT OFFICER: It would be helpful if you give indication
16 of the page of the paragraph, please.

17 MR. TULLY: Oh, page 9, paragraph 33, please. And it's P01968
18 for the record.

19 Q. Okay. While this is coming up, Witness, the topic I'm talking
20 about are the -- is the -- let's call it the lacuna in law for the
21 detentions that KFOR were carrying out at the time. And I think
22 you've -- we'll get into it, but I think you've touched upon the
23 resistance that KFOR had in performing law and order duties and some
24 issues that related to their rules of engagement.

25 So with the kind of tug of war that went on between UNMIK and

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24075

Cross-examination by Mr. Tully

1 KFOR, how long was it after KFOR agreed to carry out the civil law
2 functions, how long were they performing those duties in your memory
3 in lieu of UNMIK?

4 A. Well, I don't think they were performing all the functions in
5 lieu of UNMIK, but they were continuing to do arrests, and so the
6 pressure -- I wouldn't necessarily characterise it as a tug of war,
7 you know, but it was an issue, yeah, between us. And I don't know
8 whether it was after the first or the second week, but it pretty
9 quickly came up that we were expected to find a solution for this
10 because KFOR was not -- that was not their mandate. They felt that
11 that was not their mandate to get into maintaining civil law and
12 order, which encompassed the entirety of, in a way, law enforcement,
13 patrolling, apprehension, detention, but on also sort of adjudicating
14 people.

15 So it's a -- and, yeah, that was a discussion that then
16 culminated after a few weeks in this agreement between, I think, the
17 SRSG and General Jackson to have me and the KFOR legal advisers sit
18 together and provide some kind of a delineation of what could be done
19 and possible timeline. So we drafted a paper.

20 And I do think that then after that it was a bit clearer that
21 they had to do this for a while longer until we were able to do it.
22 So with the -- maybe they were still not happy about it, but it was a
23 bit more clarified then than it was before.

24 Q. Okay.

25 A. So before it was almost a daily -- a daily discussion, "When are

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24076

Cross-examination by Mr. Tully

1 you ready? When are these people coming? When can you do this and
2 that?" And so one thing would have been -- so the two issues that I
3 remember were the big issues -- one was beyond the detention or so,
4 but it was then what to do with those people. So it was provide some
5 initial due process at least to keep them in detention. But the
6 second big issue was, sort of in a broader law enforcement sense, to
7 show some presence. So it was very much around patrolling the
8 streets and showing some presence there.

9 And so we had discussions over the different practices and the
10 different AORs. And, yeah, I recall from Prishtine, where we were
11 most present, that then the UK forces did more patrolling, which I
12 remember Ridgway or Jackson explaining to us that they -- because of
13 their experience in Northern Ireland, they had more familiarity with
14 that than other forces in other AORs, and that that was related to
15 some of the different performances in the different AORs.

16 Q. Okay.

17 A. But those were the -- I would say, the two big law
18 enforcement-related issues in the beginning.

19 Q. Okay. Thanks very much. I understand it's a broad spectrum,
20 but what I'm interested, really, are the -- and you've touched on,
21 are the arrest, detention, and also the adjudicating powers of KFOR.
22 So I -- if you can think about -- with those ones in mind --

23 A. Yeah.

24 Q. -- just so I can get through this in time and hopefully get you
25 home today.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24077

Cross-examination by Mr. Tully

1 So the -- this discussion, you've actually answered two or four
2 of my questions -- two or three of my questions to the discussions
3 you had with the KFOR legal advisers. So if their position was that
4 it was -- it wasn't their -- they weren't in Kosovo to uphold law and
5 order, and UNMIK's was that they were there to uphold law and order
6 in the circumstances as they existed at the time, and they still
7 weren't happy afterwards but they went along with it, you -- your job
8 was and you appeared to have succeeded at convincing them around to
9 your position. So I'm interested in what was the legal basis that
10 you gave them upon which that they could carry out these detention --
11 and, again, detentions, arrests, and adjudicating of detained
12 persons, if you remember?

13 A. I think we were very much arguing on the basis of
14 Resolution 1244, and I think the two key mandate paragraphs, I think
15 KFOR's mandate is paragraph 9 --

16 Q. 9.

17 A. -- maybe and ours 11. And from my recollection is paragraph 9
18 sort of has a clause where it says that they provide or -- provide
19 security or something until UNMIK -- and so our -- there's an
20 "until," there's a qualification.

21 Q. "Ensuring public safety and order until the international civil
22 presence can take responsibility for this task."

23 A. Exactly. So our main argument was always the "until." That
24 regrettably, but that was a fact of life that we weren't ready for a
25 bazillion of reasons, and that that was -- the reality was, whether

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24078

Cross-examination by Mr. Tully

1 they liked it or not, that they had to do it.

2 Q. Okay. Then, that's the overarching authority. Now, on the
3 ground, and I'm looking at your statement at paragraph 33 again, and
4 it's down towards the end of it, where you say:

5 "Years later, I totally understand where COMKFOR was coming
6 from. KFOR was neither set up nor did it have the Rules of
7 Engagement to be a law and order prosecuting force."

8 So I understand you're not an officer of KFOR and your
9 experience is within the UN. But speaking about the UN, and tell me
10 if it's not transferable, but what's the legal significance of the
11 rules of engagement in the context of KFOR's ability to act as a law
12 and order prosecuting force?

13 A. Well, the way it was explained to us was the rules of engagement
14 around the patrolling, for example, would be interpreted differently,
15 that there was a practice around the rules of engagement that would
16 differ between the different AORs. And then, I mean -- what I mean
17 in terms of years later, you are around more of these contexts and
18 more of these forces, and you read up and you generally hear and
19 understand better their reluctance and why that is.

20 And I -- so I've spoken to officers and personnel, and this is
21 military personnel who served in Haiti, for example, or I referred to
22 the conversations I had with the INTERFET lawyers and staff in
23 East Timor and even other places. I mean, it's always the same
24 thing. They do not want to broadly get into that maintaining of
25 civil law and order. And that sort of starts with the patrolling

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24079

Cross-examination by Mr. Tully

1 issue in a sense, and that ends with the adjudication -- the judicial
2 process.

3 Q. Okay. Thank you.

4 MR. TULLY: Mr. Court Officer, can I please have on screen
5 DRS01252-DRS01267, and this isn't for broadcast, please. Thank you.

6 Q. I'm about to show you Rules of Engagement for UNMIK that were
7 drafted later on in the year, and they were for the police component
8 of UNMIK. And I want to perhaps get a sense of what it was that
9 might have been missing so that we can look at a text that tells us
10 what might have been missing from the KFOR rules, and tell me if this
11 is something you can comment on. If you don't know, that's totally
12 okay.

13 A. I can already pretty much, I mean, without looking at it, tell
14 you that I didn't go -- I was not involved in the UNMIK rules of
15 engagement or in the -- in setting up the police force.

16 Q. Okay.

17 A. And I'm not really -- but I'm happy to look at it.

18 Q. Let's see how far we get. And, again, if you don't know, that's
19 fine.

20 MR. TULLY: And if we can go to the next page, please. So if
21 you go to paragraph 3.

22 Q. And what I'm interested here is the rules are issued as
23 authorities. The introduction sets out that the document provides
24 the authority, that's paragraph 2, sorry, "for the use of force and
25 explains policy, principles, responsibilities and definitions of the

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24080

Cross-examination by Mr. Tully

1 ROE."

2 Now, I'm not asking you about specifically the UNMIK rules of
3 engagement, but rules of engagement generally speaking for the UN,
4 they are -- when it says "authority," it means this is legal basis
5 for which commanders may choose to -- the parameters within which
6 force may be used. Isn't that general -- your general understanding?

7 A. Yes.

8 Q. And then the next paragraph where it says:

9 "Where issued as prohibitions, they are orders not to take
10 specific actions. Where issued as permissions, they are the
11 authority for Police Commissioner and Police Commanders to take
12 certain specific actions if they are judged necessary to achieve the
13 aim of the Mission."

14 Do I understand it then that actions taken outside of the rules
15 specified in the rules of engagement are ones taken without legal
16 authority?

17 A. For the police, yes.

18 Q. Yes. I'm --

19 A. Yeah.

20 Q. -- speaking generally about the rules of engagement.

21 A. Yeah.

22 Q. Okay. So -- and the terminology may be different, but would you
23 understand that this is how rules of engagement generally would work
24 also for KFOR? I don't think it would change between forces; is that
25 right?

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24081

Cross-examination by Mr. Tully

1 A. That's my understanding.

2 Q. Okay.

3 MR. TULLY: So if we can go now to page 10 of this document.

4 That's DRS01261, please.

5 Q. These are the enumerated rules. Again, I don't need you to
6 comment on the specifics of how anything was drafted.

7 MR. TULLY: If you can scroll down a little more.

8 THE WITNESS: So these are the UNMIK rules.

9 MR. TULLY:

10 Q. These are the UNMIK rules, yeah. Yeah, I'm just using this as a
11 point of comparison. So this is a body that dealt with arrests and
12 detention of individuals. Rule 4, dealing with civil action, and you
13 can take the time to read over that yourself. But in particular, I
14 want to focus on 4(1)(c), and that's:

15 "To present a person" -- excuse me.

16 "Detention of any person is authorised for the following
17 purposes:"

18 In particular:

19 "To present a person before a court or the competent legal
20 authority for consideration of any charges against him or her."

21 And the second rule is:

22 "Detention of individuals or groups, except on such grounds and
23 in accordance with such procedures as are established by law, is
24 forbidden."

25 So is it the case that -- sorry, tell me when you're finished

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24082

Cross-examination by Mr. Tully

1 reading.

2 A. I have.

3 Q. You're okay? So is it the case, and I know that you might not
4 know the specifics of it, but when the KFOR LEGADs raised with you an
5 issue that their rules of engagement would not allow them to perform
6 as a law enforcement force, this is the type of rule that would be
7 missing from their rules of engagement?

8 A. So just on the conversation with the KFOR lawyers and also
9 Jackson and whoever else picked this issue up, it was -- the first
10 issue was a sense to say: Under the resolution, that's not our task,
11 that's your task. And then the rules of engagement discussion, that
12 wasn't the central discussion, but that was specific to the issue we
13 were -- in reaction to -- to some of the -- the sense of violence
14 and, you know, that we had from Prishtine or these -- these
15 incidents, that we wanted to have some presence in the street, and so
16 the UK obliged that. And we didn't have a sense -- our reports from
17 district administrators were that that is not the same practice in
18 every single AOR. And so the discussions around the rules of
19 engagement were not so much around apprehension. They were much more
20 on a show of force or show of presence in the street rather than -- I
21 don't know, being in your camp than having occasional sort of raids
22 or whatever --

23 Q. Okay.

24 A. -- going on.

25 Q. Okay. Okay. Then let me link this back to your statement.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Tully

Page 24083

1 MR. TULLY: Can I have back on screen the witness's statement at
2 paragraph 42, please. And, sorry, I don't know the page. Yeah,
3 thank you. Thanks very much.

4 Q. Well, you obviously identified as these arrests were going on an
5 issue, and I'm reading out to you your statement where you said:

6 "There was a growing sense of frustration. For instance, the
7 Judicial Affairs Office had no personnel assigned on a full-time
8 basis in mid-July, and we were undertaking basic judicial functions
9 to provide a measure of due process to individuals detained by KFOR
10 troops and held in interim KFOR facilities."

11 So if you remember that when we looked at the rules of
12 engagement for UNMIK, it specifically had provisions about bringing a
13 person before a competent legal authority, for instance, and not
14 detaining except on such grounds and in accordance with procedures as
15 are established by law. But you've identified that you had your own
16 issues or you identified potential problems with the due process of
17 the KFOR arrests; am I right?

18 MS. IODICE: Objection, mischaracterisation.

19 MR. TULLY:

20 Q. Well, you can explain if I'm --

21 PRESIDING JUDGE SMITH: Overruled.

22 MR. TULLY:

23 Q. -- incorrect.

24 PRESIDING JUDGE SMITH: Go ahead.

25 THE WITNESS: So maybe just in terms of sequencing, I think the

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24084

Cross-examination by Mr. Tully

1 UNMIK rules of engagement were adopted much later.

2 MR. TULLY:

3 Q. Yes.

4 A. So they weren't -- at the time that I am referring to here, and
5 when I was present, we didn't have either a functioning police force
6 nor did we have UNMIK rules of engagement. So for us, it was KFOR
7 carrying out arrests based on their rules of engagement, and then
8 pushing us if there is similarity between the rules of engagement,
9 which was your assumption that the court of law basically -- some
10 measure of court of law would be provided, and that's what we were
11 trying to address through these emergency decrees and those panels --
12 or that panel, I think, that one panel that we set up.

13 Q. Well, to be clear, I'm not really making any assumption. And I
14 know without the rules here we can't really talk about it, but my
15 understanding is if you're stepping in to provide these due process
16 guarantees as much as you could, that KFOR, having gone into the
17 mission not expecting to be law and order forces, did not have these
18 rules that were written for the UNMIK police. This was something
19 developed later on by the body that was anticipating to be the civil
20 authority. And if you don't know, that's okay, but ...

21 A. I mean, I don't know to the consequence that you explained it
22 now, but -- or stated it. But it was my understanding at the time, I
23 mean, it's my understanding today, that you hardly have a force that
24 deploys somewhere without rules of engagement. I mean, that wouldn't
25 happen. So I assume that KFOR or the KFOR forces had rules of

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24085

Cross-examination by Mr. Tully

1 engagement.

2 What I don't remember at least anymore, I don't think we were
3 having the discussions on: But, look, this is what your rules of
4 engagement says, and this is what we -- it was a much more: This is
5 not our task, this is your task. So the big picture was much more
6 whether they should be doing it at all, whether they had rules of
7 engagement in whatever they said or not. That was the nature of the
8 discussions, from my recollection today, primarily that I had with
9 the KFOR lawyers.

10 Q. And when you said that you stepped in to provide some measure of
11 due process to individuals, what specific concerns did you have about
12 the due process that was not being afforded to individuals in
13 detention?

14 A. Well, I mean, first of all, again there was -- there was
15 pressure to set up courts by COMKFOR from the beginning, and so the
16 concern was not necessarily over specific provisions. It was over
17 the fact that they weren't adjudicated in a way in a -- in a civilian
18 court rather than remained a military responsibility.

19 And so do I think that, from recollection, but also now over all
20 those documents that I've read, I saw somewhere that they were put up
21 in tents and guarded, and so there was a general discomfort with the
22 fact that they had to deal with this situation while we didn't even
23 have the capacities to deal with this at all.

24 So in terms of measure of due process, we were particularly
25 concerned with sort of these -- the three- or four-day period, you

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24086

Cross-examination by Mr. Tully

1 know, the right to be heard, and --

2 Q. Right to appeal?

3 A. Right to appeal. I mean, these types. But also just the right
4 to forward your legal argument, your side, and so on. So it was
5 issues that would usually relate to pre-trial detention issues,
6 apprehension, that are common in most or any court system.

7 Q. Okay. And I don't mean this with any criticism, it sounds like
8 a very difficult situation, but you say you characterise it as a
9 measure of due process. Do I detect -- I think you said earlier
10 today at page 54 it was the ambition to provide due process. Do you
11 feel you succeeded in providing due process?

12 A. That's why I'm saying "measure." I mean, I think in the
13 situation I -- maybe I was wiser and did understand the law better at
14 that time than I do today. But I don't think we were -- we assumed
15 that by setting up this panel we would set up a body for all
16 eternity. It was just to address a number of those most obvious
17 aspects, that people didn't feel they were just being taken away and
18 having no one -- they didn't have any rights, they didn't -- but I
19 didn't think at the time that we would have covered necessarily
20 the -- that we had set up an arrangement that would -- could be
21 likened to arrangements in any of our countries.

22 Q. Okay. So to sum up, you tried but not entirely?

23 A. No, I tried my best, whatever we could do, but I wasn't
24 necessarily --

25 Q. Yes.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24087

Cross-examination by Mr. Tully

1 A. I wouldn't have signed that this is the best one could do
2 under -- under --

3 Q. Okay.

4 A. I mean, there may have been lawyers or would have been -- could
5 have been lawyers, there could have been other experts that may have
6 acted differently or could have pushed for additional arrangements.
7 That's why I was trying to express that at the time and with the
8 speed that this was required, we wanted to at least address a number
9 of the most glaring aspects and then build upon that to -- towards a
10 proper -- more properly functioning judicial system.

11 Q. Okay. I've just a few more questions left. Did you hear back
12 from the legal advisers in KFOR that the troops themselves were
13 unclear as to the legal basis upon which they were performing these
14 detentions?

15 A. I mean, I don't want to hold anyone to any words, you know, but
16 there were certainly discussions around different understandings of
17 different troop contributors or contingents in terms of how they
18 interpreted the mandate or the rules of engagement or whatever rules
19 they had.

20 Q. Okay.

21 MR. TULLY: Can I have on screen, please, SPOE00217919 to 000 --
22 sorry, excuse me, 00218047. And that's at page 218043.

23 Q. Now, these are various reports [REDACTED] Pursuant to In Court
Redaction Order F2845RED. Themselves.

24 And it's a -- I'll wait till it comes on screen.

25 MS. IODICE: If we could move to private session, please.

Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24088

Cross-examination by Mr. Tully

1 MR. TULLY: Oh, yeah. Excuse me. Private session, please.

2 PRESIDING JUDGE SMITH: Into private session, please,

3 Mr. Court Officer.

4 [Private session]

5 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24089

Cross-examination by Mr. Tully

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24090

Cross-examination by Mr. Tully

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24091

Cross-examination by Mr. Tully

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24092

Cross-examination by Mr. Tully

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24093

Cross-examination by Mr. Tully

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24094

Procedural Matters

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)
Procedural Matters

Page 24095

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20 [Open session]

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

22 Thank you.

23 PRESIDING JUDGE SMITH: Thank you.

24 Go ahead, Mr. Ellis.

25 MR. ELLIS: Thank you, Your Honour.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24096

Cross-examination by Mr. Ellis

1 Cross-examination by Mr. Ellis:

2 Q. And good afternoon, Witness. My name is Aidan Ellis, and I
3 appear for Mr. Jakup Krasniqi.

4 There are, I think, three broad topics I want to explore with
5 you this afternoon. The first is the situation that you found on
6 your entry into Kosovo; the second is some further questions about
7 the Kosovo Transitional Council; and the third is to do with the
8 investigation and reporting of crimes against minorities in the time
9 that you were there.

10 So I want to start, then, with your entry into Kosovo on 12 June
11 1999.

12 MR. ELLIS: And could we have on screen, please, what is now
13 1D00226.

14 Q. And you will recognise the front page as that of an article that
15 you wrote in 2001 and which you discussed with, I think, Mr. Misetic
16 yesterday.

17 A. Yes.

18 MR. ELLIS: Could we move to page 3 of the PDF, please, which is
19 DHT04971. And if we could scroll down a little, please. In fact, we
20 could probably scroll just below the heading "Kosovo."

21 Q. Now, you're dealing there, I think, with the situation that the
22 first UNMIK officials to arrive found. And what you say there is
23 that the situation was "devastating: as a result of the systematic
24 cleansing of the Kosovar Albanian population by the Yugoslav and
25 Serbian security forces, the majority of Kosovo's population had been

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24097

Cross-examination by Mr. Ellis

1 expelled and was living in refugee camps abroad."

2 You recall writing that in your article; yes?

3 A. Yes.

4 Q. Mr. Misetic then took you to the footnote to that point, which
5 was a UN report that said that from a population of 1.7 million
6 people, 800.000 had sought refuge abroad and a further 500.000 were
7 internally displaced. And the point that you then go on to make in
8 your article is that:

9 "Soon after the arrival of the United Nations, however, the
10 refugees started to return from Macedonia and Albania at a
11 historically unprecedented scale and speed."

12 Do you recall that?

13 A. Yes, absolutely.

14 Q. And you give some details in the article. You say that by
15 25 June 1999, so less than two weeks after your deployment, there
16 were some 300.000 spontaneous returns, and something like 50.000
17 refugees were crossing back into Kosovo each day; is that right?

18 A. Yes. I mean, I couldn't confirm the numbers, but, yes, as a
19 phenomenon that's correct.

20 Q. And further down you say that by 8 July 1999, more than 650.000
21 refugees had returned to Kosovo; yes?

22 A. Yes.

23 Q. And these refugees were not following an organised plan for
24 their return. They were just crossing the border in cars, tractors,
25 or on foot, any way they could?

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24098

1 A. Yes.

2 Q. And as you say in the article, those returning refugees were
3 often highly traumatised by the months of violence preceding your
4 mission and by the decades of oppression that they had suffered under
5 Serbian rule. That's right, isn't it?

6 A. Yes.

7 Q. And when they came back, they needed immediate housing and
8 material support. That's right, isn't it?

9 A. Correct.

10 Q. And in terms of the material support specifically --

11 MR. ELLIS: If we could scroll down a little so that we can see
12 footnote 6.

13 Q. There was a preliminary survey of 141 villages by the UNHCR that
14 you refer to, which concluded that 64 per cent of homes were severely
15 damaged or destroyed, and that household waste and human remains had
16 contaminated 40 per cent of water sources. Does that reflect the
17 UNHCR report you would have seen at the time?

18 A. Yeah, I would assume so.

19 Q. Now, of course, you did visit some areas outside Prishtine
20 during your time in Kosovo, and I think you've mentioned Prizren,
21 Mitrovice, and Peje?

22 A. And I went on one occasion with Mr. de Mello in a chopper to the
23 Albanian-Kosovar border to receive Václav Havel, who was then, I
24 think, the president of or the prime minister of the Czech Republic,
25 who arrived there. And so this was to witness and -- and because he

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24099

Cross-examination by Mr. Ellis

1 was very concerned about the reflux. And so we saw first-hand how
2 people were in wheelbarrows and cars and this very -- the return that
3 I describe here in the article.

4 Q. Yes, thank you.

5 MR. ELLIS: If I may borrow a document from the Thaci
6 presentation queue which was DHT04937 at page DHT04940, please. And
7 the paragraph that I was looking at was the one headed
8 "Humanitarian." Sorry, back up. Back up a little.

9 Q. You had mentioned a helicopter trip with Special Representative
10 De Mello. This is referring to 18 June 1999. On this occasion, it's
11 said that:

12 "... de Mello visited by helicopter areas of reported widespread
13 damage and displacement, [in] Djakovica, Pec, Drnica and Orahovac.
14 De Mello later said that 75 per cent of Pec seemed to have been set
15 on fire, and that apparently every Albanian house had been
16 destroyed."

17 Were you with Special Representative De Mello on that helicopter
18 trip?

19 A. I may have been. I don't remember. I remember I said yesterday
20 that I was twice, and it may have been on this trip and another trip
21 to Peje -- to Pec, but I -- I don't know whether it was this specific
22 trip.

23 Q. Right. But you would have heard his comments afterwards about
24 the damage that were observed in Peje in particular, that the --

25 A. Very likely.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24100

1 MR. ELLIS: Your Honour, I seek to add that page to the exhibit
2 which has already been admitted, which I think is 1D00228.

3 PRESIDING JUDGE SMITH: Any objection to adding that one page?

4 MS. IODICE: No, Your Honour.

5 PRESIDING JUDGE SMITH: DHT04940 will be added to -- is it 1D?

6 MR. ELLIS: 1D228.

7 PRESIDING JUDGE SMITH: Yeah, 1D00228.

8 THE COURT OFFICER: Thank you, Your Honours. It will be added.

9 PRESIDING JUDGE SMITH: Go ahead.

10 MR. ELLIS: And can I, before the break, try to get to one
11 further document, which is SPOE00214815. And if we could scroll
12 down, please, to the heading "Humanitarian."

13 Q. Witness, this is from an ECMM, European Community Monitoring
14 Mission, cable dated 9 July 1999, and I just want to go through the
15 "Humanitarian" section of that. It says:

16 "On 9 July RO Pristina received the Kosovo Assessment Report
17 produced by UNHCR. The first rapid assessment has been done over a
18 period of two weeks. The villages represented not a large enough
19 statistical base to be authoritative. The overall implications of
20 this first cut is that the international community and the Kosovars
21 still face a serious humanitarian threat. Hopes that the
22 humanitarian situation may not be as serious as initially feared seem
23 to be over optimistic. While winterisation is a fundamental
24 objective of the humanitarian community, there is mount ..."

25 Over on to the next page, please.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24101

1 "... there is mounting evidence that basic requirements still
2 need to be provided to a significant number of people."

3 Pausing there for a moment. Winterisation simply means the
4 process of preparing for winter, doesn't it?

5 A. Yeah, I mean, my -- my main job is in the -- in the humanitarian
6 field, so I'm very familiar with the terminology.

7 Q. Of course.

8 A. And -- and so -- I mean, look, while I was not part of UNHCR's
9 operations and -- these types of things, rapid assessments and so on,
10 are usually done around the summer months in order to ensure -- money
11 very often flows only annually, that you don't run out of money by
12 the beginning of next year. And so very often in summer months,
13 people already try to anticipate what the winter is going to look
14 like and prepare for winterisation.

15 And what is also not uncommon is that sometimes, because these
16 reports, of course, also resource mobilisation -- have resource
17 mobilisation intentions, that the situation is then described in a --
18 in a usually -- in grave terms in order to prompt the international
19 community to donate money for those causes.

20 Q. You have to start the work on this in the summer months in order
21 that provision is provided when it gets to the winter months. That's
22 right, isn't it?

23 A. Because money needs to be provided, programming needs to be
24 done, these types of assessments need to be carried out and
25 double-checked, and so on. Yes.

1 Q. Exactly.

2 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis. We need to break
3 now.

4 We'll give you a lunch break. You may stand down until 2.30.
5 We'll take this up at that time.

6 THE WITNESS: Thank you.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: Mr. Ellis, about how much more time will
9 you need?

10 MR. ELLIS: I think 40 minutes.

11 PRESIDING JUDGE SMITH: Thank you.

12 We're adjourned until 2.30.

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

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

15 PRESIDING JUDGE SMITH: Go ahead, Mr. Misetic.

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

17 I just wanted to state the Thaci Defence's position on the
18 record in response to a question that Judge Barthe had put to the
19 witness about whether the KLA had the right to detain for security
20 reasons. And I just wanted to be clear that our position is that the
21 Prosecution in the pre-trial phase of this case, in the last
22 preparation conference that we had, had questions from the Bench on
23 this very question. That's reflected on page 2116 and 2117.

24 In answer to questions by both Judge Smith and Judge Barthe, the
25 SPO position was that, yes, the KLA could have a valid legal basis to

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24103

1 detain under international law. And then they specifically said:

2 "The deprivation of liberty is without legal basis when it is
3 justified neither by criminal proceedings nor by reasonable grounds
4 to believe that security concerns make it absolutely necessary."

5 So the Defence has relied on that position of the SPO and has
6 not further pursued the self-defence argument that we had raised in
7 the pre-trial case. Thank you.

8 PRESIDING JUDGE SMITH: You can bring the witness in.

9 [The witness takes the stand]

10 PRESIDING JUDGE SMITH: Mr. Strohmeyer, we'll continue with
11 Mr. Ellis's questions.

12 Go ahead, Mr. Ellis.

13 MR. ELLIS: Thank you, Your Honour.

14 Q. When we broke, Witness, we were just looking through this ECMM
15 cable that should still be on your screen. I just wanted to draw
16 your attention to two further features of it.

17 The first is that in the -- around halfway down that page, you
18 should see that 40 per cent --

19 MR. ELLIS: Sorry, scroll back up.

20 Q. "Forty per cent of water sources are perceived to be of poor
21 quality, polluted by a range of materials, including human as well as
22 animal corpses."

23 That was, I think, the same figure that you had footnoted in
24 your article which we were looking at. That's right, isn't it?

25 A. To be honest, I've even forgotten between now and before whether

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24104

1 -- I mean, I know there was a 40 per cent figure, but if that's what
2 I used, then that's what I took from these reports. Yeah.

3 Q. Very well. And then finally, the last sentence records that:
4 "Only 12% of preexisting health facilities still exist in those
5 villages that were surveyed, and 60% of [pre-existing] schools have
6 been severely damaged or destroyed."

7 That reflects the situation at the time you were there; correct?

8 A. At the beginning, yes.

9 Q. And so you had both the need for reconstruction in terms of the
10 shelter for people to prepare for winter but also of structures like
11 health facilities, schools, water resources; yes?

12 A. Yes.

13 MR. ELLIS: Your Honour, I tender this document.

14 PRESIDING JUDGE SMITH: Any objection?

15 MS. IODICE: Your Honour, the relevance is not completely clear
16 at this stage.

17 PRESIDING JUDGE SMITH: It seems relevant enough for
18 consideration by the Court. We'll decide the weight to be given it.

19 SPOE00214815 is admitted.

20 THE COURT OFFICER: Thank you, Your Honours. So SPOE00214815 to
21 00214816 will be assigned Exhibit 4D00101, classified as
22 confidential. Thank you, Your Honours.

23 MR. ELLIS: Thank you.

24 And could we now have on screen, please, DJK01128 to DJK01149 on
25 the first page, please.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24105

Cross-examination by Mr. Ellis

1 Q. Now, what's coming up on the screen, Witness, is a second
2 article which I think you wrote also in 2001 entitled: "Making
3 Multilateral Interventions Work: The UN and the Creation of
4 Transitional Justice Systems in Kosovo and East Timor."

5 Do you recognise that article, sir?

6 A. Yes.

7 Q. Thank you.

8 MR. ELLIS: And if we could move through it, please, to
9 DJK01129. And if we could scroll down, please.

10 Q. You begin in this article by setting out the complexity of the
11 civilian challenges with reference to the widespread destruction and
12 devastation that you had seen. And what I'm interested in --

13 MR. ELLIS: If we could turn over to the next page, please.
14 Sorry, the next page still, 1131. I'm sorry, it was 1130. The last
15 paragraph.

16 Q. What you said there is that:

17 "In practice, these mandates led to an unimaginable abundance of
18 tasks, all of which required [your] immediate attention."

19 That's how it was at the beginning, wasn't it?

20 A. Yes.

21 Q. And you then go on to give a list of the tasks which include a
22 number of reconstruction, rebuilding matters, such as, taking from
23 your list, reconstructing the road network, operating public
24 utilities, resuscitating the education system, and so on. Those are
25 all matters that need urgent attention, aren't they?

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24106

1 A. Yes.

2 Q. And I think you mentioned this --

3 MR. ELLIS: Your Honour, at that point I tender the article as a
4 second article companion to the first written by this witness
5 reflecting the establishment of UNMIK.

6 PRESIDING JUDGE SMITH: Objection?

7 MS. IODICE: No, Your Honour.

8 PRESIDING JUDGE SMITH: Are you doing -- you want the entire
9 document or one page?

10 MR. ELLIS: I'd like the entire document, Your Honour. It's --

11 PRESIDING JUDGE SMITH: DJK01128 to DJK01149 is admitted.

12 THE COURT OFFICER: This will be assigned Exhibit 4D00102, and
13 it's classified as public. Thank you, Your Honours.

14 MR. ELLIS: Yes, it can be public. Thank you.

15 Q. And, of course, in order to carry out the reconstruction effort,
16 one of the aspects of that was conversations with donors about the
17 sums of money that would be involved to carry out this rebuilding.

18 A. Among others. Maybe just -- this is the right place for sort of
19 a small -- a small footnote. I mean, that is why UNMIK had this very
20 unusual to any other mission before or after structure where the EU
21 would have one pillar looking at economic reconstruction, and then we
22 had -- you referred to the humanitarian situation before. We had one
23 pillar that was almost in its entirety dedicated to humanitarian in a
24 broader sense headed up by UNHCR, and then totally different from
25 that, the setting up of a civilian administration in all its broad

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24107

1 aspects.

2 And so if I look beyond sort of the technical way of setting up
3 the systems or structures that from -- I remember some of my
4 colleagues who were in some of the districts or regions deployed as
5 sort of *de facto* mayors or, whatever, administrators there, they
6 would come every single day with a request: You need to pass a
7 regulation on -- I don't know what, how you -- at some port or so,
8 collect some fees. What do we do with the money, you know? And so
9 it was probably way beyond the list that I mentioned here. It was
10 really this abundance of tasks. But that's why it was not just a
11 question of us and donors or raising money, it was really put on very
12 broad shoulders.

13 So there were tasks and engagements that the economic sector
14 had, that the EU carried out, that I in the SRSG's office wasn't
15 necessarily privy to or that even people in the civilian
16 administration pillar wouldn't necessarily be deeply involved in.

17 Q. There's a broad range of tasks that were needed in part because
18 of the extent of the destruction. But that would include, for
19 example, even on a practical level, making sure that the factories
20 were producing the brick or the tools needed for the reconstruction;
21 yeah?

22 A. I think it went beyond the question of reconstruction and
23 destruction during that -- during the conflict immediately preceding
24 our deployment. I think it was also a way of helping Kosovo as
25 quickly as possible on its feet with a view to the entire,

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24108

Cross-examination by Mr. Ellis

1 quote/unquote, as others have called it, apartheid regime since 1989,
2 so the economic disadvantaging and so on. So this was also a way of
3 fast-tracking that, or at least attempting to fast-track that.

4 Q. I follow.

5 MR. ELLIS: Could we go back then to your first article, which
6 was 1D00226. And could we go to page DHT04980. And if we could zoom
7 in, please, on the heading and the two paragraphs below,
8 "Reconstruction of the Physical Infrastructure."

9 Q. Now, you record in your article that in Kosovo -- in your
10 article, that "virtually all public buildings, including courts, had
11 to be cleared of mines and booby traps before they could be reclaimed
12 for public purposes."

13 That's right, isn't it?

14 A. Yeah, that's correct. I mean, we -- one of the reasons why we
15 were for two or three weeks in the Sunny Hill neighbourhood was
16 actually that, while we were there, it took a number of weeks to
17 clear even the JNA barracks that we had moved in into our -- into a
18 headquarters from booby traps.

19 PRESIDING JUDGE SMITH: Mr. Ellis, these are indeed interesting
20 questions, but what does it have to do, what's the relevance to the
21 charges in the indictment here? This seems to be very far away from
22 relevant.

23 MR. ELLIS: Well, Your Honour, I have an answer for that. I'd
24 prefer to give it in the absence of the witness, if I may.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24109

1 Go ahead and answer me now. What is the relevance of this
2 material?

3 MR. ELLIS: The relevance of this material is that the role that
4 my client took in the provisional government was as minister for
5 rebuilding and reconstruction. And our position is that during this
6 time what he is doing is working on the essential tasks outlined
7 here: Schools, roads, factories, the reconstruction effort. It goes
8 to what my client's role was in the post-war period and it may be
9 during -- which is part of the indictment.

10 Now, this witness, of course, can't speak to my client's role,
11 but he can speak to the circumstances at the time which feeds into
12 what my client was doing.

13 PRESIDING JUDGE SMITH: That's certainly marginal. No one's
14 doubting that your client had jobs to do in the post-war time period,
15 but that has very little to do with the charges against them as set
16 out in the indictment.

17 MR. ELLIS: Well, that's rather our point, Your Honour.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. ELLIS: I'm not going to spend too long on it, Your Honours.

20 PRESIDING JUDGE SMITH: Well, I hope not.

21 MR. ELLIS:

22 Q. It's also covered in your article there that office equipment
23 had been appropriated by the withdrawing security apparatus, so you
24 lacked files, official forms, stationery, and so on? That's right,
25 isn't it?

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24110

1 A. Yes.

2 Q. And I think you explained in the other article, I won't pull it
3 up, but you were actually drafting the first legal texts on a laptop
4 on the floor of your rented building; yes?

5 A. Correct.

6 Q. And I can go to the page in your article if you need to, but
7 you've also explained there that, as a result of the
8 government-sanctioned discrimination, there were virtually no Kosovar
9 Albanians remaining in the civil service. That's right, isn't it?

10 A. Yeah, that sounds right. I mean, I don't have that clear
11 recollection whether there were or weren't that many, but that was a
12 plausible consequence.

13 Q. Sure. And the figure you give in your article is that in the
14 judiciary only 30 out of 756 judges and prosecutors were Kosovar
15 Albanian.

16 A. Likely I knew at that point and --

17 Q. Of course.

18 A. -- I wouldn't know right now anymore.

19 Q. No, I appreciate 25 years have passed since your appointment
20 there. But it is, to cut through this, a system where the judicial
21 system had essentially collapsed, hadn't it?

22 A. Yes, absolutely.

23 Q. And there were certainly no functioning civil police in the June
24 of 1999, was there?

25 A. There was no -- there was no functioning system in the sense

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24111

1 that you would expect it from a functioning country or territory.

2 Q. And the process of recruiting and deploying an experienced
3 police force took months to accomplish, didn't it?

4 A. Correct.

5 MR. ELLIS: Can I then go in your article to page DHT04971. And
6 if we could scroll down a little so that you can see it on the
7 screen.

8 Q. Now, in the middle of that paragraph, where you finish dealing
9 with the numbers of refugees returning, you have this to say. You
10 say:

11 "In need of immediate housing and material support, an
12 increasing number of returnees resorted to violence and intimidation
13 as a means of retrieving some semblance of their previous lives."

14 Do you see that there in your article?

15 A. Yes, I do.

16 Q. And so, at least in this article in 2001, you were linking the
17 conditions to which returning refugees found themselves in with the
18 resort to violence and intimidation which occurred. That link's made
19 in your article, isn't it?

20 A. That's correct.

21 Q. Very well. I'll move on then to my second topic with you which
22 is the Kosovo Transitional Council.

23 MR. ELLIS: I think we need to move into private session for
24 this. It's in relation to document P1975.

25 PRESIDING JUDGE SMITH: Into private session, please,

Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24112

Cross-examination by Mr. Ellis

1 Court Officer.

2 [Private session]

3 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24113

Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: Hansjoerg Strohmeier (Resumed) (Private Session)

Page 24114

Cross-examination by Mr. Ellis

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24115

Cross-examination by Mr. Ellis

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24116

Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)

Page 24117

Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: Hansjoerg Strohmeyer (Resumed) (Private Session)
Cross-examination by Mr. Ellis

Page 24118

1 [Private session text removed]

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7 [Open session]

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

9 Thank you.

10 MR. ELLIS: Thank you. Thank you. And can we go to page 1133.

11 Now, if we could scroll down a little, please. Yes, it's that bottom
12 paragraph on the page.

13 Q. I think, in fact, Witness, you had covered some of the topics
14 that were addressed this morning in your article back in 2001 in
15 relation to the applicable law. What you said there was that:

16 "... the introduction of laws that were perceived as symbols of
17 the just-ousted political regime in both Kosovo and East Timor led to
18 considerable legal and political difficulties. In Kosovo, in
19 particular, this decision prompted vigorous protest among local
20 politicians and within the legal community. Yugoslavia's criminal
21 laws, in particular, were considered to have been one of the most
22 potent tools of a decade-long policy of discrimination and repression
23 of the Kosovar Albanian population."

24 That's what you had to say about it in 2001; yes?

25 A. Yes. Just -- just on the article, I just wanted to make clear

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)

Page 24119

Cross-examination by Mr. Ellis

1 that both articles that I refer to I had to submit for clearance, so
2 they have been cleared by the legal department and on behalf of the
3 *chef de cabinet*, number one. And number two, because of the
4 intensity of the situation, it was a bit of a -- I'm not saying a
5 stream of conscience, but it was a desire both to show the
6 particularity of this situation where for the first time the UN had
7 to really set up and provide judicial tasks and structures, but also,
8 on issues like this, to have a vehicle to -- at least for my own
9 conscience, to put down or hint down at some of the difficulties that
10 I had just alluded to earlier in relation to the discussions around
11 regulation number 1.

12 And so against that, this is sort of maybe a very tame but still
13 sort of an attempt to show that I did understand the issues at the
14 time, and there were reasons for why we had to continue, go through
15 with regulation number 1 as it was, for the reasons that I spelled
16 out earlier.

17 Q. Yes, quite. And as you were explaining earlier today, the
18 issues with the application of Yugoslavia laws were raised by both
19 local politicians and, indeed, within the legal community. That's
20 one of the points you were making earlier, isn't it?

21 A. Well, one, in fact, was more sort of a result of the other. I
22 do -- I mean, I'm not saying we had contacts within the legal
23 community from the get-go, but I do remember that one of -- in my
24 recollection at least, that one of the outcomes of -- specific to the
25 conversation with Mr. Thaci was that we then went back and sometime,

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24120

1 I don't remember anymore, the middle of July or maybe it was when I
2 came back in the middle August, that we did have a larger meeting
3 with the legal community, with Kosovo legal -- like a roundtable type
4 of a thing.

5 But -- so we probably had, after a number of -- four, five, six
6 weeks, around the issue of applicable law increasingly informed
7 conversations with -- also with Kosovar Albanian lawyers.

8 Q. Yes, because one of the things you needed to do was to
9 revitalise the legal community so that you had people to represent
10 those that were being arrested; yes?

11 A. Yes. And we were. And we were benefitting to a certain extent
12 from some of the contacts that the OSCE and the KVM had made prior to
13 that, so we had initial points, but it was -- that was an important
14 part of our task in the beginning.

15 Q. Very well. I want then to move on to my final topic which was
16 the reporting and investigation of crimes against minorities.

17 You made the point in answer to Mr. Dixon this morning at
18 provisional page 62, as the legal adviser for UNMIK, you weren't
19 personally involved in the investigation of cases, were you?

20 A. No, there was -- there was -- no. I mean, that's the answer. I
21 was pretty -- I was pretty firm on this with Sergio and others that I
22 did not want to -- because I was a judge before. I was, technically
23 speaking, still on leave of absence at that time, and I did not want
24 to blur those lines. I wanted to perform those quasi-justice
25 ministry type of things but not operational tasks.

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24121

Cross-examination by Mr. Ellis

1 There was one exception to this because of the sensitivity where
2 General Jackson and Ridgway, Brigadier-General, I think, Ridgway, had
3 asked Sergio to deal with the situation in Orahovac. Because there
4 was still the Serbian mayor and the Serbian minority in the upper
5 town of Orahovac. Whereas in the lower parts of Orahovac, it was
6 Kosovo Albanian. And the situation was heating up, and they were
7 very concerned about the situation in Orahovac getting out of
8 control, and that this would lead to further bloodshed. And so what
9 we did there is to prepare an apprehension in the early morning hours
10 of the head of the MUP, the Serb -- in that -- that was the only time
11 I was actually actively involved in a ...

12 Q. Thank you. I don't need to go into the detail of that incident.
13 But, for example, you described for us yesterday an incident where
14 you had passed a Serbian restaurant on your way into Prishtine, and
15 on the way out you found it burning. You would not have been
16 personally involved in the investigation of what had happened on that
17 occasion, would you?

18 A. No. I mean, I did stop as a human being. I did stop --

19 Q. Of course.

20 A. -- and spoke to the -- spoke to the people just because we had
21 observed this, but I was not involved in any follow-up. In fact,
22 that, as a usual practice, we would hand over -- I think at that time
23 we would speak to Sandra Mitchell or so to say -- for the OSCE to
24 follow this up or even take it into a log. I am sure we would also
25 have notified KFOR of that.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24122

1 Q. Yes, but you haven't identified in your statement, for example,
2 whether further investigation of this specific case occurred or who
3 the perpetrators were?

4 A. I wouldn't know, no.

5 Q. Thank you.

6 A. I don't know now anymore.

7 Q. Thank you. Can we now look at some of the documents which you
8 were shown by the Prosecution both yesterday morning and in -- the
9 same documents were shown in your preparation session last week.

10 MR. ELLIS: If we could deal first with P1984, please.

11 Q. Firstly, just on this introductory page, and this was a document
12 you were shown by the Prosecution yesterday morning and again in the
13 preparation session. I see the date on it is 16 September 1999. I
14 think the position that you arrived at yesterday with Mr. Misetic is
15 that although you don't remember the precise date, you accepted there
16 were documents suggesting you left Kosovo in August 1999. That's
17 right, is it?

18 A. Yeah, I'm pretty sure I wasn't there on 16 September.

19 Q. So this document would be after your time in Kosovo altogether,
20 wouldn't it?

21 A. Yeah, I mean, if my memory doesn't betray me, I would say yes.

22 MR. ELLIS: Could we turn through it please to page 012761.

23 Q. And what I'm looking at is, I think, the second paragraph there,
24 which precedes the incidents that the Prosecution took you through.
25 It says:

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24123

1 "All listed cases should be considered under investigation and
2 should be viewed as allegations only. Confirmation of facts and
3 circumstances regarding any particular incident" --

4 A. Sorry.

5 Q. -- "can be done on a case-by-case basis" --

6 A. I'm lost. I'm not following you. Where --

7 Q. It's right at the top what we can see on the screen.

8 A. Yeah, I got it. Thank you. Sorry.

9 Q. "All listed cases ..." Do you have it?

10 A. Yeah.

11 MR. ELLIS: You could perhaps scroll to the top a little bit so
12 that it's clear.

13 Q. So what this is saying, Witness, is that the cases that follow
14 should be viewed as allegations. They haven't been verified. That's
15 right, isn't it?

16 A. That's what this document says, yeah.

17 Q. And since you left Kosovo by this point, you couldn't say which
18 of these incidents were followed up on later?

19 A. I would say even if I had been in Kosovo, I wouldn't necessarily
20 be able to -- to have -- I did not follow every single individual
21 proceeding or investigation afterwards.

22 Q. Quite.

23 MR. ELLIS: Could we then have on screen, please, P1981.

24 Q. This is a report that you were shown by the Prosecution
25 yesterday. And all I want to do is put back to you -- this was shown

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24124

Cross-examination by Mr. Ellis

1 to you in your preparation session last week already, and what you
2 said there is recorded in paragraph 6 of your Preparation Note 2.
3 It's saying you do not remember having seen this specific report, but
4 it brings back the memory of seeing and discussing reports like this.

5 That's right, isn't it? You don't specifically remember this
6 report?

7 A. I think I've said -- that's what I said yesterday and generally
8 for all these reports. I do remember seeing these types of reports
9 and incident reports and so on, but I couldn't remember or confirm
10 either any of the specific details, the body, maybe if I now were to
11 in detail go over every single thing. But these types of reports,
12 OSCE or KFOR reports, I do remember. And we also then started
13 receiving from our district administrators, and so on, our own
14 reports and notes and so on, so these are the kinds of ...

15 Q. Very well.

16 MR. ELLIS: And the next document was P1982.

17 Q. And, again, you were shown this yesterday and in your
18 preparation session last week. And last week, your response at
19 paragraph 7 of Prep Note 2 was recorded as being:

20 "UNMIK was constantly talking about the takeover of buildings.
21 Whether it was the KLA or Kosovars taking over, [you don't] exactly
22 remember now ..."

23 Do you recall saying that to the Prosecution last week?

24 A. Is -- that's in my statement, paragraph 7, or -- yeah.

25 Q. It's paragraph 7 of -- not in your statement, but the

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Cross-examination by Mr. Ellis

Page 24125

1 preparation notes from last week, sir.

2 A. Yeah. That sounds fair, I think.

3 Q. And, again, after 25 years, you wouldn't be able to confirm if
4 you saw this specific report or not.

5 A. I cannot confirm any of those -- I mean, seeing very specific
6 reports. That's why I think the way I've phrased it consistently is
7 that these types of reports and these types of incidents just -- in
8 fact, some of them, when I read it in preparation, they just rang a
9 bell again, you know, on kidnappings and some of these things, but I
10 don't -- broadly speaking, I don't remember any specific report or
11 any specific incident, I believe.

12 Q. Thank you. I won't keep going through them in that case. But
13 my final question to you is that you said in Preparation Note 2,
14 paragraph 23, that you've recently found your notebooks relating to
15 your time in Kosovo. And my final question is: Did the Prosecution
16 ask you for those notebooks?

17 A. No, they didn't ask me for any other notebooks. I mean, I
18 haven't looked at them, and I didn't think -- I mean, I know my
19 notes -- actually, I couldn't even tell you to what exact week they
20 pertained or so. So I just looked at them and I said -- I asked
21 whether -- I stated that fact that I just found them and whether it
22 was still necessary to go through them.

23 MR. ELLIS: Thank you, Your Honour. Those were my questions.

24 PRESIDING JUDGE SMITH: Thank you.

25 Any redirect?

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24126

Re-examination by Ms. Iodice

1 MS. IODICE: Yes, Your Honour. Just briefly.

2 Re-examination by Ms. Iodice:

3 Q. Sir, yesterday you were asked -- you were shown a document
4 quoting General Jackson, saying that recent attacks on his soldiers
5 raised questions about the KLA's control of hardliners.

6 MS. IODICE: And could we please have on the screen ERN 020723
7 to 020725, and that's from Thaci Defence presentation queue.

8 Q. And then when you were shown this document, at page 149 of
9 yesterday's provisional transcript you were also asked whether you
10 knew who was discussed as a hardliner. And I'd like to show you the
11 rest of this document. You were shown two parts at page 2. Now at
12 page 1 - thank you - we can see that Jackson is complaining about the
13 KLA forming an underground police force in the first paragraph.

14 And then if we go to the third paragraph:

15 "Jackson was particularly angry over the activities of senior
16 KLA member Rexhep Selimi, who is the 'interior minister' in the KLA's
17 self-styled 'provisional government' ..."

18 Then it continues by saying:

19 "Selimi, who is considered to be a KLA hardliner by KFOR, was
20 stopped last week by British peacekeepers ..."

21 And the next paragraph talks about Selimi allegedly pointing a
22 loaded pistol at one of the soldiers and saying "This one's for you,"
23 "prompting the patrol to grab him and confiscate his weapon."

24 If we scroll down a little bit to the last two paragraphs, we
25 can see that then soldiers later searched a house occupied by

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Re-examination by Ms. Iodice

Page 24127

1 Selimi and found -- confiscated several weapons, ammunition, radio
2 scanners, and "ministry" identity cards.

3 And it concludes by saying:

4 "... all illegal under KFOR's mandate."

5 If we can now go to the next page, there's then -- yes, there's
6 then the parts that was read out to you saying:

7 "There is ... a strong suspicion that the KLA has been behind
8 recent violent incidents targeting peacekeepers ..."

9 And then --

10 MR. TULLY: Sorry, Your Honour, is there a question coming? Is
11 there a question --

12 PRESIDING JUDGE SMITH: That's not up to me. That's up to her.
13 [Microphone not activated].

14 MS. IODICE: Thank you.

15 Q. And then there is Jackson's remark saying:

16 "Jackson had laid all this on the table in front of Ceku during
17 their meeting Monday, the KFOR source said, and made it clear that he
18 expected action to be taken against Selimi."

19 From reading the entirety of this article, do you understand
20 that here the hardliner that was being referred to was Rexhep Selimi?

21 MR. TULLY: Your Honour, objection. Leading.

22 PRESIDING JUDGE SMITH: Overruled.

23 Go ahead, answer.

24 THE WITNESS: Your Honour, I see this cable. This cable states
25 that Mr. Selimi was a hardliner. I have no specific recollection

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Re-examination by Ms. Iodice

Page 24128

1 that Mr. Selimi was referred to in any of the meetings that I was
2 privy to as a hardliner.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. IODICE: I didn't hear, Your Honour.

5 PRESIDING JUDGE SMITH: Did he answer your question?

6 MS. IODICE: Yes, thank you, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MS. IODICE: And just for clarity, this is a newspaper article.
9 It's not a cable.

10 And if we could scroll down a little bit --

11 THE WITNESS: If I could -- if I could just use one second.

12 MS. IODICE:

13 Q. Please.

14 A. For me, I think I saw this was 10 August, so I wasn't at that
15 time in the country, but probably it goes to the period before that.
16 And what I just want to -- what this re-emphasizes is that even for
17 General Jackson at that point, there was still a veritable challenge
18 to -- by self-styled ministries and authorities to the authority
19 under 1244. I mean, I just wanted to point this out that this was
20 continuing. And despite the statements -- I'm not attributing any
21 responsibility, but I'm just saying for us, this part of the story
22 didn't cease, you know. It was not just because there were
23 statements made and we thought things may have been improving and
24 described it as such in documents, but the reality keeps on coming
25 back that there were weapons, there were these parallel authorities

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)

Page 24129

Re-examination by Ms. Iodice

1 being maintained. And so that sentiment that is expressed here is
2 very much the sentiment that I left Kosovo with at the middle or end
3 of July and returned to.

4 Q. Thank you.

5 MS. IODICE: No further questions, Your Honour.

6 I would like to tender this document into evidence. And just I
7 would like to note that this was already tendered as an associated
8 exhibit in F02783, Annex 6. It's item 39 in page 12.

9 PRESIDING JUDGE SMITH: It was tendered. Was it admitted?

10 MS. IODICE: No, not yet. That's why I'm tendering it now.

11 PRESIDING JUDGE SMITH: Any objection?

12 MR. TULLY: Yes, that's the basis of our objection. It's
13 presently due a submission based on it being part of the package for
14 one of the witnesses under Rule 155, and we have written submissions
15 to make on it, and it's being put forward as supporting the statement
16 made by that 155 witness.

17 PRESIDING JUDGE SMITH: We'll mark this as MFI for now.

18 Please give it an MFI number.

19 THE COURT OFFICER: Thank you, Your Honours. 020723 to 020725
20 will be marked for identification with P01988. It's classified as
21 public. Thank you, Your Honours.

22 PRESIDING JUDGE SMITH: Thank you.

23 Judge Barthe, do you want to start?

24 JUDGE BARTHE: Yes, thank you.

25 PRESIDING JUDGE SMITH: We'll break at 3.30.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24130

1 JUDGE BARTHE: Okay. Thank you --

2 PRESIDING JUDGE SMITH: Ten minutes.

3 JUDGE BARTHE: -- Judge Smith.

4 Questioned by the Trial Panel:

5 JUDGE BARTHE: And good afternoon, Mr. Strohmeyer.

6 A. Good afternoon, Your Honour.

7 JUDGE BARTHE: I'm afraid the Panel has a few more questions for
8 you, questions to clarify some points that are not yet fully clear to
9 us.

10 My first question is this, and I hope we can be done with this
11 question before the break, or with this line of questions.

12 Mr. Strohmeyer, during your several meetings with the SITF and the
13 SPO between 2014 and 2021, you described how you entered Kosovo on
14 12 June 1999 and met Dennis McNamara, the United Nations or UNHCR
15 Special Envoy to the Kosovo region and Deputy Special Representative
16 of the Secretary-General for Humanitarian Affairs, in Kosovo Polje
17 where you were briefed by Mr. McNamara about the security situation;
18 is that right?

19 A. Correct.

20 JUDGE BARTHE: For the record, this can be found in paragraph 14
21 of the witness statement, Exhibit P01968.

22 And Mr. McNamara characterised the security situation in the
23 area as complex and dangerous; is that correct?

24 A. Correct.

25 JUDGE BARTHE: Mr. Strohmeyer, you also mentioned in your

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24131

1 statement, and yesterday, in order to highlight the volatility of the
2 situation, that during your meeting or the meeting with Mr. McNamara
3 you observed how an elderly Serbian man in camouflage clothing with a
4 rifle whom you had seen walking past your convoy was shot about
5 100 metres from where you were talking. Do you remember saying that.

6 A. Yes, correct.

7 JUDGE BARTHE: Thank you. In paragraph 15 of your witness
8 statement, you further said that at the time of your arrival, the JNA
9 was still present in Prishtine. But after they had left the city a
10 few days later, there was a, as you called it, "total breakdown of
11 essential services and commercial/industrial activity, and an even
12 more serious breakdown of law and order." Is this still your
13 evidence?

14 A. Yes.

15 JUDGE BARTHE: Thank you. Mr. Strohmeyer, according to
16 paragraph 22 of Preparation Note 2, you told the Prosecution the
17 following in your preparation session, and I quote:

18 "W02183," that is you, Mr. Strohmeyer, "remembers that there was
19 instability and larger security issues relating to Serbian forces
20 wanting to re-enter Kosovo along the south-eastern border. There
21 were always tensions in Mitrovice and Kosovo Polje. There was a fear
22 for re-penetration and discussions around the Serbian forces. When
23 the internationals arrived, nobody believed Serbian forces would
24 simply withdraw."

25 Do you recall saying that last week?

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24132

1 A. I do. Maybe just, if I may, just to qualify, this was in
2 response to a specific question or a line somewhere where someone was
3 afraid of -- maybe related the Gracko incident, that there was a fear
4 expressed that Milosevic -- or maybe Milosevic had announced that
5 Serbian assets or agents would reconnect with assets on the ground.
6 And so that's how I was asked whether I was aware that there were
7 such elements operating on the ground, and I said no.

8 But what I did remember is the Mitrovice tensions, the
9 situation, and then, further down the line, that there were tensions
10 evolving, and that -- not necessarily during the time that I was
11 there but later possibly in I think what is the Sandzak area of
12 Serbia.

13 JUDGE BARTHE: Okay. Thank you. My question is now,
14 Mr. Strohmeyer, against this background, and in light of what you
15 personally saw and heard, was redeployment of the JNA or the Serbian
16 forces and the resumption of hostilities in Kosovo a concern among
17 members of the international community, including your, office,
18 during your time in Kosovo, that is, from June to August or from June
19 to September?

20 I understood your testimony on page 26 of our realtime
21 transcript, yesterday's testimony, to mean that you were not privy to
22 discussions on this issue and therefore cannot recall details. But I
23 assume you can say whether or not there were concerns about Serbian
24 forces being redeployed or not.

25 A. So what I recall, and what I -- is that we would, of course --

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24133

1 when we moved up from Skopje into Prishtine, this was sort of always
2 -- the British Gurkhas would save a particular part of the road and
3 then the convoy would follow. So even the convoy sort of going from
4 Skopje with military force into Prishtine could not exclude that
5 there could be some hostile action of sorts. I'm not saying that
6 that necessarily would have been by the JNA. But while we saw many
7 people and increasingly Kosovar population presumably with V signs
8 and exuberant, it was a very slow movement towards Prishtine to
9 secure the perimeter.

10 So do I want to say that particularly in those early days,
11 that's what I mean to say, we couldn't exclude that there could have
12 also been some -- some remnant of hostility coming from the Serb
13 side.

14 And I think I referred to another incident, and I couldn't
15 exactly tell you the date anymore, but it was in my recollection in
16 those first few days while we were in that house in Sunny Hill. All
17 of a sudden there was a shootout right in front of our house, where
18 then NATO KFOR forces exchanged fire with forces, Serbian forces, on
19 the other side of the hill or beyond that part of town.

20 JUDGE BARTHE: Thank you.

21 A. There was -- just to say, it wasn't our pre-eminent concern, but
22 there was a concern that pockets or occurrences, particularly in
23 those first days while Serbs were still -- had a larger presence,
24 while the JNA was in part still there, that there was a concern that
25 there could also be some hostility coming from that side.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24134

1 JUDGE BARTHE: One last question before the break. I'm more
2 interested in the situation when you left Kosovo. When you left
3 Kosovo, the situation, was it stable and calm or not?

4 A. No, no, I would -- I mean, depends on how you define "stable and
5 calm." If -- not to the extent that I left Kosovo and said, well,
6 that was a really useful six weeks that I spent here. Things are
7 much better off.

8 I mean, probably, those incidents and everything, those reports
9 of incidents continued, and that was our daily bread and butter in a
10 way, so I would not have left -- I mean, I don't exactly remember
11 anymore, but if I can be very honest, there was a certain sigh of
12 relief, partly because of the pressure that was upon us, but also
13 after almost three years in Bosnia and then this time, I -- I was --
14 I just felt I didn't want to live in that environment anymore where
15 you had to expect day to day these types of occurrences.

16 So I wouldn't describe it as a stable and calm environment.

17 JUDGE BARTHE: Thank you.

18 PRESIDING JUDGE SMITH: All right. We'll give you a ten-minute
19 break now and then we'll come back and finish up by 4.30.

20 [The witness stands down]

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

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

23 --- On resuming at 3.41 p.m.

24 PRESIDING JUDGE SMITH: Please bring the witness in.

25 [The witness takes the stand]

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24135

1 PRESIDING JUDGE SMITH: Mr. Strohmeier, we'll continue with
2 Judge Barthe's questions.

3 JUDGE BARTHE: Thank you. And welcome back --

4 A. Thank you.

5 JUDGE BARTHE: -- Mr. Strohmeier.

6 I would now like to talk about the meetings you had with
7 representatives of the Kosovo Liberation Army, and particularly those
8 with Mr. Thaci and Mr. Rexhep Selimi. But before I do that, I want
9 to ask you the following.

10 The Thaci Defence showed you a document from Rambouillet about
11 the creation of the Provisional Government of Kosovo in which the
12 LDK, namely Mr. Rugova, and another party, the LBD, or United
13 Democratic Movement, were mentioned. For the record, it's
14 Exhibit 1D69.

15 Do you remember discussing this document with the Thaci Defence
16 or would you like to see it again?

17 A. I remember us discussing it yesterday, yes.

18 JUDGE BARTHE: And you don't need to see it again? You don't
19 want to see it again?

20 A. It depends on your question, Your Honour.

21 JUDGE BARTHE: Then I will ask my question, and then you can
22 decide.

23 A. Okay.

24 JUDGE BARTHE: I would like to ask you following in relation to
25 this document: Did you personally meet members of the provisional

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24136

1 government who at the time of the meeting were not members or
2 representatives of the KLA, who were, in particular, members of the
3 LDK or the LBD and who spoke on behalf of the Provisional Government
4 of Kosovo?

5 A. Can I just try to -- just for me to -- so whether I met members
6 who claimed that they were part of the Provisional Government of
7 Kosovo who were not KLA?

8 JUDGE BARTHE: KLA and spoke on behalf of the provisional
9 government, especially members from the LDK or the LBD.

10 A. No. That was the point that I was trying to make a few times,
11 that while there were, of course, statements of multiparty and so on,
12 but it was the KLA who would pursue these issues more vigorously
13 or -- with us than others did.

14 JUDGE BARTHE: Thank you.

15 A. And maybe just to -- just to -- one short footnote in that
16 respect. What struck me yesterday also about the -- I think
17 23 February. For us, there was no continuation from Rambouillet that
18 led to 1244 and behind. For us, 1244 was a game-changer. So we --
19 if the Member States had wanted the decision of Rambouillet to enter
20 into reality, then they would have had to craft or draft a different
21 type of resolution, which they didn't, to say one could have
22 conceived, as has happened in Afghanistan and elsewhere, to sort of
23 endorse the creation of a provisional government for Kosovo and then
24 design and mandate a UN role that supports or is an assistance
25 mission to that provisional government.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24137

1 That did not happen. And that, for me, also signals that there
2 was among, and the -- at least the five Security Council permanent
3 members, there was a discontinuity of the belief that they held on
4 23 February versus the belief they held on the 9th or 10th June when
5 1244 was adopted. Otherwise, it would have been a very different
6 resolution.

7 So there was a -- what I'm trying to say is there was a decision
8 not to have the Provisional Government of Kosovo in charge supported
9 by the UN, but there was a decision to have the UN provide an
10 executive administration in order to create sort of a multiparty
11 administration. And I think that's an important conclusion that I
12 take away from this.

13 JUDGE BARTHE: Thank you. In paragraph 25 your statement, you
14 mentioned a meeting with Mr. Thaci, Hashim Thaci, and Rexhep Selimi
15 that took place within the first week of your arrival in Kosovo
16 during which Mr. Thaci presented an organigramme of what he described
17 as the Provisional Government of Kosovo.

18 And you further said that Mr. de Mello reminded Mr. Thaci that
19 under United Nations Security Council Resolution 1244, UNMIK was the
20 legal body in charge of administering governmental functions in
21 Kosovo.

22 Do you recall discussing this meeting - I saw you nodding --

23 A. Yes.

24 JUDGE BARTHE: -- with the Prosecution and also yesterday, I
25 guess.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24138

1 A. Yes.

2 JUDGE BARTHE: I'm aware, Mr. Strohmeyer, that you said in your
3 preparation session with the SPO, and also yesterday here in court,
4 that you could not remember any more details of the conversation with
5 Mr. -- or between Mr. de Mello and Mr. Thaci. But still, I want to
6 ask you whether you remember now whether Mr. Thaci said anything in
7 response to the comment made by Mr. de Mello?

8 A. Well, what I do remember is that it was -- we didn't -- it
9 wasn't a file that we were given. It was a lite version, a paper
10 that showed some kind of a structure. And that Mr. de Mello would
11 then highlight his mandate and, as he did on other occasions, ask me
12 to refer to the details and give the more legal argument. And while
13 I don't recall the details, there was some pushback. And I think the
14 way I remembered or I also expressed it or phrased it is that the
15 response was more in line with what would -- what one would have
16 assumed come out of Rambouillet, if it had been a different type of
17 mission, is they were not against the UN but they wanted the UN to
18 support a Provisional Government of Kosovo. So it was reasserting
19 that that had been discussed, and that was a different idea of how
20 this should continue.

21 And we very clearly walked out of this, from that moment on,
22 knowing that this Provisional Government of Kosovo was a real and
23 actual challenge to the very fundamental authority given to the SRSG
24 under Resolution 1244.

25 JUDGE BARTHE: In paragraph 26 your statement, you said that the

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24139

1 KLA leadership's basic message in response to your explanation or
2 Mr. de Mello's explanation of Resolution 1244 was:

3 "Thank you for your help, but now we are in charge. We created
4 the [Provisional Government of Kosovo] and we now run the country."

5 My question is, was this the exact wording or are these your
6 words?

7 A. These are my words. I mean, this is what I wanted --
8 impressionistic. This was sort of the sentiment conveyed. That's
9 why I put it in quotes, to -- to signal that this was more my
10 description of the sentiment rather than a verbatim quote. I don't
11 remember any verbatim quote.

12 JUDGE BARTHE: So this was your understanding of the position of
13 the KLA leadership?

14 A. In that -- as expressed in that meeting.

15 JUDGE BARTHE: But nobody said that or used these words as far
16 as you remember.

17 A. As far as I remember, I -- I couldn't exclude it, but I don't
18 remember the words anymore that were used. But that was very clearly
19 the sentiment that we took away from that moment. I do remember, at
20 the end of this or outside, that we were really grappling with this
21 and saying, you know, this is serious. And I've forgotten now, we
22 were going over the times, so whether this was three, four days into
23 this, or five, six days, I don't remember exactly anymore, but it was
24 very early days.

25 JUDGE BARTHE: This --

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24140

1 A. This meeting in the Grand Hotel, which I think was in the
2 Grand Hotel.

3 JUDGE BARTHE: That's clear. Thank you.

4 According to the next paragraph, paragraph 27, in your
5 statement, you told the Prosecution the following, I quote:

6 "The KLA was very well aware of the political vacuum within
7 Kosovo, so I think the primary motivation behind challenging the UN's
8 overall authority in Kosovo was not so much to test the
9 United Nations or the international presence but to move quickly to
10 fill this vacuum *vis-à-vis* other Kosovar Albanian groups, most
11 notably Ibrahim Rugova and the LDK by establishing facts on the
12 ground. In other words, the KLA was not so much trying to challenge
13 the UN per se, but rather to establish themselves as THE political
14 authority within Kosovo."

15 Do you recall saying this?

16 A. Yeah.

17 JUDGE BARTHE: Mr. Strohmeyer, could I ask you to elaborate a
18 bit more on the relationship between the KLA leadership and the LDK
19 and Ibrahim Rugova. What did you notice during your meetings with
20 Mr. Thaci and other members of the KLA or the Provisional Government
21 of Kosovo in this regard? Did anyone mention Mr. Rugova and/or the
22 LDK?

23 A. So, Your Honour, the vacuum that I describe or note was a very
24 well-known fact to everyone. As I sort of have described on other
25 occasions, or, if I may say, it was like this waiting for Rugova. No

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24141

1 one exactly knew when he was going to come. We heard all these
2 things. And it was felt that it was very importunate because, after
3 all, he embodied a certain -- a certain idea of Kosovo over years.
4 So he had been a fixed point, an anchor in the political landscape,
5 and was the president-in-exile.

6 And so -- and on a number of occasions I remember us urging
7 Ms. Tahiri and others from the LDK. There was this waiting for --
8 for Rugova. And in the absence of Mr. Rugova, I remember us feeling
9 that the LDK was sort of -- the LDK on the -- that was interacting
10 with us was sort of trying to keep in a way the seats warm, even if
11 they rejected then participating in the KTC in the beginning. But
12 it's in that -- in that situation where Mr. Rugova wasn't there, the
13 LDK on the ground, at least the political people we interacted with
14 were sort of -- they felt a bit hampered in their decision-making
15 powers.

16 It was the KLA leadership who was much more coherent and clear
17 but also demanding in terms of where they wanted to go. That's the
18 general -- that's the situation. They were more assertive. And so
19 they were the ones, as I said before, that would speak about the
20 Provisional Government of Kosovo. They were the ones, to us, that
21 were challenging the applicable law, whether for good or for right or
22 for wrong reasons, you know. For us, we could not but accept that
23 the KLA increasingly was -- or the KLA leadership was the central
24 go-to point for us on any matters related to the further rollout and
25 design of the UNMIK mandate or mission reality. And that is --

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24142

1 that -- if there had been a second very strong force, which would
2 have sometimes agreed or would have sometimes opposed, it would have
3 been a different situation. So it was a unipolar sort of
4 relationship rather than a multipolar relationship in reality, which
5 is not to exclude that, of course, there were also other contacts and
6 efforts, and Mr. Rugova came at some point, and so on. But overall
7 increasingly felt, even at that leadership level that I was privy to,
8 that it was the KLA who wanted to shape the immediate future of
9 Kosovo. And that was then, at least in my and our impression in the
10 early days, complemented by this situation on the ground, where you
11 would have arrests, detentions, people at least in some cases wearing
12 uniform or identifying themselves as KLA members. Whether they in
13 every or in some cases were wearing fake uniforms or real uniforms,
14 I'm not in a position to judge right now, but that was the situation.

15 JUDGE BARTHE: Mr. Strohmeier, excuse me --

16 A. Yeah.

17 JUDGE BARTHE: -- for interrupting you. But we will come back
18 to that.

19 A. Yeah.

20 JUDGE BARTHE: But my question was slightly different. I was
21 interested in how you would describe, if you can, the general
22 attitude of Mr. Thaci and the KLA or other members of the leadership
23 of the KLA towards Mr. Rugova and the LDK during your meetings you
24 had with Mr. Thaci and other members of the leadership, KLA
25 leadership.

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24143

1 A. Yeah. So personally I have not heard Mr. Thaci or anyone else,
2 at least I don't remember, speaking dismissively of Mr. Rugova. But,
3 I mean, I've seen in some of the documents it seems that -- it was
4 suggested that we couldn't wait any longer and we had to move ahead,
5 but I was not privy to any personally dismissive statements about
6 Mr. Rugova.

7 JUDGE BARTHE: Or positive statements?

8 A. Or positive.

9 JUDGE BARTHE: Thank you. In paragraph 57 of your statement,
10 you said that, in your view, the wave of violence against Serbs in
11 Kosovo after the withdrawal of the JNA or Serbian forces was not
12 incidental but rather massive and sustained. And you further
13 remarked that "it appeared to be a large-scale and organised process
14 that went house by house," you said, "and was directed specifically
15 at Serbs. It was not random incidents based on personal individual
16 motivations."

17 Do you remember saying that, Mr. Strohmeier?

18 A. Yes.

19 JUDGE BARTHE: Could you please explain again why or how you
20 came to this conclusion?

21 A. I mean, from today's -- this -- as you alluded to at the
22 beginning, some of these statements I arrived at over -- even on the
23 Prosecution side, over almost ten years, you know, so at some point
24 my detailed recollection may have been better. But it was just, in
25 some of these places, like in Prizren, I remember that some of the

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24144

1 neighbourhoods where Serbs lived were -- there was an arson every --
2 every -- it was like Prizren attracted our very early attention, as I
3 explained yesterday, and we sent Mr. Mark Baskin there very early on
4 because of these arsons, because of some of these things.

5 So this was already -- this is not only in Prishtine, but it
6 felt sort of not just random, here or there, where a family wanted to
7 move into a place that had been vacated by a Serb or -- but more
8 organised. But also I remember one of the members of this interim
9 panel that we had established, the Serb member who actually served
10 for a week or two weeks was then several times threatened, and so
11 people would -- would come to his door, knock on his door, to the
12 extent that some of the UNMIK officers or OSCE, they took turns,
13 would then sleep there at night for a few days.

14 And so it went really in those -- in those days we had -- I had
15 heard oral reports of people or official reports from our colleagues
16 in regions of these acts being really conducted in a more targeted or
17 deliberate way. And so this targeting of this Serb member of this
18 panel was not prior to his appointment. It was following his
19 appointment as a judge. And then after a few weeks, he left Kosovo
20 because of this.

21 So there is probably -- there was probably more, but that was
22 our impression. Again, not to ever -- I cannot exclude that they
23 were individual acts, of course, and it's quite conceivable. But we
24 did feel that this was so massive in those early days that it would
25 have been difficult for all these returnees who would go to their

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24145

1 places of origin to orchestrate this as a more systematic effort,
2 which is not to say, which is -- I mean, which is not to say, which
3 is what I tried to say yesterday, I know that, for a legal
4 qualification one is looking for a policy, you know. So I'm not sure
5 necessarily saying that there was a declared policy to now unleash
6 across the whole country a certain type of expulsion or violence or
7 killing. But it is more that it felt like there was an enabling
8 environment created or in some cases also probably other support, but
9 it -- it was -- it wasn't disconnected similar incidents. There
10 were -- it felt like there were some patterns in terms of the towns
11 that were targeted and the houses and the neighbourhoods.

12 Forgive me if I cannot be more precise now, but ...

13 JUDGE BARTHE: No, that's clear, at least to me now. Thank you.

14 I'd like to move on to another topic. Yesterday,
15 Mr. Strohmeyer, you were asked some questions by the Thaci Defence
16 about FARK - not the Colombian FARC but about a different FARK - as
17 another paramilitary formation present in Kosovo in 1999. Do you
18 remember this? Do you remember you were asked --

19 A. I remember the question, yes. Yes.

20 JUDGE BARTHE: Yes. On page 133 of our realtime transcript you
21 said, or according to that page, you said you do not recall FARK, and
22 I quote from our transcript now, "FARK having been identified in any
23 of the meetings ... as one of the primary reasons of concern for the
24 security situation in Kosovo ..."

25 And my question now is do you remember FARK or, rather, the

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24146

1 conduct of FARK members ever being mentioned as a reason, not as one
2 of the primary reasons but as a reason, of concern for the security
3 in Kosovo at all?

4 A. I mean, as I think I said yesterday, I have no recollection,
5 really, of the FARK, which is not to say -- I mean, I cannot exclude
6 that somewhere someone mentioned it in my presence. But the fact
7 that this is not something that resonated in any form, shape with me,
8 or has stuck in my mind, you know, to me at least tells me that this
9 was not something that, at the time, I really sort of was -- my nose
10 was thumbed on. I didn't pick up.

11 And then if I looked last week and over the course of the two
12 days the reports that I was shown, you know, it was KLA, KLA, KLA.
13 So -- and, look, I am not talking about today, but I am talking about
14 the impression that we got. Maybe that was wrong. Maybe there were
15 FARK apprehensions and detentions and so on that we didn't learn
16 about, but the reporting doesn't reflect that. And so if you are at
17 the receiving end, and I have to react by setting up panels of judges
18 or looking at laws or looking at the security situation, you very
19 clearly receive from that the impression that the KLA was the key
20 problem and not two or three other forces at the same time.

21 So against that background, I have neither a recollection nor do
22 I believe -- concluding that I believe that -- from anything that
23 I've written or remember, that the FARK was a problem even nearly
24 comparable to the one that we identified -- had identified with the
25 KLA.

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24147

1 JUDGE BARTHE: I'm afraid - thank you, Mr. Strohmeier - we have
2 to rely another time on your recollection, so I'm asking another
3 question --

4 A. Sure.

5 JUDGE BARTHE: -- in that regard or in the same context, which
6 is following: Was the conduct of members of any other non-state
7 armed group or organisation in Kosovo a matter of concern at the
8 meetings you attended during your time in Kosovo? Can you remember
9 that? Any other armed group who --

10 A. Other than the KLA or --

11 JUDGE BARTHE: Other than the KLA and probably FARK.

12 A. I mean, if I can just refer to the JIC meetings that I attended
13 and the KTC, that wasn't an issue that, as per the minutes there, was
14 discussed. So I don't remember really having had any other
15 discussions. And I also now, even over the last two days, I haven't
16 seen really -- other than this very specific report in the context of
17 the FARK, sort of -- it was always General Jackson or Sergio Vieira
18 de Mello or Kouchner appealing to Mr. Thaci and the KLA leadership to
19 weigh in or send public messages to the Kosovar population. There
20 was also a joint statement, of course, but it wasn't -- it was always
21 against that backdrop of the KLA being identified as a main force on
22 the ground rather than the FARK. So I have -- again I -- or any
23 other group outside the FARK. I don't have any recollection of any
24 other group, which is not to say that they weren't there, but I have
25 no recollection on that.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24148

1 JUDGE BARTHE: Thank you. Do you recall the crimes allegedly
2 committed by persons who only pretended to be KLA members by, for
3 example, wearing KLA uniforms were discussed?

4 A. There was a lot of discussion around illegal detention and -- I
5 mean, there -- some people then refer to it as kidnapping, which may
6 have been just another form of detaining people and then keeping them
7 in some detention facility. I have to tell you that they're probably
8 in the reports -- reports and other physical things, and, of course,
9 there were also sometimes some killings, but I don't remember anymore
10 who this in detail was attributable to.

11 But if I were to look back 25 years as a whole block, to us it
12 was -- it presented itself, particularly in those first few weeks,
13 that the KLA wanted to create these facts on the ground, was very
14 present on the ground, and whenever encountered arrests were carried
15 out by KFOR -- not whenever, but in the majority of cases, it was
16 then a line: KLA member carrying weapons or -- and if I even recall
17 some of the documents that I saw today referring to General Jackson,
18 it was, again, you know, ID cards of units have been apprehended.

19 And so these things continued. I mean, it's -- it's -- until
20 way into August and even beyond. So I -- I just want to -- beyond
21 sort of the individual incident, for us it was a whole avalanche of
22 incidents in a way and of precious -- every single -- every single
23 day. And the only force -- not because I want to, but because that's
24 what I remember, the only actor, non-state armed actor, actor that we
25 -- that I remember in that respect was the KLA. The only one setting

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24149

1 up what we would refer to today as parallel institutions challenging
2 the mandate that we held under 1244 was the KLA.

3 I have no real recollection of the LDK setting up separate
4 ministries or claiming specific ministries and operating them, which
5 is, again, not to say that that hasn't happened or hasn't -- wasn't
6 planned somewhere, but I don't -- from my interactions, I don't
7 recollect that.

8 JUDGE BARTHE: Thank you. According to paragraph 76 of your
9 statement, you stated that the applicable law issue that you
10 personally discussed with Mr. Thaci became "a hook to discuss other
11 issues, including detention centres." Do you remember saying that?

12 A. Yes.

13 JUDGE BARTHE: Could you, Mr. Strohmeyer, briefly describe the
14 position that Mr. Thaci took in your conversations regarding
15 detention sites allegedly run by the KLA? Very briefly, if you can.

16 A. I mean, I think I said -- I don't really recall the conversation
17 around the detention centre so much, because the focus of our
18 discussion was around the applicable law. And it was more -- as I
19 said before, it was a very constructive, friendly even, conversation,
20 a longer conversation, in the course of which I got to satisfy my own
21 curiosity a little bit, and I asked about Albania. So at the time
22 there was -- you know, everyone was speculating, and a lot of the
23 experts said, well, you know, it's all about greater Albania. I
24 said, "Is that really the case?" And so I got an answer there. And
25 so in the same vein I also talked about the detention centres. I

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24150

1 don't really recall in detail anymore how that discussion went.

2 JUDGE BARTHE: Thank you. In paragraph 92 your statement, it is
3 recorded that Mr. Thaci -- that you said that Mr. Thaci "promised to
4 do whatever he could - including issuing an official statement - to
5 dissolve KLA detention centres." Is this correct? Can you
6 remember --

7 A. Yeah.

8 JUDGE BARTHE: -- that he made such a promise or promises?

9 A. I think there was this discussion, and I think there was -- to
10 my understanding at least, I was -- whether that was related to one
11 of the occasions that we discussed some of the statements that were
12 presented to me, but that was my understanding. And that was
13 certainly a demand from our side to -- to call upon the KLA or the
14 Kosovars to refrain from these types of things.

15 And if I -- I mean, I don't remember all the details, all the
16 statements anymore, but I think in one or two he may have actually
17 spoken in that direction.

18 JUDGE BARTHE: Did Mr. Thaci tell you what concrete steps he
19 took or will take to solve this problem, the detention sites problem,
20 apart from issuing statements?

21 A. I don't think that we went that deep into the conversation. It
22 was more that I probably made that -- the broader point. I mean,
23 that was one of the key features when you asked me before what were
24 in those -- in those acts. I mean, was this these detentions and
25 kidnappings that -- that -- that was a lot of our -- a big concern of

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24151

1 ours, because that was not just an incident against the individual.

2 That was at the same time also a challenge to us and our mandate.

3 And so in that context, I also -- probably it was around that
4 authority question and that I touched upon the detention centres, but
5 the -- the illegal detention centres, but I'm not sure anymore
6 whether we went into operationally and in detail what could be done
7 about it. I don't have any recollection of anyone going beyond the
8 statements into those operational details.

9 JUDGE BARTHE: Do you know what Mr. Thaci or whether Mr. Thaci
10 did anything apart from issuing statements?

11 A. I personally don't.

12 JUDGE BARTHE: Thanks. And, finally, Mr. Strohmeyer, you told
13 the Prosecution, this is again in paragraph 92 of your statement,
14 that:

15 "The sustained if not systematic campaign against Kosovo Serbs
16 could not have happened without, at the minimum, Mr. Thaci tacitly
17 condoning it. On the one hand, he was telling us that his local
18 administrations were functioning well. On the other, he would say he
19 could not -- or he could do nothing to close detention centres in the
20 towns where his self-established local governments were actually
21 governing."

22 Do you recall saying this to the Prosecution?

23 A. Yes, at some -- at some point in this -- in the course. I
24 remember that.

25 JUDGE BARTHE: So let me ask you that, do you still believe or

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24152

1 do you believe that Mr. Thaci knew what was going on in Kosovo? That
2 there was a - I'm using your words now - sustained if not systematic
3 campaign of crimes against the Kosovo Serbs and other minorities, and
4 that he either supported or at least, as you said, condoned this
5 campaign? Is that what you believe, or are we misunderstanding you
6 here?

7 A. So the first point is a factual statement. So I believe it was
8 very difficult not to know about this, whether that was Mr. Thaci or
9 for anyone else. I mean, that's -- that's what was happening every
10 day. That's what people were talking about. And even -- I mean,
11 by -- I mean, after two weeks or three weeks, we even knew quite a
12 few people in Prishtine and around ourselves, lawyers and others, so
13 we would sometimes sit there, have a coffee, talk about what was
14 happening. It's not as if this was just we knew this at UNMIK
15 because we had access to KFOR or OSCE information. I mean, everyone
16 knew this. So I assume this was also known to others, including, I
17 think, Mr. Thaci would or could have known that these things
18 happened.

19 In terms of a systematic and sustained campaign. Sustained
20 because it wasn't just whenever there was another 10.000 refugees
21 returning, and then in the -- I mean, it's -- we always think that's
22 a very linear movement. So the moment they came back to Kosovo, they
23 also dispersed into their various communities. And it's -- it wasn't
24 that when -- in those days when there was a big return, that then
25 there was an upswing of violence and then it would calm down or cool

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24153

1 down. This was sustained in the sense that this lasted for weeks,
2 you know.

3 And when we spoke yesterday about the fact that in November or
4 later that year these things had died down and were not as frequent
5 anymore, I mean, I have to say, well, you know, a lot of the -- a lot
6 of the violence and the expulsions or the withdrawal of the Serbs
7 happened in those first few weeks, you know? I mean, there were
8 probably also not as many Serbs then in Kosovo left in October and
9 November as there were in June or July. And so in that period,
10 sustained in the sense that it was a daily feature.

11 Systematic in the sense that I elaborated on before, that it
12 felt that it was not just random acts of violence, where a Serb was
13 encountered on their way to the market and then beaten up, but that
14 people -- I mean, they told us -- I remember now a story where an old
15 woman told us that they knocked on her door and they said, "You have
16 to leave by tomorrow," you know. I remember the driver, as I said
17 yesterday, who took me down to Skopje, who worked for the OSCE or
18 UNMIK, who came from a non-Albanian Muslim minority, and he said, "My
19 family has lived here for 350 years. I'm leaving next week myself to
20 Istanbul because they've told us, 'You don't belong here.'"

21 So you would have a lot of these types of things that led us to
22 believe that this is not just a random thing here or there. That
23 this is systematically going through everyone who was either seen as
24 having been affiliated with or aided and abetted the previous regime
25 or being Serb or not wanted for other reasons.

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24154

1 JUDGE BARTHE: And - this is my final question, Mr. Strohmeyer -
2 what made you believe that Mr. Thaci was condoning these actions
3 against Serbs and other minorities? You have heard yesterday from
4 the Defence and exhibits were shown to you that Mr. Thaci was giving
5 speeches or gave speeches calling for peace, reconciliation, using my
6 words now, and the inclusion of ethnic minorities. What makes you
7 believe that he condoned crimes against minorities, especially Serbs?

8 A. I mean, I think when I spoke about yesterday the enabling, for
9 us there was a perception -- and you can see that these calls on
10 Mr. Thaci continued. They were not just once and then we were
11 satisfied. There were repeated ones. And then -- and then I think
12 the last document that I was shown was even a press article in August
13 where General Jackson again was angry and went back. So this
14 continued.

15 So after a while, you think, okay, so you're doing the right
16 statements, but then the situation on the ground isn't changing. At
17 the same time, he's presenting himself and the leadership to us as
18 the decision-makers who speak for the KLA. We have Mr. Ceku, while
19 qualifying it in other circumstances, but in one of the JIC meetings
20 saying, "We have the organisation to control these events," which may
21 or may not have been true.

22 So for us there was a clear impression, and that's why we went
23 to Mr. Thaci. There was an expectation to stop this and at least
24 deescalate this further and not only through statements but by --
25 yeah, I mean, I don't know what disciplinary actions were existent

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24155

1 within the KLA. But exclusion from -- whatever means there were, but
2 to take some action and report back on that, and that I don't
3 remember happening.

4 So I'm not saying that -- I have no evidence of any sort that
5 Mr. Thaci personally incited or called upon or said, "Well, it's good
6 that this guy was taken out." But jointly, with that very strong
7 opposition to -- that we perceived to -- or not strong opposition,
8 but this very strong sense that was conveyed to us, this is now --
9 and I'm again paraphrasing because I don't remember the details of
10 these conversations anymore. But this is now the Kosovar space and
11 that -- that we need to shape.

12 So all of this together created an impression in us that there
13 was one reality expressed in meetings and statements and the
14 politics, while there was another reality allowed, at least, to
15 continue. Whether that is condoning or -- or active incitement, I'm
16 not saying this. But that's why I said yesterday also at least we
17 felt that there was still a sort of an enabling environment being
18 tolerated.

19 JUDGE BARTHE: Thank you very much, Mr. Strohmeyer. Nothing
20 further from me.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 JUDGE GAYNOR: Thank you, Judge Smith.

23 Good afternoon, Mr. Witness.

24 Mr. Court Officer, could you bring up P01444.

25 Mr. Strohmeyer, during cross-examination you were shown a

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24156

1 document, which will come up in a minute, dated 21 June 1999, and
2 it's signed by Mr. Thaci and by General Sir Mike Jackson.

3 If we can go to the last page of the document, to the signature
4 page. Just go down a little bit, and up a little bit.

5 And here we see that Mr. Thaci is signing in his capacity as
6 commander-in-chief UCK. Now, is that consistent with your
7 understanding of Mr. Thaci's position at this time?

8 A. Your Honour, if I -- if I can be honest, I was -- when this was
9 shown to me, I was surprised that he signed as commander-in-chief
10 UCK, because I think -- I think it is consistent, but the way he
11 presented himself to us was much more as a political leader, as a
12 political head.

13 So I -- but, again, we were the UN. We dealt with civilian
14 tasks. So he would not have spoken to Sergio Vieira de Mello in his
15 capacity necessarily as the commander-in-chief of the UCK, because we
16 didn't speak about tactical operational military issues that much,
17 but he may have -- it may have been much clearer to General Jackson.
18 As I said --

19 JUDGE GAYNOR: Thanks. In your dealings with him, or when you
20 were with Mr. de Mello, in what capacity did Mr. Thaci introduce
21 himself? Did he use a formal title when referring to himself?

22 A. Well, I was -- I was asked at some point whether he was referred
23 to as prime minister or introduced himself. I don't remember that.
24 I don't recall that. To be honest, I don't recall any introduction
25 through titles, and I don't think maybe after one or two meetings

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24157

1 that was necessary because it was -- it was clear who and what he
2 represented. He was just the interlocutor. And neither did he say,
3 "Well, you know, hold on. Don't speak to me. Speak to someone
4 else," unless it was -- devolved technical ranks. Nor did anyone
5 else say, other than Mr. Rugova and the LDK [Indiscernible] hang on,
6 we cannot speak to Thaci. We needed to speak to three others.

7 It was clear that Mr. Thaci was on the ground the key
8 interlocutor in particular while Mr. Rugova was outside the country.

9 JUDGE GAYNOR: And could you clarify, how did you understand the
10 relationship between Mr. Thaci and Mr. Agim Ceku on military issues?
11 Who did you understand to be superior to who in respect of command of
12 the KLA?

13 A. I mean, again to be perfectly honest, when I was in that first
14 meeting, I think, which is the -- this is the note of that -- oh, no,
15 no, this is not the -- the first meeting after -- the day after the
16 undertaking was signed, on the 22nd, the first meeting of the JIC, we
17 considered Agim Ceku as the person who we had to deal with on all
18 matters related to the implementation of the undertaking and,
19 therefore, for all of these military, so to speak, quote/unquote,
20 military matters, operational matters.

21 I don't recall having had -- having been told or having had any
22 suggestion that on certain issues we had rather check with Mr. Thaci.
23 So he was -- he seemed to be the plenipotentiary on these matters in
24 those meetings with us.

25 JUDGE GAYNOR: In your statement I think you describe Mr. Ceku

Witness: Hansjoerg Strohmeyer (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24158

1 as chief of staff of the KLA, in your written statement to this
2 Court. Did you have a view, apart from looking at this document, as
3 to who the commander-in-chief of the KLA was?

4 A. Sorry, I don't think it's the chief of -- sorry, I think it's
5 the -- the title was somewhere. I saw it yesterday somewhere. Maybe
6 the chief of the General Staff or whatever it is, something --

7 JUDGE GAYNOR: Yes.

8 A. -- like that, of the KLA. So it was a military title. And for
9 us the head, if I can speak -- talk about it in that very untechnical
10 sense, for us, the head of the KLA, or the UCK, was Mr. Thaci. I
11 mean, there was no -- I -- I don't remember doubting that myself or
12 hearing from anyone else, anyone saying, "Well, it's not him, it's
13 someone -- someone else." How exactly the hierarchies were
14 internally, I don't know. And I said yesterday I never saw, in my
15 recollection, an organigramme of the UCK or was -- was briefed on
16 that.

17 The only other recollection I have was in that meeting that we
18 then had, I think, with Sergio Vieira de Mello a few days after the
19 second meeting of the JIC on police matters and so on, we spoke with
20 Mr. Thaci, he spoke, and then he said -- referred us, said, "For any
21 matters related to the police -- integrate -- UCK integration into
22 police forces and so on, you should deal with Mr. Ceku." If that
23 is -- if that expresses a certain rank or sentiment, then that's the
24 only thing I could think of in terms of subordination. But that's
25 it. I did -- I never heard either Mr. Ceku say, "Sorry, I don't have

Witness: Hansjoerg Strohmeier (Resumed) (Open Session)
Questioned by the Trial Panel

Page 24159

1 the power to decide this. I have to run this by Mr. Thaci," which is
2 not to say that that wasn't the reality or -- but I don't recall
3 that. Neither, beyond this incident, do I remember Mr. Thaci saying,
4 "That is not my responsibility," or "This person, you cannot speak to
5 him. You need to speak to me because I am the final decider."

6 For us it was clear that he was the go-to person for all these
7 matters. And I have also not experienced any situations where we
8 approached Mr. Thaci on any of those questions of shutting down
9 detention centres or de-escalating the situation, and so on, where he
10 would say, "Well, that's not my responsibility because I am only
11 responsible for this part of the organisation. That is someone
12 else's responsibility."

13 JUDGE GAYNOR: Just one clarification. When you say "he was the
14 go-to person for all these parties," just for the record clarify who
15 the word "he" --

16 A. Mr. Thaci.

17 JUDGE GAYNOR: -- refers to.

18 A. Mr. Thaci.

19 JUDGE GAYNOR: Thank you. I have no further questions.

20 PRESIDING JUDGE SMITH: Thank you, Witness. You will have to
21 come back again tomorrow at 9.00 a.m. to finish up. Hopefully we
22 will be completed by noon. Thank you for being with us. Please do
23 not speak with anyone about your testimony, and we'll see you
24 tomorrow morning.

25 THE WITNESS: Thank you.

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: Anything further from anyone? No.

3 We're adjourned until 9.00 tomorrow.

4 --- Whereupon the hearing adjourned at 4.32 p.m.

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