

1 Tuesday, 21 May 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 Good morning. I note for the record that the accused are all
13 present in court today with the exception of Mr. Krasniqi, who is
14 appearing by videolink with permission.

15 Today we will start hearing the evidence of Prosecution
16 Witness W02540.

17 Before we begin, the Panel notes that the briefing schedule for
18 the SPO's motion for admission of evidence of Witnesses W00992,
19 W01336, and W04824, pursuant to Rule 154, which was filed on
20 Thursday, 16 May 2024, has been expedited. In the Defence responses
21 due Wednesday, 22 May, at 4.00 p.m., the Panel orders the Defence to
22 provide cross-examination estimates for the relevant witnesses and
23 their responses to the motion.

24 This concludes the Panel's order.

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

1 [The witness entered court]

2 PRESIDING JUDGE SMITH: Good morning, Witness.

3 THE WITNESS: Good morning. [Interpretation] Good morning,
4 Your Honour.

5 PRESIDING JUDGE SMITH: Witness, I will read out the text of the
6 solemn declaration that you are expected to take. I will read it in
7 parts, and then it will be translated for you, and then you can
8 repeat it in German. Understood?

9 THE WITNESS: [Interpretation] I understood.

10 PRESIDING JUDGE SMITH: All right. So I will read it now:
11 Conscious of the significance of my testimony and my legal
12 responsibility.

13 THE WITNESS: [Interpretation] Conscious of my -- significance of
14 my testimony and my legal responsibility.

15 PRESIDING JUDGE SMITH: I solemnly declare that I will tell the
16 truth.

17 THE WITNESS: [Interpretation] I solemnly declare that I will
18 tell the truth.

19 PRESIDING JUDGE SMITH: The whole truth and nothing but the
20 truth.

21 THE WITNESS: [Interpretation] The whole truth and nothing but
22 the truth.

23 PRESIDING JUDGE SMITH: And that I shall not withhold anything
24 which has come to my knowledge.

25 THE WITNESS: [Interpretation] And that I shall not withhold

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1 anything which has come to my knowledge.

2 PRESIDING JUDGE SMITH: Thank you. And do you agree to that
3 declaration?

4 THE WITNESS: [Interpretation] I agree with that declaration.

5 WITNESS: DIETRICH JENSCH

6 [The witness answered through interpreter]

7 PRESIDING JUDGE SMITH: Please be seated.

8 Witness, today we will start your testimony which is expected to
9 last approximately eight hours. As you may know, the Prosecution
10 will ask you questions first and then the Defence has the right to
11 ask questions of you. Members of the Panel might also ask questions
12 of you.

13 The Prosecution estimate for your examination is two hours. The
14 Defence estimates that it will need six hours. As regards each
15 estimate, we hope that counsel will be judicious in the use of their
16 time. The Panel may allow redirect examination if conditions for it
17 are met.

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

23 In the event that you are asked by the SPO to attest to some
24 corrections made regarding your statements, you are reminded to
25 confirm on the record that the written statement, as corrected by the

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1 list of corrections, accurately reflects your declaration.

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

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

9 Please stop talking if I ask you to do so and also stop talking
10 if you see me raise my hand. These indications mean that I need to
11 give you an instruction. If you feel the need to take a break,
12 please let us know and we will accommodate you.

13 Do you understand all of that?

14 THE WITNESS: [Interpretation] I did understand all of that.

15 PRESIDING JUDGE SMITH: Thank you very much.

16 We begin with the direct examination by the Prosecution. They
17 are seated to your left. Please give them your attention.

18 Madam Prosecutor, you may begin.

19 MS. CLANTON: Thank you, Mr. President. Good morning.

20 Examination by Ms. Clanton:

21 Q. Good morning, Mr. Witness. We've met before. My name is
22 Sarah Clanton. I'll be asking you some questions today.

23 MS. CLANTON: For planning purposes, may I ask the Panel, will
24 we be taking a break at 10.00 or --

25 PRESIDING JUDGE SMITH: Yes, we will. Thank you.

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1 MS. CLANTON: Thank you.

2 Q. Witness, can you please state your full name for the record.

3 A. My full name is Dietrich Klaus Jensch.

4 Q. And what is your date and place of birth?

5 A. 18 June 1963 in Fritzlar, in Hesse, in Germany.

6 Q. Mr. Witness, what is your occupation?

7 A. I'm an officer of the federal army of Germany.

8 Q. And what is your current rank?

9 A. My current rank is lieutenant-colonel.

10 Q. And what was your military rank in June 1999?

11 A. I was major.

12 Q. Mr. Witness, the next questions concern your prior evidence. Do
13 you recall making a statement to the International Criminal Tribunal
14 for the former Yugoslavia?

15 A. Yes, I do recall that.

16 MS. CLANTON: Can the Court Officer please bring up U002-6101 to
17 U002-6106 RED, which is the original German, and the English
18 translation with the same ERN ending in ET RED2.

19 Q. Mr. Witness, is this your statement on the screen in front of
20 you?

21 A. Yes, I have that before me.

22 Q. Mr. Witness, the statement in front of you is dated 30 October
23 2001. Do you recognise this as the first page of your statement?

24 A. Yes, I recognise it as the first page of my statement.

25 MS. CLANTON: Can the Court Officer please turn to the last

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1 page, which is U002-6106.

2 And I apologise, I think I'm having some technical difficulties.
3 If I could ask for assistance.

4 And if we could scroll down on the left side.

5 Q. Witness, do you recognise the signature at the bottom of the
6 page on the left side of the screen?

7 A. The signature in the middle is my signature.

8 Q. Thank you. Witness, do you recall giving an interview to the
9 Specialist Prosecutor's Office in July 2019?

10 A. Yes, I do remember that as well.

11 MS. CLANTON: Can the Court Officer please call up 069539-TR
12 Part 1 Revised RED, page 1. And the English is the same ERN, TR-ET
13 Part 1 Revised 1 RED.

14 Q. Witness, on the screen in front of you is the first page of the
15 first part of an interview. Do you recognise this as part of the
16 transcript of your SPO interview?

17 A. Yes, I do recognise that as my statement.

18 Q. Do you recall that when we met last week you were provided with
19 your ICTY statement and the full transcripts of your SPO interview
20 and asked to read them and identify any clarifications or
21 corrections?

22 A. Yes, I do remember that.

23 Q. And do you recall that you made a number of clarifications and
24 corrections?

25 A. Yes, I do remember that as well.

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1 Q. And do you recall that at the end of our session, those
2 corrections and clarifications were read back to you in your language
3 by an interpreter?

4 A. Yes, that is correct.

5 Q. Witness, with the clarifications and corrections that you made
6 last week, is the information in your statements that we have just
7 looked at accurate and truthful to the best of your knowledge and
8 belief?

9 A. This statement is truthful to my best knowledge and conscious.

10 Q. And, Witness, if we include all of the corrections and
11 clarifications that you made last week, do your statements accurately
12 reflect what you would say if you were asked the same questions today
13 about the events recorded in those statements?

14 A. Yes, this corresponds to the facts.

15 MS. CLANTON: Your Honours, at this time we seek the admission
16 of the prior statements of the witness as confidential exhibits. The
17 ERNs are found in filing F02245, footnote 47, Parts 1 to 4 of the SPO
18 interview, and the ICTY statement.

19 PRESIDING JUDGE SMITH: Are you offering just Note 1 or are you
20 offering Note 1?

21 MS. CLANTON: I am offering Note 1. I just hadn't gotten there
22 yet. First the statements and then the associated exhibits and then
23 Prep Note 1.

24 PRESIDING JUDGE SMITH: All right. Any objections to the
25 statements?

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1 MS. TAVAKOLI: No, Your Honour.

2 MS. O'REILLY: No.

3 MR. ROBERTS: No, Your Honour.

4 MR. BAIESU: No.

5 PRESIDING JUDGE SMITH: U002-6101 to U002-6106 RED plus the
6 English translation is admitted.

7 THE COURT OFFICER: Your Honours, that will be assigned
8 Exhibit P1176. And I note, Your Honours, there is also an Albanian
9 translation.

10 PRESIDING JUDGE SMITH: I'm sorry, I couldn't hear the end of
11 it.

12 THE COURT OFFICER: There is also an Albanian translation.

13 PRESIDING JUDGE SMITH: Okay, all right.

14 THE COURT OFFICER: So there is German, English, and Albanian.

15 PRESIDING JUDGE SMITH: So the Albanian is admitted as well
16 under the same number.

17 Then 069539-TR Part 1 Revised RED, plus English and Albanian, is
18 admitted.

19 THE COURT OFFICER: Your Honours, 069539-TR-ET Part 1 Revised 1
20 RED together with the Albanian and the German versions of this
21 transcript will be assigned Exhibit P1177.1.

22 And I note, Your Honours, the Prosecutor tendered also Parts 2
23 to 4.

24 PRESIDING JUDGE SMITH: Yes, there are.

25 THE COURT OFFICER: So Part 2 will be assigned -- all the

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1 language combinations will be assigned Exhibit P1177.2.

2 Part 3 - English, Albanian, German - will be assigned number
3 P1177.3.

4 And Part 4 will be assigned Exhibit P1177.4. Thank you.

5 MS. CLANTON: Your Honours, we would also move at this time for
6 admission of the associated exhibits which are listed again in
7 F02245, footnote 47, with two modifications. First, we're not
8 tendering any part of 054010-03 because it is already admitted in
9 full. And as this video has already been admitted in full, we would
10 seek to tender the transcript of that video, which is
11 054010-03-TR-ET.

12 PRESIDING JUDGE SMITH: Any objection to the associated
13 exhibits?

14 MS. TAVAKOLI: No, Your Honour.

15 MS. O'REILLY: No.

16 MR. ROBERTS: No.

17 MR. BAIESU: No.

18 PRESIDING JUDGE SMITH: The associated exhibits as enumerated
19 are admitted.

20 THE COURT OFFICER: Your Honours, the first item in footnote 47,
21 U002-4989 to U002-4991, will be Exhibit P1178. The second item,
22 U002-4992 to U002-4995, will be assigned Exhibit P1179.

23 The transcripts for the already admitted video will be added to
24 the already assigned Exhibit P501.

25 And then the next item, ERN 5005597 to 5005597 and the English

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1 translation 5005597 to 5005597-ET will be assigned Exhibit P1180.

2 SITF00031163 to SITF00031167, and I note in footnote 47 the
3 Panel only admitted pages SITF00031164 to SITF00031165, those pages
4 will be assigned Exhibit P1181.

5 And the last one, SITF00188892 to 00188901 RED, together with
6 the Albanian and English translation of it, will be assigned
7 Exhibit P1182, Your Honours. Thank you.

8 And if we can confirm the classification for all of those.
9 Apologies.

10 MS. CLANTON: Would it be possible for me to confirm at the
11 break the classification for each?

12 PRESIDING JUDGE SMITH: Yes, thank you.

13 MS. CLANTON: Your Honours, we also tender Preparation Note 1
14 which has ERN 121062 to 121083.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MS. TAVAKOLI: No, Your Honour.

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

18 MR. ROBERTS: No, thank you.

19 MR. BAIESU: No, thank you.

20 PRESIDING JUDGE SMITH: 121062 to 121083 is admitted. Please
21 assign an exhibit number.

22 THE COURT OFFICER: Your Honours, the Preparation Note 1 will be
23 assigned Exhibit P1183.

24 And is it classified confidential, public?

25 MS. CLANTON: Confidential.

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1 Your Honours, at this time we'd like to read a public summary of
2 the witness's evidence.

3 PRESIDING JUDGE SMITH: Go ahead.

4 MS. CLANTON: W02540 was deployed to Kosovo in June 1999 as the
5 commander of a unit of German forces who were serving as part of the
6 KFOR contingent. W02540 and his unit were based in Prizren and his
7 tasks including patrolling and responding to reports of security
8 issues experienced by the population.

9 W02540 was present when facilities used by the KLA were raided.
10 In particular, on 18 June 1999, he was present at the former MUP
11 building in Prizren where he led an operation to enter the building,
12 release detained persons, and disarm the KLA members who were
13 present. He saw injured persons and requested medical support from
14 KFOR units who came to assist those with injuries.

15 That concludes the summary.

16 PRESIDING JUDGE SMITH: Thank you. You may proceed with your
17 direct examination.

18 MS. CLANTON:

19 Q. Witness, in your prior statement you've described how when you
20 arrived at the Prizren MUP building on 18 June 1999 you interacted
21 with several KLA members.

22 MS. CLANTON: For the transcript, this is at P01176, pages
23 U002-6102 to U002-6103, and at Part 1 of your SPO interview,
24 P01171.1, pages 25 to 26.

25 Can the Court Officer please bring up the photograph which has

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1 just been admitted as P01179, ERN U002-4992.

2 Q. Witness, do you recognise this photograph as the photograph you
3 provided to the ICTY?

4 A. Yes, I do recognise that photo.

5 Q. And do you confirm that you provided it to the ICTY?

6 A. Yes, I do confirm that.

7 Q. Can you describe the location shown in this photograph?

8 A. Yes, this is directly in front of the former MUP building. This
9 is the entrance area.

10 Q. Thank you. You've previously identified two persons in this
11 photograph.

12 MS. CLANTON: And this is at P01171.1, pages 24 to 26.

13 Q. Witness, today can you identify the persons that you remember
14 speaking to when you first arrived at the MUP building?

15 MS. CLANTON: And if the usher could assist by providing the
16 witness with a pen, that would be useful.

17 Q. Witness, before we mark on the screen, can you indicate for the
18 Panel the persons that you've previously recognised in this
19 photograph as the KLA commanders that you spoke to?

20 A. Yes, these are two persons. First of all, on the left-hand side
21 there is a German soldier, that's myself. To his right, there's
22 somebody wearing a green beret, this is this one person I recognised.
23 And the other person is leaning onto the vehicle, this is the one in
24 front of the vehicle with the KLA -- or I don't know what kind of
25 armband it is, but this is one of the KLA leaders.

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1 Q. If you could use the pen, please. And the first identification
2 you made is of yourself. Can you mark yourself with the number 1.

3 A. [Marks]

4 Q. And the person to the left who you described as wearing a green
5 beret, can you mark him with a number 2.

6 A. [Marks]

7 Q. And, Mr. Witness, the last person you identified as leaning on
8 the car, can you mark him with a number 3.

9 A. I did that.

10 Q. Mr. Witness, throughout your previous interview you referred to
11 a person as the one who was leaning on the car. Just for clarity of
12 the record, when you refer to a person who is leaning on the car, are
13 you referring to person number 3?

14 A. Yes, I do refer to person number 3.

15 Q. As the person who is leaning on the car; correct?

16 A. That is correct.

17 MS. CLANTON: Mr. President, if we could please tender this
18 marked image.

19 PRESIDING JUDGE SMITH: Any objection?

20 MS. TAVAKOLI: No, Your Honour.

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

22 MR. ROBERTS: No, thank you.

23 MR. BAIESU: No.

24 PRESIDING JUDGE SMITH: The photograph marked image of P01176 is
25 admitted.

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1 THE COURT OFFICER: Your Honours, that photograph will be
2 assigned Exhibit P1184.

3 PRESIDING JUDGE SMITH: Thank you.

4 MS. CLANTON: And for the record, I believe this is the marked
5 image of P01179, not P01176.

6 Can the Court Officer please bring up P00512, which has ERN
7 072507-02. This is a video of approximately 30 seconds.

8 The part we're interested is from 11 minutes, 27 seconds to
9 12 minutes and 3 seconds. And what I would I would ask is that we
10 play the clip of 30 seconds one time through, and after that we will
11 pause and I will ask the witness for identifications.

12 PRESIDING JUDGE SMITH: Yes, go ahead.

13 [Video-clip played]

14 MS. CLANTON: I apologise. I should have said without sound. I
15 will be more clear next time.

16 Q. Witness, do you recognise the location of the footage that we
17 have just seen?

18 A. Yes, I do recognise the place. This is in front of the former
19 MUP, M-U-P, building.

20 Q. Based on the images that you've seen, are you able to indicate
21 the date that the footage was taken?

22 A. That must have been after the afternoon of 18 June 1999.

23 MS. CLANTON: If I could ask the Court Officer to go back and
24 please pause the clip at 11 minutes, 28 seconds. And if we could go
25 forward just a tiny bit, please.

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1 [Video-clip played]

2 MS. CLANTON: Stop.

3 Q. Witness, in the image before you, which I believe is still at
4 11 minutes, 28 seconds, we see several soldiers, persons in uniform.
5 Do any of these persons look familiar to you?

6 A. Yes. In the middle of the picture, that is the one who I
7 identified in the previous photo as person number 2.

8 Q. For the avoidance of doubt, is this the person wearing the beret
9 on his head?

10 A. That is correct.

11 MS. CLANTON: If the usher could please provide a pen to the
12 witness, we will mark this identification for the record. Thank you.

13 THE WITNESS: [Marks]

14 MS. CLANTON: Mr. President, could this be admitted into
15 evidence, please?

16 PRESIDING JUDGE SMITH: Any objection? No?

17 MS. TAVAKOLI: No.

18 PRESIDING JUDGE SMITH: None.

19 No objection being had, this will be admitted into evidence.

20 THE COURT OFFICER: Your Honours, the marked image from Exhibit
21 P512 will be assigned Exhibit P1184. And if, Your Honours, we can
22 confirm the classification for this marked and the previous marked
23 image.

24 MS. CLANTON: They can both be public.

25 PRESIDING JUDGE SMITH: Both photos will be classified as

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1 public.

2 MS. CLANTON: Can the Court Officer please bring up ERN 119101
3 to 119105 and go to the last page, which is ERN 119105, please.

4 Q. Witness, if you look at the right side of the -- oh, I'm sorry.
5 If you look at the picture on the screen in front of you, have you
6 seen this photograph before?

7 A. Yes, I have seen this photo before.

8 Q. Is this a photograph that you provided to the Specialist
9 Prosecutor's Office?

10 A. Yes, I provided that photo.

11 Q. Can you describe the location shown in this photograph and the
12 persons present?

13 A. The place is again in front of the M-U-P, MUP building. The
14 acting persons: I see on the left, a German military police officer;
15 and to the right, two soldiers which I cannot exactly identify. All
16 of that is in front of the former MUP building. Additionally, I can
17 say that the jeep you can see there marked with KFOR, this was my
18 jeep.

19 Q. Witness, can you describe how the weapons we see on the ground
20 here came to be placed on the ground?

21 A. Yes. After we had detained -- no, not detained but -- yeah,
22 detained KLA leaders, we asked them to voluntarily hand over their
23 weapons. They did exactly that. And after that, we searched them
24 again, and all you can see there on the ground is material which we
25 found additionally to the weapons that were handed over.

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1 MS. CLANTON: Your Honours, if this could be admitted into
2 evidence as a confidential exhibit.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 Any objection?

5 MS. TAVAKOLI: No, Your Honour.

6 PRESIDING JUDGE SMITH: None. 119101 to 119105 -- I'm sorry,
7 should that just be one number?

8 MS. CLANTON: I apologise. Only the photograph 119105.

9 PRESIDING JUDGE SMITH: All right. 119105 is admitted.

10 THE COURT OFFICER: Your Honours, this photograph will be
11 assigned Exhibit P1186.

12 And if I can correct the record, Your Honour. The second marked
13 image was assigned Exhibit P1184 where it should have been P1185.
14 Thank you.

15 MS. CLANTON: Can the Court Officer please bring up P00726,
16 which is ERN 106389-01. This is a video-clip of approximately
17 40 seconds. It can be played publicly. We do not need the sound. I
18 will first ask for it to be played through once, and then we will
19 pause at -- I'm sorry, I would like for it to actually be played just
20 one second to be paused at 1 minute and 13 seconds.

21 [Video-clip played]

22 MS. CLANTON: I'm sorry, 1 minute and 13 seconds.

23 [Video-clip played]

24 MS. CLANTON: Stop. Thank you.

25 Q. Witness, do you recognise the location shown at 1 minute and

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1 14 seconds?

2 A. Yes, I do recognise that place. This is again the entrance of
3 the former MUP building.

4 Q. Did you recognise any German KFOR soldiers in the part that was
5 just shown, the two seconds that you just saw?

6 A. Yes. In the foreground, the soldier is Fritsch, sergeant major.
7 He was a press officer in our German contingent.

8 Q. Witness, the persons standing close to the vehicle wearing
9 various or partial uniforms in the background, are these German
10 soldiers or members of the KLA?

11 A. In the background, leaning on the vehicle, this is definitely a
12 member of the KLA. Apart from that, there are also German soldiers
13 to be seen on the photo. And in the background, in front of these
14 trees or bushes, there are also some KLA members to be seen.

15 Q. Witness, based on your recollection of the scene, were the
16 persons who you just described as KLA members, standing in front of
17 the trees and the one leaning on the vehicle, were these persons you
18 believe were present at the MUP building when you ordered that it be
19 vacated on 18 June 1999?

20 A. Yes, those were these persons, because all persons which were in
21 and around the building were detained by us.

22 MS. CLANTON: If the Court Officer could play from 1 minute and
23 12 seconds until 2 minutes, please.

24 [Video-clip played]

25 MS. CLANTON:

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1 Q. Witness, do you recall seeing this video last week during your
2 preparation session?

3 A. Yes, I did recognise that scene. I myself am visible in that
4 video.

5 MS. CLANTON: If we could please go to 1 minute and 19 seconds.
6 If we could go forward ever so slightly.

7 [Video-clip played]

8 MS. CLANTON: Pause. I'm sorry, can we go back just one moment,
9 maybe half a second.

10 [Video-clip played]

11 MS. CLANTON: Pause. Thank you.

12 Q. Witness, you've just said that you saw yourself in this video.
13 Can you indicate if you recognise the persons in this still image?

14 A. Yes. The person on the left with a black watch, that is me.

15 Q. Do you recognise any other persons in this image?

16 A. Yes. The person in the foreground, with that person I talked in
17 between. He said he was commander of the Pashtrik part, and he was
18 speaking French. The soldier on the right-hand side, a military
19 police officer, I do not know by name.

20 Q. And the soldier on the right-hand side with the military police,
21 is he part of the military police of German KFOR?

22 A. Yes. The soldier with this white ribbon around his helmet and
23 with the MP armband is a member of the German contingent.

24 Q. Mr. Witness, a moment ago you said you recognised the person who
25 introduced himself as the commander of the Pashtrik pass and was

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1 speaking French. Can you confirm, is this the person in the
2 foreground who is holding something in his hand and appeared to be
3 waving it?

4 A. Yes, this is the person I recognise.

5 MS. CLANTON: Can we rewatch, please, from the beginning, from
6 1 minute, 12 seconds, to 1 minute, 14 seconds.

7 Q. And I'd like to ask that you focus your attention on what's
8 happening on the left side of the screen.

9 [Video-clip played]

10 MS. CLANTON:

11 Q. Witness, were you able to see a person who is coming down the
12 stairs in this two-second clip?

13 A. Yes, this is the person I have just identified as the commander
14 of the Pashtrik pass. He is about to go down the stairs.

15 Q. Witness, is this the person who you took into the MUP building
16 and showed the body of a deceased older man?

17 A. Yes, that is correct.

18 Q. Witness, based on what you've seen in this clip, can you
19 describe when you think this footage was taken in relation to the
20 interactions you had with this commander who introduced himself as
21 commander of the Pashtrik pass and spoke French to you?

22 A. Yes, that happened afterwards. I went with him into the
23 building before that scene that was shown in that video-clip just
24 now.

25 Q. Mr. Witness, still on the topic --

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1 MS. CLANTON: I'm sorry, we can take this down.

2 Q. Still on the topic of the MUP building, I'd like to look at your
3 ICTY statement, which has been admitted as P01176.

4 MS. CLANTON: If we turn to page U002-6104 on the screen,
5 please. And if we scroll down a little bit.

6 Q. Witness, on the screen in front of you there are two paragraphs
7 that I want to draw your attention to sort of in the middle of the
8 page. It says:

9 "After a while, a KLA commander arrived, who I had previously
10 come across at a meeting in Prizren. He introduced himself to me in
11 French as the Commander from Pastrok Pass. He asked me what was
12 wrong and I then showed him the dead man and the freed hostages and
13 then he spoke about a 'grand catastrophe'. The conversation was
14 mainly in French and some in German, but I could understand him well.
15 He told me that he had lived in Switzerland for a long time and that
16 is why he spoke such good French."

17 And looking at the next paragraph, it says:

18 "Colonel Besch and General Von Korff must also know this man,
19 because he was at the subsequent negotiations in the former 'Progress
20 building'. It had also been the former OSCE building and later the
21 Ops Brigade building in Prizren."

22 My first question, Witness, here when it says that the man was
23 at subsequent negotiations, does "subsequent" mean taking place after
24 the MUP building was raided by KFOR?

25 A. Yes, that is what I mean, after the building was taken over.

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1 Q. And what do you recall about this man from the MUP building who
2 spoke French and the subsequent negotiations?

3 A. I cannot give you any further information because I did not
4 attend these negotiations, but I did see him again in front of the
5 Progress building.

6 Q. Where were you positioned when you saw him in front of the
7 Progress building?

8 A. I was sitting inside my vehicle which was in front of the
9 building.

10 Q. And what did you do when you saw him?

11 A. We took pictures of those people who were entering the building.

12 Q. Do you recall if more than one picture was taken?

13 A. Yes. I remember that we took two pictures because there were
14 two people who were also at the MUP building. And if you continue
15 reading in this document, you will see that Colonel Bescht ordered
16 the release of the KLA members. In view of the fact that we had one
17 deceased there and several hostages, I viewed the situation as a
18 criminal act and I wanted to document the people responsible with a
19 picture.

20 Q. Witness, do you recall seeing photographs of these two persons
21 when we spoke in January of this year?

22 A. Yes, I clearly recall the first picture. The second picture is
23 a little bit blurred. But I do recall both pictures.

24 MS. CLANTON: Can the Court Officer please bring up U002-4996 to
25 U002-4997.

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1 Q. Witness, do you recognise this photograph as one of the
2 photographs you were just describing that was taken from the parking
3 lot at the brigade command?

4 A. Yes, I do recognise this picture. It was taken in front of the
5 entrance of the building probably by myself because it looks like it
6 was taken from the passenger seat where I was sitting.

7 Q. And is this taken at the time that you understood that these KLA
8 members were arriving for negotiations?

9 A. Yes. There was a meeting at the brigade headquarter building.

10 Q. Witness, you've stated that in the photographs that you took you
11 recognised two persons from the MUP building. Do you see either of
12 those persons in this photograph?

13 A. Yes, I recognise one person in this picture, the man in the
14 foreground wearing the armband.

15 Q. And can you describe how you recall him at the MUP building
16 during the raid?

17 A. When I arrived at the MUP building, it was this man who appeared
18 to be in charge, and I saw him as a very uncooperative person who
19 would rather not answer my questions.

20 Q. Witness, is this one of the persons who you identified this
21 morning in a photograph that was shown to you?

22 A. Yes, it's the same person that was leaning on the vehicle in the
23 first picture I was shown.

24 MS. CLANTON: Can we turn to the next page, please.

25 Q. Witness, can you describe the circumstances of when this

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1 photograph was taken?

2 A. Yes. This picture was taken immediately after the first one.
3 Another group of people were arriving.

4 Q. What do you recall about the people who were arriving in this
5 photograph?

6 A. I recall that I recognise at least one person that I had seen
7 before and that was the man, the commander, who spoke French.

8 Q. Mr. Witness, do you recall that in January of this year you were
9 shown these photographs and asked about your recollection, and you
10 indicated that the quality of the second photograph is not very good?

11 A. Yes, and I am still of this opinion. This is a bad photograph,
12 but I do recall the scene.

13 MS. CLANTON: Mr. President, can we please tender these two
14 photographs into evidence?

15 PRESIDING JUDGE SMITH: Any objection?

16 MS. TAVAKOLI: No, Your Honour.

17 PRESIDING JUDGE SMITH: No objection has been made. U002-4996
18 to U002-4997 is admitted.

19 THE COURT OFFICER: Your Honours, it will be assigned
20 Exhibit P1187. And I note they are currently classified as
21 confidential.

22 MS. CLANTON: These exhibits can be public.

23 PRESIDING JUDGE SMITH: They will be -- 1187 will be
24 reclassified as public.

25 MS. CLANTON: If the Court Officer could please bring up P00503,

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1 which is a video with ERN 068357-01. And the admitted exhibit is
2 from time code 10 seconds to 54 seconds.

3 I would like to play this from 10 seconds -- I'm sorry, from
4 10 seconds to 11 seconds and then pause.

5 [Video-clip played]

6 MS. CLANTON: If you could pause at time code 11 seconds.

7 [Video-clip played]

8 MS. CLANTON: Thank you.

9 Q. Witness, do you recognise the building in this image?

10 A. Yes, I recognise the building. We called it the house of the
11 soldier. I don't know its actual name.

12 MS. CLANTON: If we could play to 24 seconds, please, and pause.

13 [Video-clip played]

14 MS. CLANTON: We've gone too far. Can we go back to 24 seconds,
15 please.

16 [Video-clip played]

17 MS. CLANTON:

18 Q. Witness, do you recognise any persons in this image?

19 A. In this image, I recognise the French-speaking commander.

20 Q. Witness, is this the same person who you recognised in the
21 previous photograph which was taken from your vehicle in front of the
22 Progress building?

23 A. Yes, it is the same person.

24 MS. CLANTON: If we can please play ten more seconds to time
25 code 35 seconds, please.

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1 [Video-clip played]

2 MS. CLANTON:

3 Q. Witness, do you recognise the location?

4 A. Yes, this is the former MUP building again.

5 MS. CLANTON: And if we can play to the end, 45 seconds -- I'm
6 sorry, not to the end. Just play it to time code 45 seconds.

7 [Video-clip played]

8 MS. CLANTON: Pause, please. Thank you.

9 Q. Witness, based on what you've seen in this footage showing the
10 MUP building, are you able to indicate whether you think this was
11 filmed before or after you led the raid of the building on 18 June
12 1999?

13 A. This was filmed before because at that point the building hadn't
14 been taken over by KFOR.

15 MS. CLANTON: I see the time, and it would be good to take a
16 break before I go into a longer exhibit, please.

17 PRESIDING JUDGE SMITH: Thank you.

18 Witness, we'll give you a ten-minute break -- or we'll make it a
19 15-minute break, and we'll call you back to the courtroom as soon as
20 we're ready.

21 [The witness stands down]

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 --- Break taken at 9.59 a.m.

24 --- On resuming at 10.15 a.m.

25 PRESIDING JUDGE SMITH: For clarity of the record, we might be

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1 able to just -- if no one has a question about it, we could indicate
2 the name of the person who is the French-speaking commander. If you
3 all know who that is, there is no reason to not indicate it on the
4 record, just to be clear.

5 MS. O'REILLY: Yeah, I think that would be helpful, Your Honour.

6 MS. CLANTON: Just with the caveat that the witness does not
7 know the name. He has said the he no longer recalls --

8 PRESIDING JUDGE SMITH: Understood. We understand that. But we
9 have enough information that we have -- up till now that we can tell.

10 Anybody else? No objection?

11 All right. The record will reflect Mr. Halitjaha as the
12 French-speaking commander.

13 [Microphone not activated].

14 You may bring the witness in.

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: All right. Witness, we are ready to
17 proceed.

18 You may continue.

19 MS. CLANTON: Thank you.

20 Can the Court Officer please bring up ERN SPOE00347353. And if
21 we could go to the previous page.

22 Q. Witness, on the screen in front of you is an article from the
23 *New York Times* dated 19 June 1999. Do you recall that this article
24 was read back to you in your language last week during our
25 preparation session?

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1 A. Yes, I do recall this.

2 Q. I'm not going to ask you to read the text in this image, but if
3 we could zoom in close to where the photograph is shown.

4 Witness, if we look at the photograph that is under the heading
5 "Kosovo Rebels Take Over Towns; Violence Is Reported," do you
6 recognise the scene in this photograph?

7 A. Yes, I do recognise this scene. This happened after we took
8 over the MUP building.

9 Q. Do you have any -- do you recognise any of the persons shown in
10 the photograph?

11 A. I don't recognise any persons, but I can see that there's a
12 German medic measuring blood pressure on somebody's arm, and I can
13 see the medic's -- the medic's suitcase. That is not carried by any
14 normal soldiers, just by the medics of the army.

15 Q. I'd like to ask you a few questions about this article.

16 MS. CLANTON: But in order to read it better, I'd like to pull
17 up the same article but in a different version, in terms of how it's
18 printed, and that's at ERN 013435 to 013436.

19 Q. Witness, you don't need to try to read what's on the screen. I
20 will read out the relevant parts, and they will be translated to you
21 in German.

22 MS. CLANTON: If we could go to the seventh paragraph from the
23 top, which starts with "Inside the station."

24 Q. Witness, here it says:

25 "Inside the station, the German troops found 15 people who had

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1 been taken prisoner, including an elderly man who was found dead,
2 handcuffed to a chair and badly beaten, according to a German
3 spokesman, Lieut. Col. Dietmar Jeserich."

4 Witness, is what's reported here correct about the approximate
5 number of persons who were held and the presence of a deceased man
6 who was handcuffed to a chair?

7 A. Yes, it's correct.

8 Q. Do you know Lieutenant-Colonel Dietmar Jeserich?

9 A. Yes. Yes, I know Dietmar Jeserich from this deployment, and I
10 met him again later in Afghanistan. And also when I was working at
11 the Ministry of Defence, I was in touch with him then as well.

12 Q. And he's listed here as a spokesman. Is that a correct
13 indication of his position according to your knowledge?

14 A. Yes, he was the press sergeant of the German contingent.

15 Q. If we go to the next paragraph, the eighth paragraph down, it
16 says:

17 "One man had red welts across his back, an old man had a bandage
18 on his head and cuts on his face and another man said he had been
19 stabbed in the leg."

20 Witness, were you aware of injured persons in the condition as
21 recounted in this article?

22 A. Yes. Several injured people came out of the former MUP building
23 and I saw their injuries.

24 MS. CLANTON: If we could now go three paragraphs down to the
25 sentence that begins with "Col. Rolf Bescht."

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1 Q. And it says:

2 "Col. Rolf Bescht, the German commander, said the allies were
3 taking over the police station 'to make it perfectly clear we are the
4 only force, the only authority in town.'"

5 Is what Colonel Bescht is saying here consistent with your
6 understanding of your role and your tasks in Prizren?

7 A. Yes, this was the task that we had, to re-establish security and
8 order as the only force present on the ground.

9 MS. CLANTON: If we could go to the next page, please.

10 Q. And if we go to the next-to-last paragraph, which is actually
11 the third from the bottom here, it says:

12 "Germans had given the rebels until noon to leave the station,
13 but shortly after that a German patrol, led by Maj. Dietrich Jensch,
14 saw that they were still there. The station was soon surrounded by
15 German troops. The 15 prisoners were released and several were
16 treated by German medics."

17 Witness, do you recall today whether there was a noon deadline
18 for the KLA to leave the MUP building?

19 A. I cannot tell you a hundred per cent, but I do recall that when
20 I arrived the deadline had already been announced, so the building
21 should no longer have been occupied.

22 Q. Witness, other than the reference to a noon deadline, do you
23 confirm what is written here, including with your name, about the
24 actions taken by you and your unit and the release of prisoners?

25 A. Yes, I can confirm that. When I arrived on the scene, it was

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1 clear that the building was occupied, and we ended the occupation.

2 Q. And is it correct that the station was soon surrounded by German
3 troops?

4 A. Yes. When I arrived on the scene, there was a Marder armoured
5 vehicle on the spot with eight or nine soldiers. I don't recall this
6 precisely. But they remained passive despite the building have been
7 occupied.

8 I got in touch with the KLA commander. And I thought that
9 things looked a little bit strange. I sent my people into the
10 building. They told me that they found hostages and a little bit
11 later a deceased person. I asked for reinforcements, and I had my
12 people surround the building.

13 Q. Thank you.

14 MS. CLANTON: Your Honours, we would tender this article into
15 evidence under both ERNs.

16 PRESIDING JUDGE SMITH: Any objection?

17 MS. TAVAKOLI: No objection.

18 PRESIDING JUDGE SMITH: No objection being shown, ERN
19 SPOE00347353 and also as 013435 to 013436 are admitted as one exhibit
20 as two alternative printings.

21 THE COURT OFFICER: Your Honours, for the first item,
22 SPOE00347352 to 353, I note that the Prosecutor called 353 but she
23 actually showed the picture on 352. Are we admitting the full
24 document?

25 MS. CLANTON: That was a typo on my part. Yes, the full

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1 document, please.

2 THE COURT OFFICER: So to confirm, the ERN would be SPOE00347352
3 to 00347353. That will be assigned Exhibit P1188.1.

4 And the second version, 013435 to 013436 and its Albanian
5 translation will be assigned Exhibit P1188.2. Thank you.

6 PRESIDING JUDGE SMITH: Thank you.

7 MS. CLANTON:

8 Q. Witness, in your ICTY statement, which is admitted now as
9 P01176, I'd like to look at page U002-6105, the third paragraph.

10 Witness, in the third paragraph it says:

11 "I do not know what actually happened to the hostages either. I
12 know that some of them left and then I met some of them again in the
13 reception camp in the former music school. My unit was also
14 responsible for protecting that school and that location was the
15 assembly point for refugees from all ethnic groups."

16 Do you see that part of your statement?

17 A. Yes, I do see this part of my statement.

18 Q. Witness, do you recall that you previously clarified that this
19 building that you called the music school was one of the four
20 buildings that was handed over to KFOR for safekeeping by the Serbian
21 bishop?

22 A. Yes, it was one of the four buildings that were handed over, and
23 I was given responsibility for this with my men.

24 MS. CLANTON: For the record, that clarification is at P01183,
25 paragraph 15.

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1 Can the Court Officer please bring up SITF00189141 to
2 SITF00189142. This is not for broadcast. And the English
3 translation, please.

4 Q. Witness, this is a Military Police Situation Report entitled
5 number 25-99. And under that, it says in handwriting:

6 "See also MPSitRep 12/99 ..."

7 Do you see that?

8 A. Yes, I do see that.

9 Q. And we see at the top that this is dated 23 June 1999. And on
10 the subject line, it says:

11 "Carrying out police tasks by [MP]."

12 Witness, under the line that says "Reference," it says:

13 "Alert by LeFlaRakBttr ..."

14 Do you know what LeFlaRakBttr is?

15 A. Yes, it's the abbreviation for my unit, Light Air Defence
16 Missile Battery.

17 Q. Witness, is it correct in English to also refer to your unit as
18 the Airborne Air Defence Unit?

19 A. Yes, this would also be a correct way of putting it.

20 Q. We're going to look at the first paragraph, but I will not read
21 out certain names because we're in public session.

22 In the first full paragraph, it says:

23 "At around 1500 hours [two persons] both currently residing in
24 the monastic school in Prizren, recognised Mr. Sami Kehapi and the
25 Commander of the KLA (Prizren district), Mr. Nezir Kryeziv, through

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1 the windows of the ... school. They said that they had repeatedly
2 beaten and abused them when they were held in the former MUP building
3 (see SITREP 12/99)."

4 Witness, do you recall that you read over this report in the
5 original German language last week during our preparation session?

6 A. Yes, I do recall that.

7 Q. Witness, in the original German it refers to the location as a
8 *Klosterschule*, or monastic school. Having read this report about the
9 refugees from the MUP building at a facility where your unit was
10 present, is it possible that the music school that you described in
11 your statement could also be called the *Klosterschule*, or seminary or
12 monastic school?

13 A. Yes, this is correct. We didn't know at the time what the
14 actual function of the building was, that's why we called it music
15 school first, but we also called it monastic school or seminary.

16 Q. Witness, had you seen this report before your preparation
17 session last week?

18 A. I had not seen this report before last week. I did not know it.

19 Q. And do you know the names Sami Kepahi or Nezir Kryeziv,
20 commander of the KLA Prizren district?

21 A. No, these names are not known to me.

22 Q. Witness, in the report we see that it says that the Airborne Air
23 Defence Unit was informed that persons were being taken away in a
24 blue Transit van. This is in the second paragraph. And that your
25 unit put a stop to that. Do you recall this incident?

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1 A. No, I don't recall this because I was not present when it
2 happened.

3 Q. Are you aware of other instances in which you or members of your
4 unit observed persons being forcefully taken into vehicles?

5 A. I remember one scene. There was a black Golf and a priest was
6 pulled into it. This was several hundred metres ahead of us, and our
7 jeep was not powerful enough for us to follow this vehicle.

8 Q. Is it correct that you saw the priest being pulled into the
9 vehicle?

10 A. Yes, that is correct.

11 Q. Witness, the next two lines of this report, it says that members
12 of the Airborne Air Defence Unit stopped the forceful taking of
13 persons and then found that one of the persons, Mr. Sami Kehapi, had
14 a pistol holster and a gun.

15 "Sami Kehapi was taken away and searched."

16 And then it lists the materials that was seized. And it says:

17 "Since Sami Kehapi was not on the list of authorised armour
18 bearers, the gun and ammunition were seized and an MP patrol
19 notified."

20 Was stopping suspicious persons and searching and disarming them
21 a normal task for your unit at this time?

22 A. Yes, this was part of our daily duties, to search suspicious
23 persons and also stop vehicles that we thought were suspicious.

24 MS. CLANTON: If we can go to the next page of both languages,
25 please.

1 Q. Witness, in the last part of this report above the list of
2 names, it says:

3 "To clarify the situation, Mr. Sami Kehapi was ... taken to the
4 former MUP base and handed over to Major Reiser."

5 Can you explain what's being referred to here as "the former MUP
6 base"?

7 A. Yes. This is the building which we have already described in
8 the first part of the interrogation, the former MUP building, it was
9 also a prison, and at that point in time, and I think that was on
10 19 June, handed over. And Major Reiser was probably the commander of
11 the military police at the time.

12 Q. When you say the building was handed over, who was it handed
13 over to?

14 A. It was handed over by us, from my unit, by me, the next day to
15 the military police, and they have then used that from that point in
16 time onwards. On 18 June, we took over the building. And on
17 19 June, I handed the building over.

18 Q. Just to be totally clear, handed over to the military police.
19 Is this the military police of the German KFOR contingent?

20 A. Yes, I mean the military police of the German KFOR contingent.

21 Q. Witness, the next line here says:

22 "The pistol and ammunition were seized and handed in at the
23 weapons collection point."

24 Are you familiar with the location called the weapons collection
25 point?

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1 A. Yes, that was in the former -- well, that was in the Progress
2 building, former KLA building, now the seat of the command. And
3 there was a collection point which I visited personally several times
4 to hand in weapons or mines.

5 MS. CLANTON: If we can go back to the first page, please. And
6 scroll to the bottom, please.

7 Q. Witness, it says towards 309 of the page that:

8 "When the [military police] patrol arrived at the location, it
9 was given a list by ... /Sergeant Major/ Hörhold that includes 9 men
10 who can testify that Mr. Sami Kehapi and Nezir Kryeziv were involved
11 in the crimes described in SITREP 12/99."

12 Is this person, Sergeant Major Hörhold, somebody that you know?

13 A. Yes, he was a member of my unit at the time, and he was together
14 with me part of this operation in 1999.

15 MS. CLANTON: Mr. President, at this time we would tender this
16 report into evidence.

17 PRESIDING JUDGE SMITH: Any objection?

18 MS. TAVAKOLI: No, Your Honour.

19 PRESIDING JUDGE SMITH: SITF00189141 to SITF00189142 is
20 admitted.

21 THE COURT OFFICER: Your Honours, that will be assigned
22 Exhibit P1189 and will be classified as confidential.

23 MS. CLANTON: The next topic requires going into private
24 session, please.

25 PRESIDING JUDGE SMITH: Please, into private session.

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1 [Private session]

2 [Private session text removed]

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23 [Open session]

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

25 PRESIDING JUDGE SMITH: All right.

1 Witness, we take a half-hour break at this point. Please do not
2 discuss your testimony with anybody outside of the courtroom, as I
3 said earlier. We will reconvene at 11.30. You may go with the Court
4 Usher at this time.

5 THE WITNESS: [Interpretation] I will do so.

6 [The witness stands down]

7 PRESIDING JUDGE SMITH: Any change in the estimation of
8 cross-examination times?

9 MS. TAVAKOLI: Not for me, I don't think. Sorry.

10 MS. O'REILLY: Yes, Your Honour. We do have some questions, but
11 it will be less than the forecast, which was an hour. So perhaps
12 20 minutes, half an hour.

13 MR. ROBERTS: The same for me, Your Honour. I think
14 significantly reduced from what I was estimating.

15 MR. BAIESU: We are also significantly reducing our questions to
16 20 minutes at the longest.

17 PRESIDING JUDGE SMITH: All right. Thank you. Thank you all.
18 We'll see you at 11.30.

19 --- Recess taken at 10.59 a.m.

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

21 PRESIDING JUDGE SMITH: Madam Prosecutor, you wished to clarify
22 the classification of some of the items.

23 MS. CLANTON: Yes, Mr. President.

24 PRESIDING JUDGE SMITH: Go ahead.

25 MS. CLANTON: For the first associated exhibit, which was

1 P01178, ERN U002-4989 to U002-4991, this is a confidential exhibit.

2 For the second one, which was P1179, U002-4992-U002-4995, this
3 will be a public exhibit.

4 I believe I said this but the transcript of P00501 is public.

5 The image at P1180, which was 5005597, and the English version
6 of that, is public.

7 The two pages that were admitted from SITF00031164-SITF00031165
8 that are part of P01181 should be confidential.

9 And the report that is P1182, SITF00188892 to 00188901 RED2
10 should also be confidential.

11 And the other matter that I said I would follow up on is the
12 revised transcript for the portion of the video that was shown before
13 the break, which is P513. We will prepare the revision and disclose
14 that as soon as possible.

15 PRESIDING JUDGE SMITH: Thank you. The classifications will
16 reflect the statement made by the Prosecutor, unless there is an
17 objection. There does not appear to be.

18 Madam Usher, you may bring the witness in.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: All right. Witness, we are ready to
21 proceed with the cross-examination now. We will begin with the Thaci
22 Defence.

23 Ms. Tavakoli, you have the floor.

24 Cross-examination by Ms. Tavakoli:

25 Q. Good morning, sir. My name is Nina Tavakoli, and I represent

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1 Mr. Thaci today. Now, I'm going to ask you a series of questions of
2 questions about what you experienced when you arrived in Prizren in
3 1999, just to get the full context of everything that you saw at that
4 time.

5 Now, it's right, isn't it, that you deployed into Kosovo on
6 12 June 1999?

7 A. Whether it was 12 June or 13 June, I'm not 100 per cent sure.
8 But in that period of time. That is correct.

9 Q. And you left, I think, on 28 June?

10 A. That is correct.

11 Q. Your direct superior, just so we can get your chain of command
12 on the record, was Deputy Brigade Commander Colonel Bescht; correct?

13 A. That's not quite correct. There were two columns of the command
14 structure. First it was the national commander I was subordinated
15 to, that was General von Korff. And then there was the operational
16 brigade, von Harff --

17 THE INTERPRETER: Correction of the witness.

18 THE WITNESS: [Interpretation] Harff. General von Korff was the
19 head of the operational brigade. I got my instructions from the
20 operational brigade but I was under the command of the national
21 commander. This is a bit difficult. As one differentiates between
22 operational command and operational control. This is military
23 jargon.

24 MS. TAVAKOLI:

25 Q. And Bescht, Deputy Brigade Commander Bescht, is he the person

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1 immediately under von Korff?

2 A. Yes, he was his deputy, the second man of the brigade.

3 Q. Okay. So that's enough, I think. For a civilian like me, I
4 have to leave it there.

5 So the day that you entered, that was three or four days after
6 the signing of the Kumanovo Agreement between KFOR and the FRY on
7 9 June; correct?

8 A. That is correct.

9 Q. So that -- and do you recall that that agreement provided for
10 the immediate cease-fire and complete withdrawal of the FRY forces
11 from Kosovo but it was to be a staggered withdrawal?

12 A. I do not recall the exact follow-up of it. There was an
13 immediate cease-fire, and the former Yugoslav air forces were
14 supposed to leave immediately the area of Kosovo.

15 Q. The reason I ask is because when you entered Prizren on the 12th
16 or 13th, there were still Yugoslav forces there; correct?

17 A. Yes, that is correct.

18 Q. I think you say in your statement, or you did say, that the
19 Yugoslav Army and special units of the Yugoslav police were present
20 in four-digit numbers. And I think in one instance you said there
21 were approximately 2.500 men gathered at one location. Do you recall
22 saying that?

23 A. Yes, I do recall that. And this is indeed what I estimate, this
24 figure, because later on there were several convoys from Prizren of
25 the former Yugoslav Army which we accompanied.

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1 Q. And you made the comment that the Yugoslav special police
2 troops, their conduct was quite rough. They were your words in the
3 statement. Do you remember that?

4 A. Well, these were not the special forces of the Yugoslav Army,
5 but these were the police forces, the MUP. As far as they behaved,
6 that was a different behaviour from the behaviour of the army forces
7 I encountered. The military, I must say they adhered to agreements.
8 And these forces were in their behaviour rather aggressive. They
9 were different in their behaviour, I have to say. As in different
10 from a normal soldier in their behaviour.

11 And I do remember now one scene where apparently we encountered
12 a group of paramilitaries, 40 or 50, in a bus, and they were really
13 armed, highly armed, but they were neither part of the MUP nor of the
14 former Yugoslav Army.

15 Q. But they were Serbian, do you think?

16 A. They were Serbians. They were Serbs. They were in a bus. And
17 we were, I think, seven persons. They were 40 to 50. And I --
18 because of their behaviour, I refrained from having an escalation
19 because we would not have had any chance.

20 Q. And I think on your first day there, you got caught in a
21 shootout between the Yugoslav Army and the KLA when you were trying
22 to evacuate a Serbian base; is that right?

23 A. Yes. We had the task to evacuate three Serbian posts, and we
24 went to Suhareke, and there were also three Yugoslav forces' vehicles
25 and KFOR vehicles, and we entered a shooting. And, obviously, they

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1 didn't realise that we were KFOR forces.

2 Q. And would you agree with Deputy Brigade Commander Bescht who
3 said this.

4 MS. TAVAKOLI: And for the record it's at 077406, Part 1, page
5 4, lines 19 to 21.

6 Q. Would you agree with him:

7 "The security situation was tense right from the start. This
8 was expressed audibly by the constant shots being fired. Also at
9 night. The KLA were fighting amongst themselves at the time as well
10 as with the Serbs."

11 A. Whether they fought amongst themselves, this was nothing that
12 was obvious to me. And I did not witness any further shootings apart
13 from that point in time. And, therefore, I cannot agree with that
14 statement as it was. At the beginning, there was a vacuum. First,
15 for a few days, there was still the former Yugoslav Army forces
16 there, more and more KLA fighters entered the area, and in between a
17 vacuum was created, and we tried as fast as possible to gain control
18 over the situation.

19 Q. I'm going to come on to the vacuum. You described, though --
20 whilst you might not agree with Bescht, in your statement you
21 described the situation as follows: "A state of lawlessness in many
22 areas." Do you agree with that still?

23 A. Well, it was -- yes, of course, I can agree, because there was
24 simply nobody there. There were no police forces there. There was
25 no post officer. There was nobody there.

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1 Q. So there was no civilian or administrative infrastructure, no
2 police, no military, once the Serbs left; correct?

3 A. Yes. With KFOR, there was a military structure there.

4 Q. You came in, but organically, no. And Bescht has described
5 it as total anarchy. Would you go that far?

6 A. No.

7 MS. TAVAKOLI: For the record, that reference is 077406, Part 1,
8 page 4.

9 Q. Now, your mandate as KFOR was to restore some order to the
10 situation and to ensure public safety until the civilian presence
11 could take responsibility; correct?

12 A. That is correct.

13 Q. Now, I'd like to talk now a little bit about who was in Prizren,
14 other than the Yugoslav forces and police and the KLA, when you
15 arrived.

16 Now, in your statement you said that at the very beginning not
17 that many inhabitants returned but gradually more and more people
18 came back. Do you remember that?

19 A. Yes, I do recall that. More and more people crossed the border
20 from Albania into the direction of Kosovo. And this was visible on
21 the streets, there were simply more people on the streets.

22 MS. CLANTON: Mr. President, I'm sorry, I rise only to ask for
23 transcript references when referring back to the witness's prior
24 evidence.

25 PRESIDING JUDGE SMITH: Yes, please.

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1 MS. TAVAKOLI: It's not -- sorry, they're his statement. Do you
2 want me to go back through --

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. TAVAKOLI: But they're -- sorry, it's my mistake. They're
5 references to his witness statement.

6 MS. CLANTON: Simply the page number.

7 MS. TAVAKOLI: Okay.

8 MS. CLANTON: Or with the SPO interview, the part and page,
9 please.

10 MS. TAVAKOLI: Okay.

11 Q. Now, were you aware, when you were there or since, of the total
12 number of civilians, Kosovar civilians who had been displaced by this
13 war?

14 A. In total, I cannot give you a figure. I can't confirm. But
15 when we were still in North Macedonia, I saw how many refugees were
16 there in refugee camps, several thousands. But in total, I cannot
17 describe this figure.

18 Q. So perhaps I could just tell you that the office of security --
19 OSCE, that organisation, said that between March and June 1999, the
20 forces of the FRY and Serbia forcibly expelled 863.000 Kosovan
21 Albanians and that over 90 per cent were displaced by June 1999. And
22 then they go on to talk about Prizren specifically.

23 MS. TAVAKOLI: And the reference for the record is SITF00001529
24 to 00001871 at SITF00001653.

25 Q. And in Prizren, OSCE reported early figures indicated that

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1 between 15.000 and 20.000 refugees returned each day after the
2 conflict. Did what you see, either at the beginning or as you were
3 there, tally with that?

4 A. Yes, this is confirmed.

5 Q. And in addition to returning Kosovar civilians, there were also
6 criminal elements coming in from Albania; is that correct?

7 A. At least -- I recall at least two incidents where we arrested
8 people who were looting, and they stated they came from Albania.

9 Q. Because, in fact, you told the SPO - and the reference is
10 P1177.3, page 18 - that Albanians came who had at some time got
11 uniforms who were then looting across the border. That's right,
12 isn't it?

13 A. That is correct. And several times we apprehended people
14 wearing German uniforms with a German flag on, and we asked them to
15 take off at least the flags they had on the uniform so that they were
16 not anymore identifiable as members of the military.

17 Q. Now, we know that German KFOR kept a so-called war diary or log
18 from 24 February 1999 until 29 July 1999, and this was signed off by
19 the head of German KFOR, Brigadier-General von Korff. We've been
20 given a copy of that by the Prosecutor's Office.

21 And as I understand it, that war diary, you'll correct me if I'm
22 wrong, was -- kept a log every minute of the operation. It's quite
23 standard in militaries to do that. And that everything that was
24 observed was reported precisely, stating the time and the place.
25 That's the statement of Colonel Bescht. And in terms of the function

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1 of the war diary. Would you agree with that statement?

2 A. Yes, but not 100 per cent because not all incidents were
3 definitely included in that diary. I myself together with my
4 soldiers, we were sitting together for one week afterwards and we
5 tried to write down what had happened. And even then, we forgot
6 certain incidents, like Suhareke, for example, this shooting, because
7 too many things happened.

8 I do not know whether that is part or recorded in the war
9 journal. At least it is not in mine or it was not in mine.

10 Q. I understand. But the point is that everything that went in
11 there -- I know not everything went in, but everything that went in
12 there would have been accurately and precisely recorded because it
13 would have been put in there by German officers. That's right, isn't
14 it?

15 A. Well, this depends on the quality of the war diary. Whether
16 this is 100 per cent correct is something I cannot assess.

17 Q. But it was signed off by general -- the head of German KFOR, and
18 one would assume - of course, we don't know without speaking to him -
19 that he would only sign off correct facts; is that right?

20 A. This is something I cannot confirm like that. There could also
21 be, for example, radio messages included which were not correct or
22 which in hindsight or later on turned out not to be correct.

23 Q. Well, let's go -- through this cross-examination, I want to take
24 you to parts of that diary, if I may. So the first part I would like
25 to take you to --

1 MS. TAVAKOLI: So it shouldn't be displayed on the screen for
2 public consumption. So the document ID is SITF00225092 to
3 SITF00225184. And it's at page 290. It's the same in the German and
4 the English. Sorry, wrong ID. I'll try again. Oh, the English is
5 correct. The German, sorry, the German document is SITF00224836 to
6 00225261.

7 And we want to go to the entry 18 -- so it's page 290, and it's
8 181005. Page 290. That's correct, the bottom one. It's the same,
9 290.

10 THE COURT OFFICER: Sorry, but can we get the ERN page, not the
11 PDF page?

12 MS. TAVAKOLI: I don't have that in German, sorry. I've only
13 got the page at the bottom of the screen. I can just read out the
14 sentence and it can be translated, perhaps.

15 Q. So in this document, anyway, at 181005, it says:

16 "Report from KFOR Recce

17 "1. At Dragas DM 7056 looting involving armed force by forces
18 from Albania who then slip back into Albania."

19 So that's something that's logged in the diary. Does that
20 accord with your recollection of things that were happening?

21 A. I was not involved in this incident. I was not deployed at the
22 border to Albania but in Prizren.

23 Q. But the idea behind it, that Albanians are coming over, that's
24 something that you yourself observed albeit in a different location?

25 A. Yes, I did observe that. Yes.

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1 Q. Thank you. So just to conclude, the situation that your troops
2 entered into, if I can sum it up, and you can say if I am right or
3 not, it was the immediate aftermath of a war, which is always
4 complicated. There was the presence of Yugoslav and KLA forces and
5 Albanian criminals. There was quite a lot of weapons in circulation.
6 There were thousands of civilians returning each day. And there was
7 an absence of law and order before you came in.

8 Is that an accurate summary of what you faced when you entered?

9 A. When it comes to the first three or four days, yes, I could
10 corroborate that.

11 Q. Thank you. And I understand that your position is that you --
12 it's not after that because your forces were successful in getting
13 control of law and order. That's right, isn't it?

14 A. Yes. After that, we had certain structures, places that people
15 who were apprehended were taken to; for example, the MUP building.
16 There were no illegal checkpoints anymore, which we did have at the
17 beginning.

18 Q. Thank you. And we'll go into that --

19 A. At least in Prizren.

20 Q. Yeah, we will go into that. And these Kosovan Albanian
21 refugees, they're returning to Kosovo after the war to find their
22 homes had -- many of them, their homes had been burnt; correct?

23 A. Well, I cannot confirm this for Prizren. In Prizren, there
24 weren't many houses that were burnt down.

25 Q. There was a press officer, General Fritsch, on the ground when

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1 you were there, wasn't there? And he has said that the refugees
2 returned to find their houses burned, their belongings stolen or
3 destroyed.

4 MS. TAVAKOLI: And the reference for that is 071142-071313 at
5 page 071220.

6 Q. So would you agree with his description?

7 A. Outside of Prizren, yes. And also with regard to the looting.
8 But we didn't have many cases of torchings at that point. This
9 started later on. I saw this when I had already returned to Germany
10 later.

11 Q. Thank you.

12 A. On TV.

13 Q. And also they found that their family and friends had been
14 murdered by the Serbs. That's right, isn't it?

15 A. I cannot confirm this. I did not have any contacts with people
16 like this. Just with one person, and this was, if I recall
17 correctly, a Serbian woman whose husband and brother-in-law had been
18 murdered, and they had been at the former school of music. This is
19 the only case I am aware of. I cannot give you any additional
20 information.

21 Q. So you're saying that you weren't aware of any murdered Kosovan
22 Albanians in Prizren?

23 A. I did not see any myself. Of course, I did hear about war
24 crimes. But except from what I've already mentioned, I didn't see
25 anything. I can remember a few dead people that I've seen, but I

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1 could not tell you what ethnicity they belonged to.

2 Q. If you bear with me just one moment. I'm sorry, I'm trying to
3 find a statistic. Right.

4 Sergeant Fritsch recorded this, that:

5 "According to British experts, more than 10,000 Kosovars were
6 murdered by the Serbs or otherwise lost their lives during the ethnic
7 cleansing."

8 MS. TAVAKOLI: And the reference to that is 071142-071313 at
9 page 071282.

10 Q. Did you ever hear that figure?

11 A. No.

12 Q. Now, you told the SPO that there were many acts of revenge when
13 the Kosovan Albanians returned. That's right, isn't it?

14 A. Yes, I witnessed some of them myself.

15 Q. Looting, particularly at the beginning, killing, and burning of
16 houses, but that was mainly after you left.

17 A. When it comes to torchings, there were two or three cases, but
18 fewer than I later saw on TV from Germany. Because when I had
19 returned, I saw many more on TV.

20 Q. And perhaps I could just show you a few entries from that KFOR
21 war diary to see whether or not it accords with what you saw.

22 MS. TAVAKOLI: So if we could have the German and the English
23 one. And if we could go, please, first to the entry on page 260,
24 which is SITF00225100. And if we could go to the entry 131720Bjun.
25 Yes, it's near the bottom. I can see it.

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1 Q. And here it says:

2 "Situation in Prizren:

3 "MUP forces engaged in isolated looting. Population has turned
4 against the VJ and is impeding their withdrawal (acts of vengeance).
5 German forces have everything under control and are being feted by
6 the population."

7 Does that accord with your experience?

8 A. Yes, there were acts of looting. And I remember a scene
9 involving former Yugoslav Army soldiers shooting into the air. And
10 there was a German major, Mr. List, who had some level of the local
11 language and managed to calm the situation down again. So there was
12 a confrontation going on between the Albanian part of the population
13 and the Yugoslav Army forces that were leaving.

14 Q. Thank you. And just another example of looting.

15 MS. TAVAKOLI: If we can go to page SITF00225126, and the entry
16 171630.

17 Q. And here it says "Report" --

18 MS. TAVAKOLI: No, up a bit. Yeah, thanks. No, sorry. Oh,
19 yeah.

20 Q. "Report from Inf Bn

21 "In the village of Musutiste DN 9082 there are houses ablaze and
22 5 people are engaged in looting. When the patrol arrived the looters
23 took flight."

24 So, again, does this accord with the sorts of things that you
25 were finding?

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1 A. I was responsible for Prizren, and this happened outside of
2 Prizren. I cannot confirm this. I did not witness this.

3 Q. Thank you. We'll move on.

4 MS. TAVAKOLI: Perhaps to the last reference on this, which is
5 at -- it's page 318. I'll find you ... so that's 00225158 and it's
6 the reference 231350. There, the bottom one.

7 Q. And this says:

8 "Report from Task Force Prizren

9 "Arrest of 38 people for looting and arson. Information to MP
10 that they are to be conveyed to the MUP prison."

11 So does that accord? That's in your area. Is that the type of
12 criminality you were witnessing?

13 A. Yes, looting definitely. I cannot remember any arson incidents.

14 Q. That's okay. You and Sergeant Fritsch can disagree on that.

15 And I wonder if you would agree with him when he said:

16 "It was relatively chaotic in the first days. We tried to gain
17 a foothold in all possible areas, to establish security, and at the
18 same time there were incidents, murders, arson everywhere."

19 MS. TAVAKOLI: And the reference for that is 071136 Part 3, page
20 27.

21 Q. Would you agree with his analysis there?

22 A. Yes, the first few days were chaotic. Yes.

23 Q. Thank you. Now I want to move on to what the KLA were doing at
24 that time. Now, you told the SPO - that's at P1177.3, page 18 - that
25 at the same time that you deployed and were trying to secure order,

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1 the KLA in Prizren tried and failed to take over the town. Do you
2 remember saying that?

3 A. Yes, I do recall that.

4 Q. And would you agree with me that it was perhaps - and I say
5 perhaps - natural for the KLA to try to fill that vacuum because they
6 saw themselves as the victors, and in their minds it was their blood
7 and not NATO's that had been spilled to fight off the Serbian
8 aggression and so they wanted to claim the victory.

9 A. KFOR's task was to re-establish safety, security, and stability.
10 Part of this was a peace agreement saying that KFOR was the only
11 force guaranteeing security.

12 Q. But at that stage when you came in, there had been no agreement
13 yet to disarm the KLA, had there?

14 A. I cannot tell you this 100 per cent anymore. Of course, there
15 were certain agreements probably about bearing weapons, and there
16 were some deadlines for when it was only official soldiers with
17 armbands who were allowed to bear weapons. So this was a sequential
18 process. It was about the rights of the people who were present
19 there - weapons, permits, et cetera. This all came relatively
20 quickly, actually.

21 Q. Well, actually, it was staggered. On 9 June, the Kumanovo
22 Agreement was signed, and the Yugoslav forces withdrew, and there was
23 an immediate cease-fire. Then on 12 June, you entered under the
24 power vested under UN Security Council Resolution 1244. And then it
25 wasn't until 21 June that the undertaking to demilitarise the KLA was

1 signed. So that was the official timeline at the top levels for
2 Kosovo as a country. Do you remember that?

3 A. Not at this level of detail. All I remember is that from some
4 point onwards, you were not allowed to bear arms anymore, people had
5 to have a weapons permit, and they were not allowed to occupy
6 buildings anymore. But I don't remember the exact timeline.

7 Q. I understand that, and I'm going to go into that. And I'm going
8 to suggest to you later that that was a local agreement agreed in
9 Prizren and wasn't replicated across Kosovo, but I will go into that.

10 Now, were you aware that at the time you were in Prizren KLA
11 uniforms were on sale quite cheaply, I think for 50 Deutschmarks, in
12 markets in Kosovo and in Prizren for anyone to buy whether or not
13 they were KLA? Had you seen those on sale?

14 A. I did not see them on sale, but I did see people wearing
15 different uniforms such as KLA uniforms or uniforms of the Federal
16 German Army, or even Swiss uniforms I saw.

17 Q. Well, the UN High Commissioner for Human Rights in September
18 reported about this period. I don't know if you heard that. I'll
19 just read it to you.

20 MS. TAVAKOLI: And that's Exhibit 1D00085.

21 Q. "Some victims of ethnic violence have reported that their
22 assailants included men in KLA uniforms, although it is possible that
23 much of the violence is simply the work of criminal elements
24 masquerading in uniforms of the KLA. Open borders have in fact
25 allowed the large-scale arrival of criminal elements, particularly

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1 from Albania. It has also been noted that the KLA uniforms are
2 available for about DM 50 in Albania and that Albanian-national men
3 with no relationship at all to the KLA can use the uniform as a
4 passport through the German KFOR sector of Kosovo."

5 Had you heard that?

6 A. No, I didn't hear about people buying the uniforms nor about the
7 price that you mentioned.

8 Q. But it follows, doesn't it, that if the uniforms were on sale
9 and anybody could buy them, when somebody is committing a crime in
10 the uniform of the KLA it doesn't mean that they are KLA? You can't
11 be certain.

12 A. Certainly. You are right. But the people we apprehended for
13 looting - I remember two cases - they told us that they bought them
14 and left again from Prizren.

15 Q. Sorry, what do you mean they -- I think maybe the translation is
16 not great. "They bought them and left again from prison"?

17 A. We did apprehend people who were wearing parts of uniforms but
18 who obviously didn't belong to the local power structures.

19 Q. Yeah, that's what -- yeah. Thank you. Now, I want to move now
20 on to the MUP, the incident on 18 June.

21 Now, it's right, isn't it, that it appeared to you on arrival
22 that the entire basement of that building was a Yugoslav prison in
23 the past. That's what you told the SPO?

24 A. I did get the impression after having seen the building from the
25 inside, yes.

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1 Q. And you described there was torture instruments - the reference
2 here is P1177.1 - which you found. But you said that it's not clear
3 if they belonged to the KLA or to the Serbs previously, the
4 implements that you found in the basement. That's right, isn't it?

5 A. That is correct. We weren't able to say clearly who they
6 belonged to. We only found them.

7 Q. Thank you. Now, we know that you arrived at the MUP building
8 after those who were in there had been detained; correct? Sorry, you
9 weren't there when they were taken in. You arrived after the event,
10 so to speak.

11 A. That is correct.

12 Q. So you don't know why the people who were in there were taken in
13 there, do you?

14 A. Correct.

15 Q. Now, we know that a dead elderly man was found on the 1st floor.

16 MS. TAVAKOLI: And if we could please pull up Exhibit P00858,
17 not for the public view, at page 16.

18 Q. Now, this is a report from the senior medical officer who did
19 the autopsy on this gentleman, and I'm just going to read his
20 ultimate assessment into the record:

21 "The bruises found, in my opinion, do not represent a fatal
22 injury, the tablets found indicates a possible cardiovascular
23 condition. In that case, a sudden cardiac death would be quite
24 conceivable."

25 Do you see that?

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1 A. Yes, I do.

2 Q. Now, I want to move now, please, back to the KLA in Prizren.

3 Now, you said - and that is at part 1177.1, at page 21 - that even
4 though the KLA really wasn't a military organisation, you saw some
5 kind of hierarchy. Do you remember that?

6 A. I do remember that.

7 Q. Now, you also told the SPO - and that is at P1177.1, page 51 -
8 that Commander Drini was in charge of this area around Prizren and
9 the contact point for General von Korff, the brigade commander, and
10 Colonel Bescht was the deputy on the German side travelling with
11 Drini. Do you remember that?

12 A. If you actually said "travelled," I cannot entirely remember
13 that. All I know is that they were in touch with each other and had
14 talks with each other.

15 Q. Yeah, and that Drini was in charge of the area around Prizren.
16 That's what you said.

17 A. At least he was responsible for it. I cannot say more than
18 that.

19 Q. Yes, that's fine. And you also said - and that is at P1177.1,
20 at page 51 - that he -- at times, he spent time at the German
21 headquarters, and you presumed that was because he was the contact
22 person on the Albanian or KLA side.

23 A. Well, at any rate, he was one of the contacts. There were
24 several.

25 Q. But he was the one -- he negotiated an agreement, didn't he,

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1 with someone on the KFOR side on 17 June that the KLA was to vacate
2 all the official buildings and they weren't allowed to occupy them.
3 That's what you told the Prosecutor's Office. Do you remember that?

4 A. Yes, this is what we learned about in an evening sitrep. It
5 must have been on 17 June at the evening sitrep of the brigade.

6 Q. Thank you. And then in that *New York Times* article that you
7 were shown earlier today, there was another agreement made by Drini
8 with KFOR. And I'll just read out the text:

9 "An allied briefing this morning, a German troop commander
10 announced an agreement had been reached with the regional K.L.A.
11 chief, known as Commander Drini, that no guns would be carried in
12 town after midnight and that military apparel would soon be shed.

13 "'With the agreement with the K.L.A. we now have the green light
14 to disarm anyone who goes around ... the city,' [that's what]
15 Colonel Bescht said."

16 So do you remember that agreement about disarming made by
17 Commander Drini and KFOR?

18 A. Not in a very detailed manner, but when it comes to the content,
19 definitely. And as I said, we were told about this during our
20 evening briefing. And this was all I had to rely upon in the
21 execution of my task.

22 Q. And if as the date that the KLA, in fact, agreed globally to
23 disarm was 21 June, it's clear that Commander Drini is agreeing
24 different things with KFOR at the local level. That's right, isn't
25 it? He's going a bit faster.

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Cross-examination by Ms. Tavakoli

1 A. I wasn't present, so I cannot give you any assessment of this.
2 I can only tell you about my orders at that point in time.

3 Q. If we can go on to your orders. On that day, on the 18th,
4 Colonel Bescht gave you an order, didn't he, to return the IDs and
5 let the KLA members go, and you thought he'd spoken to Drini before
6 he did this. And you thought that this was inappropriate because
7 something had happened. That's right, isn't it? You thought
8 Commander Bescht -- that order was wrong, you thought, didn't you?

9 A. At any rate, my view was a different one. I believe that we
10 should have taken down the identity and personal information of these
11 people.

12 Q. But because you were a German officer, you followed the chain of
13 command and you obeyed that order, didn't you? You gave them back
14 the IDs.

15 A. That is correct.

16 Q. Because that's how armies work. Now, would it then surprise you
17 to know that Commander Drini, that his very presence in Prizren,
18 following his decision to lead his forces there, was taken in direct
19 defiance of an order of the chief of the General Staff of the KLA,
20 Agim Ceku, who ordered him not to enter Prizren? Did you know that?

21 A. I did not know that.

22 Q. In fact, he himself boasted of that -- I just want to show you
23 an article.

24 MS. TAVAKOLI: If we could please bring that up. It's
25 Exhibit 1D00053. And he gave a press interview in *Bota* magazine on

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1 19 January. And if you go to the second page.

2 Q. And he himself says, as you'll see at the top here:

3 "The plan for the liberation of Prizren was done without the
4 consent of the General Headquarters and I think that it was an
5 effective action."

6 I'm just -- that's just for your information. So Drini has
7 defied the General Staff and gone in.

8 Now, did you also know that KLA troops were ordered not to fire
9 on retreating Serbian forces once KFOR had gone in? Are you aware of
10 that?

11 A. These commands, orders from the KLA, I did not know. I do not
12 know.

13 Q. And just for the record -- I understand you don't know them, but
14 for the public record, I want to put it onto the record,
15 Hashim Thaci, in fact, informed the Secretary of State Madeleine
16 Albright in Cologne on 8 June that the KLA would issue that day or
17 the next a declaration of its intention not to attack withdrawing
18 Serb forces.

19 MS. TAVAKOLI: And that document, for the record, is
20 SPOE00350943 to 00350950.

21 Q. And I think you told us at the start of your evidence today that
22 on the very first day that you were in Prizren you got caught in a
23 shootout, I think were your words, between the Yugoslav Army and the
24 KLA when you were evacuating the Serbs from a base; correct?

25 A. That we had the task to do so. We were not able to do so

1 because in Suhareke, we arrived there, we entered, and we immediately
2 left the village again because we were not at all protected against
3 any shootings. I remember there was quite a very noisy sound. This
4 must have been a hand grenade, for example. There were not only
5 rifle shots. And after that, we stopped this action, this operation.

6 Q. So if it's right that the KLA were firing on the Serb forces, is
7 that what you thought was happening or not?

8 A. Could you kindly repeat your question a bit more precisely?
9 What happened, when it happened? I didn't quite get that.

10 Q. Did you understand in that incident that the KLA were firing on
11 the Serb forces?

12 A. Yes. Apparently, they did not recognise us as KFOR vehicles in
13 that convoy.

14 Q. And so whoever ordered that, if it was Drini, was acting against
15 the orders of the -- was acting against what Hashim Thaci had
16 promised Madeleine Albright; correct?

17 A. I do neither know the orders nor do I know the agreements that
18 were made. This is the wrong level you are asking at the moment.

19 Q. Now, if we --

20 MS. TAVAKOLI: I think we have to go into private session now,
21 please.

22 PRESIDING JUDGE SMITH: Into private session, please,
23 Madam Court Officer.

24 [Private session]

25 [Private session text removed]

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1 [Private session text removed]

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Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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13 [Open session]

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

15 PRESIDING JUDGE SMITH: Thank you.

16 Cross-examination by Ms. O'Reilly:

17 Q. Good morning, Witness. Can you hear me okay?

18 A. Yes, I can hear you.

19 Q. My name is Annie O'Reilly, and I'll be asking you some questions
20 on behalf of Kadri Veseli.

21 Okay, Witness. I just have two topics to cover with you. The
22 first arises out of something that you were speaking about this
23 morning to my colleague to my right. And this is at page 48 of the
24 transcript. And you had said at line 16:

25 "... I do remember now one scene where apparently we encountered

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1 a group of paramilitaries, 40 or 50, in a bus, and they were really
2 armed, highly armed, but they were neither part of the MUP nor of the
3 ... [VJ]."

4 Do you recall saying that?

5 A. I do remember that.

6 Q. I don't suppose -- thank you, Witness. I don't suppose you
7 remember the date that that was, do you?

8 A. No, I do not remember the name. I simply remember this scene
9 with the bus and the person I spoke to because apparently it was not
10 a military member and apparently -- well, they acted quite
11 aggressively.

12 Q. Thank you, Witness. I was actually -- I was looking for the
13 date, if you recall. If you don't, that's fine.

14 A. [No interpretation].

15 Q. Okay. But in any case, this was not a one-off in terms of your
16 awareness of paramilitaries in Kosovo, was it? There was other
17 evidence of paramilitaries operative there.

18 A. Those were paramilitaries who were apparently on the former
19 Yugoslav side. This was the only incidence I remember. MUP were at
20 least the police unit and I also encountered them several times.

21 Q. Well, perhaps I could take you to a couple of entries from the
22 war diary to see if it refreshes your recollection.

23 MS. O'REILLY: If we could have SITF00225092 on the screen,
24 that's the English, at page 60. And then the German is SITF00224836,
25 and that's page 320 or page ending 5155.

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1 Q. And, Witness, I'll read you the fourth entry down which is from
2 22 June, and it says:

3 "According to information from former KLA Commander Drini, in
4 the vicinity of the obstina of Strpce there are approx. 1,000 Serb
5 paramilitary forces who reportedly intend to make their way into
6 Prizren."

7 And then there's an order at the brigade boundary to:

8 "Set up a CP ... in such a way that it cannot be circumvented
9 and so that all vehicles and persons can be checked for weapons."

10 So that would be maybe about ten days or so after you entered.
11 Do you recall this?

12 A. No.

13 Q. Would it have been within your area of responsibility, do you
14 believe?

15 A. Well, if so, my area of responsibility would have been Prizren,
16 but I cannot say anything about this incident, ten days after. I can
17 hardly imagine, because the forces of the former Yugoslav and of the
18 MUP, the police had left.

19 Q. Indeed, but here we're talking about paramilitary forces not
20 necessarily regular MUP or VJ forces.

21 MS. O'REILLY: Could we move now in the English to page 88 at
22 the bottom; and in the German, page 348 of the document.

23 Q. And I'm going to read to you the last entry from 30 June 1999,
24 and it reports:

25 "Maj. Haub (KLA Liaison Officer) ... having learnt through KLA

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1 signals intelligence that there are paramilitaries in the castle at
2 Prizren holding 20 KLA fighters prisoner. They are equipped with
3 heavy weapons (RPGs and MG)."

4 So this was in the castle in Prizren on 30 June. Do you recall
5 this incident?

6 A. This was 30 June 1999. I had already left the country by then.

7 Q. And you didn't hear anything about this after you had left?

8 A. No.

9 Q. Okay. Now, we can move off that topic, and I'm going to go back
10 to this individual that you were asked about that was being detained
11 in the MUP building on 18 June. And I would like to ask you about
12 some comments that were made by your colleague Dirk Menzel. Do you
13 remember Dirk Menzel?

14 A. Yes, Dirk Menzel was part of my unit. Is this about the MUP
15 building we're talking about or a different incident?

16 Q. Yes, my apologies, this is about the MUP building and the man
17 that was found with one arm handcuffed to a chair, if you recall.
18 Okay. Do you recall Menzel being there on that day?

19 A. Yes, he was in the building.

20 MS. O'REILLY: Could I have on the screen 072882-TR-ET Part 2.
21 And there's no German of this, so I'll just read it to you. It's at
22 page 3 of Part 2 at line 21.

23 Q. And he says:

24 "So I can now remember that we then, that is to say military
25 operation, went from room to room, because we did not know what we

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1 were expecting. We also have this, this man - he was still alive, he
2 was not dead, he was he even still alive [here], tied ... in a
3 chair."

4 And then he continues on page 4 at line 9:

5 "... when we freed him from the chair, I think he died in the
6 process ..."

7 Now, Witness, does that comport with your recollection of how
8 you found this individual?

9 A. No, I found that person dead. When I was up there, this person
10 was dead.

11 Q. And I think you had said that he was still handcuffed by one
12 hand to the chair when you saw him; is that right?

13 A. Yes, that is correct.

14 Q. What we have here is Menzel's recollection that he was still
15 alive whilst handcuffed to the chair, only died once they
16 unhandcuffed him. Whereas your recollection is different, he was
17 already dead. Is that right?

18 A. I arrived in the building after Menzel. Menzel reported to me
19 there is something here. And after that, I entered the building. So
20 there was a time gap.

21 Q. Okay. That's fine, Witness. If I could take you to another
22 document.

23 MS. O'REILLY: Now, this is an interview with Dr. Schreckenbauer
24 who I believe was attached to your unit as medical personnel.

25 THE WITNESS: [Interpretation] He was not part of my unit. He

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1 was a doctor in the brigade.

2 MS. O'REILLY: Thank you, Witness. The ERN for his interview is
3 071320, and it's at page 27 in the English; and it's the same ERN in
4 the German and also page 27.

5 Q. And this is about the conclusions that you were shown earlier.

6 MS. O'REILLY: Yes, thank you.

7 Q. So the question reads:

8 "In your 'assessment' at the end of the report" - this is the
9 one you were shown earlier, Witness - "it says that the bruises were
10 not fatal injuries but that a 'sudden cardiac death was quite
11 possible'. If possible, can you explain how you came to this
12 conclusion?"

13 And the answer:

14 "The injuries recognisable on the body were not so serious that
15 they could have explained the death. Ultimately, I also noted in my
16 report that the exact cause of death could only be determined through
17 an autopsy. Due to the old age of the dead person, another cause of
18 death could be quite plausible. The injuries to the other injured
19 people were similar in ... nature and degree to the ones of the dead
20 person and they were not fatal either."

21 Now, Witness, I simply want to know if you've any reason to
22 disagree with this medic's conclusion as to the likely cause of death
23 to this individual?

24 A. I think this is not my place to assess a doctor. If this is a
25 report, an autopsy report, this is above my competencies.

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Cross-examination by Mr. Roberts

1 Q. Thank you, Witness.

2 MS. O'REILLY: Those are my questions.

3 PRESIDING JUDGE SMITH: Thank you.

4 Selimi Defence.

5 MR. ROBERTS: Yes, Your Honour. If you just bear with me a
6 second.

7 Cross-examination by Mr. Roberts:

8 Q. Good afternoon, Witness. My name is Geoff Roberts. I am
9 counsel for Mr. Selimi. I just have a very limited number of
10 questions, which may well actually be done by the lunch break in
11 about 15 minutes. So if you can just focus on my questions and, as
12 you have been doing, try and keep your answers brief. And if you
13 don't know and can't answer, then obviously that's absolutely fine.

14 Now, we know you were in Kosovo from 12 June until -- 12th or
15 13th June until 28th June earlier as you confirmed, and that you
16 considered your role at that stage - and I believe this comes from
17 Security Council Resolution 1244 - was to restore order and ensure
18 public safety until the civilian presence could take responsibility.
19 I think that's what you said earlier, isn't it? If you could just
20 say "yes" for the transcript.

21 A. Yes.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 You have to give him a chance to listen to the entire
24 translation.

25 MR. ROBERTS: My apologies. I didn't realise it was still

1 translating. Thank you, Your Honour.

2 Q. Now, as I think in the newspaper article you were shown earlier
3 today, one -- and this is from the *New York Times*. I think that's
4 dated June 18th. So that's P1188.2. There was a quote from Rolf
5 Bescht, the German commander, saying that allies were looking --
6 sorry, "allies were taking over the police station 'to make it
7 perfectly clear [that] we are the only force, the only authority in
8 town.'"

9 Now, that was consistent with your understanding of your role,
10 wasn't it?

11 A. That was my task.

12 Q. And you needed to demonstrate that to everyone around the KLA
13 that you were there and you were the exclusive authority for
14 conducting any police-like activity; is that fair? And when I say
15 "you," I mean German KFOR generally.

16 A. Yes.

17 Q. And you had significant numbers of military police within German
18 KFOR. I think we've seen photographs with the white bands around the
19 helmet. Is that correct? They're what signifies military police
20 individuals.

21 A. Yes, but a significant number, I cannot confirm that. I don't
22 know how high that number was but not enough. Whether it was the
23 explosive disposals or the security forces, there were not enough.

24 Q. No, but you were very clear that it was your responsibility to
25 be carrying out any military police activities, including any

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Cross-examination by Mr. Roberts

1 investigation of crime scenes, including any speaking to suspects or
2 any other forms of an investigation. That was your exclusive
3 responsibility, wasn't it?

4 A. No, that is not correct. My responsibility was to make sure
5 that there is a secure situation and then to hand it over to the
6 military police who then also wrote the corresponding reports.

7 Q. Yes. When I say "you," I should have been more specific. It
8 was the military police who had that authority and that exclusive
9 authority, and you assisted them in that task.

10 A. We disbanded checkpoints or we did different things. And if
11 there were illegal matters like looting, other acts of violence, when
12 we discovered them, then we employed the military police if they were
13 available, and that was not always the case.

14 Q. And did you have -- consider yourself to have the authority to
15 detain people who you considered to be suspicious or potentially
16 likely to have looted or committed other crimes?

17 A. At least we detained them and then we handed them over to the
18 military police, for example, when they looted and where we really
19 saw clear cases of looting.

20 Q. And so you believed you had the authority to detain them to be
21 able to transfer them to the military police?

22 A. Yes, that's how I understood it, because there was a criminal
23 offence which we prevented.

24 Q. And what was the legal basis for you detaining them in your
25 understanding at that time?

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1 A. We detained them only for a short period of time because we
2 tried to immediately hand them over, transfer them after they had
3 committed a crime. And the offence of looting was for my case which
4 had to lead to the fact that these persons had to be detained to at
5 least establish their identities.

6 Q. Right. And so then you handed them over to the military police,
7 and this is the military police who was running the prison in the
8 former MUP building. So after you took over the MUP building, it was
9 transferred to the military police, and then they established their
10 own detention facility and detained individuals that were either
11 arrested by them or passed over by your units or other units of
12 German KFOR; is that right?

13 A. Well, what the exact task was of the military police you have to
14 ask the head of the military police. We at least brought them there.
15 This was the collecting point for suspicious persons which we
16 apprehended one way or another.

17 Q. But it was only on the basis of a suspicion that you believed
18 you could detain them or arrest them?

19 A. No, we also caught them red-handed. For example, one person who
20 was in an apartment and he said he was living there, but when I then
21 showed him the wardrobe, there were only clothes of an elderly woman.
22 It was clear that he was looting there.

23 Q. And the military police who detained them, on what basis were
24 they detaining individuals? Do you know? What legal basis were they
25 detaining individuals in a prison?

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1 A. I cannot assess that. This is something you have to ask the
2 head of the military police.

3 Q. So you have no knowledge of what their legal basis at all was
4 for holding them or how long they could hold them for?

5 A. For how long, I do not know. This is in the hands of the
6 military police. This is something I cannot assess. There are also
7 legal advisers. I don't know whether somebody was there with the
8 brigade. Should have been, actually. These are the persons who were
9 responsible for that.

10 Q. Thank you, Witness. That was all my questions.

11 MR. ROBERTS: Thank you, Your Honour.

12 PRESIDING JUDGE SMITH: Thank you, Mr. Roberts.

13 Mr. Baiesu.

14 MR. BAIESU: Your Honour, it's unlikely that we have questions.
15 But if I may seek your permission to review our questions over the
16 lunch break and come back and confirm?

17 PRESIDING JUDGE SMITH: Yes, of course. We can do that.

18 MR. BAIESU: Okay.

19 PRESIDING JUDGE SMITH: Witness, we will break for lunch at this
20 time. We will be back in court at 2.30. Thank you. You can -- you
21 may leave the room now.

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: We are adjourned until 2.30.

24 --- Luncheon recess taken at 12.54 p.m.

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

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Re-examination by Ms. Clanton

1 PRESIDING JUDGE SMITH: Madam Court Officer, please bring the
2 witness in.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: Good afternoon, Witness.

5 THE WITNESS: Good afternoon.

6 PRESIDING JUDGE SMITH: Welcome back.

7 Mr. Baiesu.

8 MR. BAIESU: Your Honour, the topics on which we wanted to ask
9 questions have already been covered. We have no questions for this
10 witness. Thank you.

11 PRESIDING JUDGE SMITH: All right. Any redirect?

12 MS. CLANTON: Yes, Your Honour. One topic for redirect.

13 PRESIDING JUDGE SMITH: Go ahead.

14 MS. CLANTON: Just one moment, please.

15 Re-examination by Ms. Clanton:

16 Q. Good afternoon, Witness. Today at transcript page 72 to 74,
17 Defence counsel put to you a few statements made by Dirk Menzel about
18 a victim at the MUP building. Part of a document was read to you
19 which stated that Menzel said:

20 "... this man ... was still alive, he was not dead, he was even
21 still alive ... tied [to] a chair.

22 "... when we freed him from the chair, I think he died in the
23 process ..."

24 Witness, do you remember that this was read to you during the
25 previous session?

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Re-examination by Ms. Clanton

1 A. Yes, I do remember that.

2 Q. And do you remember that you were asked to confirm that your
3 recollection was different from Menzel's recollection? Meaning that
4 you recollected that you found him dead; whereas the part that was
5 read to you from Menzel stated that the man was alive but then died
6 while being freed from a chair?

7 A. Yes, that is correct. I found this person dead.

8 Q. Witness, do you remember that before the break you clarified
9 that you did not see the deceased person at the same time as Menzel?

10 A. Yes, that is correct.

11 Q. Witness, Menzel made a few additional remarks which I will read
12 to you now. From 072882-TR-ET Part 2, page 4:

13 "... I think he died in the process, or when we picked him up
14 and ... he was really dead."

15 And then from Part 2, page 13, quote -- I'm sorry, no quote.
16 Menzel is being asked about a photograph of the victim, deceased,
17 handcuffed to a chair, and he states -- he's asked:

18 "Can you remember now that you saw the photo, whether you lifted
19 him or not?"

20 And the answer he gives is:

21 "Well, probably not."

22 Witness, do you have any recollection of being told that the
23 person who you saw dead, handcuffed to the chair, had been lifted out
24 of that chair before you saw him?

25 A. No, I do not recall that. I found him sitting in the chair.

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Questioned by the Trial Panel

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1 Q. And do you have any recollection of being told that this person
2 was alive when your troops found him in the building?

3 A. No. As far as I remember, I was told about a dead person.

4 MS. CLANTON: That concludes my redirect.

5 PRESIDING JUDGE SMITH: Thank you.

6 Judge Barthe.

7 JUDGE BARTHE: Thank you, Judge Smith.

8 Questioned by the Trial Panel:

9 JUDGE BARTHE: And good afternoon, Witness.

10 Witness, the Panel has a few more questions for you we believe
11 are necessary in order to better understand your evidence, and my
12 first questions are about the security situation in south Kosovo in
13 summer 1999, in particular during the time of your deployment in June
14 1999.

15 And can I ask you first what role did the KLA play in this
16 respect, if any? For example, were there KLA checkpoints on the
17 streets?

18 A. At the beginning shortly after we entered, there were KLA
19 checkpoints. But since we considered those checkpoints to be
20 illegal, we disbanded them.

21 JUDGE BARTHE: Did you personally see such checkpoints?

22 A. Yes, I saw them and I personally disbanded them.

23 JUDGE BARTHE: And how did you recognise or how did you know
24 that these were KLA checkpoints?

25 A. There were vehicles at an intersection and accordingly there was

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1 personnel and they at least wore KLA symbols. They were present
2 there.

3 JUDGE BARTHE: Did you check ID cards of the people who were
4 standing there at the checkpoints?

5 A. At that point in time, at the very beginning, it was not clear
6 what we could have done with these persons because there was no
7 collection room. We therefore simply dissolved it, and we told them
8 this was illegal and they were not allowed to do that.

9 JUDGE BARTHE: Did the soldiers or the people at the checkpoints
10 explain to you why they had set up these checkpoints?

11 A. I cannot remember that. But I think they did not explain that
12 to us.

13 JUDGE BARTHE: And you said you personally disbanded these
14 checkpoints. Did you also disarm the people at the checkpoints?

15 A. At the beginning, we did not disarm them because it was not sure
16 at that point in time whether they were allowed to wear weapons. And
17 later, there were no illegal checkpoints anymore.

18 I recall one scene. There was a big group wearing Swiss
19 uniforms, soldiers or members of the KLA. At least that's what they
20 called themselves. And they tried to drive through Prizren, and
21 the -- they were stopped by the members of the KLA of Prizren, and
22 there was a confrontation between the two groups, and we intervened
23 when we saw that. And the persons which -- who used to pass with
24 uniforms were asked by us to take off their uniforms and to continue
25 in civilian clothing. That is what I recall. There were no weapons

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1 involved yet, and I do not remember any other scenes.

2 JUDGE BARTHE: Did these people in Swiss army uniforms, did they
3 also have armbands or insignia?

4 A. I do not remember that 100 per cent. Certainly, there are still
5 photos of that. And I remember that there's still one or two photos.
6 Whether they wore KLA insignia, I'm not sure. They were wearing
7 berets, that's for sure, because I entered into a conflict with a
8 German soldier who wanted -- KFOR soldier, he wanted them to keep
9 their berets. And we had told them to take off all their clothings,
10 their uniform clothings. That's what I remember.

11 And I'm sure of these photos, I at least have one or two left.
12 And I remember a *Spiegel* journalist was there with her photographer,
13 so there should still be other photos in existence of this incident.

14 JUDGE BARTHE: And you said you had told them, or KFOR, you as
15 part of KFOR, had told them to put off their uniforms, their Swiss
16 uniforms; right? Can you tell us the reason why you told them to
17 take off their uniforms?

18 A. There was quite a heavy verbal dispute between these groups, the
19 ones with the Swiss uniforms and the KLA members present. And
20 because of that confrontation and in order to deescalate this
21 confrontation, and I do not remember where they wanted to go, I told
22 them, "Take off your uniform, then you can pass through here.
23 Otherwise, we're not letting you through because this could lead to
24 problems we do not want to have here."

25 JUDGE BARTHE: Thank you. Now, Witness, I would like to talk

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1 about the events at the former MUP building on 18 June 1999.

2 And can you briefly describe the situation for us again, please?

3 In particular, how many KLA soldiers or people who you identified as
4 KLA soldiers were there approximately on 18 June 1999 at the MUP
5 building.

6 A. In the building and around the building, I cannot verify how
7 many were in the building and outside. We found around 25 persons,
8 of which one woman.

9 JUDGE BARTHE: Were there also civilians in or around the
10 building?

11 A. Whether there were civilians in the building, I cannot tell you
12 anymore. Outside the building, there were a few civilians. And,
13 therefore, we tried to create an outer security perimeter in order to
14 make sure that there's no mixing between those persons inside that
15 area and persons which entered the area.

16 JUDGE BARTHE: Can you tell us what the civilians were doing
17 outside the building? Were they bystanders or did they do anything
18 specific?

19 A. We can talk about two groups. First of all, outside our
20 security perimeter, these were observers. They were simply curious.
21 All of a sudden, there were a lot of press representatives. And
22 within this perimeter, these were the persons which we then prevented
23 from leaving that area before knowing what actually had happened.
24 And we took their ID cards and we later gave them back to them.

25 JUDGE BARTHE: The people who were inside, as you called it,

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1 your security perimeter, were they all wearing uniforms or were there
2 also civilians or wearing civilian clothes?

3 A. I remember that there were a few, fewer than five, who did not
4 wear civilian clothing. The others were in KLA or at least
5 uniform-like clothings, and this was visible also on the video.
6 There were also some people wearing civilian clothes.

7 JUDGE BARTHE: Just for our record, it's said -- your response
8 is documented as saying "there were a few, a few -- or five who did
9 not wear civilian clothing. The others were in KLA or at least
10 uniform-like clothings." Is that correct?

11 A. Yes, I'm not sure in how far there was an official KLA uniform
12 at that point in time. At least, there were different types: Black
13 with armbands, then camouflage with armbands, and different hats.
14 And I talked about approximately five persons. Whether I -- whether
15 there were exactly five, I cannot tell you anymore.

16 JUDGE BARTHE: So these five people -- just to be clear on that
17 point, these five persons were wearing civilian clothes or black --
18 kind of a black uniform, and the rest camouflage uniforms?

19 A. There were up to five persons who were not wearing any uniforms.
20 There were two, and I'm quite sure about that, maybe only one or two
21 others were present. But up to five I said. I cannot completely
22 verify that number. But a few people who were wearing civilian
23 clothing. Later on then, when the freed persons were added to them,
24 then there were, of course, more persons wearing civilian clothes.

25 JUDGE BARTHE: Thank you. And you also spoke about the person

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1 or an officer who spoke French with you, and you described other men
2 or persons, individuals, standing in the background, and you
3 identified these persons as KLA members; is that correct?

4 A. At least that's how they presented themselves to me. And, I'm
5 sorry, we also had their ID cards. And I think, if I remember
6 correctly, that were also KLA ID cards.

7 JUDGE BARTHE: And you also said in your SPO interview in July
8 2019 that you saw a flag hanging on or from the building; is that
9 right?

10 A. That is correct. And that is also the reason why I at all
11 approached that building. When I was patrolling through town, I saw
12 this, I think it was an Albanian flag, and that made me notice this
13 building. And I saw that German APC, and that's how the situation
14 developed.

15 JUDGE BARTHE: Thank you. And, for the record, this was from
16 Part 1 of the SPO interview, page 14.

17 *[REDACTED] Pursuant to In-Court Redaction Order F2326RED.*

18 *[REDACTED] Pursuant to In-Court Redaction Order F2326RED.*

19 MS. CLANTON: Mr. President, I'd like to go into private
20 session, please.

21 JUDGE BARTHE: For the next questions? Yeah?

22 MS. CLANTON: Yes.

23 PRESIDING JUDGE SMITH: Please, into private session.

24 [Private session]

25 [Private session text removed]

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Witness: Dietrich Jensch (Private Session)

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Questioned by the Trial Panel

1 [Private session text removed]

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11 [Open session]

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

13 JUDGE BARTHE: Thank you.

14 Witness, now I hope you can help us to identify the exact time
15 of the events at the former MUP station and the second location. The
16 two raids in which you participated took place on 18th and 19th June
17 1999; is that right?

18 A. That is correct. Yes.

19 JUDGE BARTHE: And the Serbs had left the area a few days before
20 that; correct?

21 A. That's also correct.

22 JUDGE BARTHE: I think in your ICTY witness statement on page
23 U002-6105, you mentioned that some of the KLA personnel outside the
24 MUP building had told you that they had been in the building for a
25 long time. And you also said that you could remember that when you

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1 came to Prizren on 12 June that the building was still being guarded
2 by MUP, and the same was true, you said in your ICTY statement, for
3 13 June.

4 So you concluded that the KLA must have taken over the building
5 immediately after the withdrawal of the MUP, that is, on or after
6 13 June 1999 and before you raided the building on 18 June 1999; is
7 that correct?

8 A. That is correct.

9 JUDGE BARTHE: Do you know when the people you identified as KLA
10 took over the second location we just spoke about?

11 A. No, I cannot give you an exact date. But they must have been
12 there for a longer time already because the ammunition and the
13 weapons that we found there, it would have taken more than just a few
14 hours to get them there. You would have needed at least two trucks
15 to transport all of this there.

16 JUDGE BARTHE: Thank you. Has anyone explained to you why the
17 prisoners in the MUP building and the second location were detained?
18 Did anybody tell you this?

19 A. As far as I remember, nobody explained this to me on the spot.

20 JUDGE BARTHE: Did anyone mention the term "collaborator" or
21 "collaborators"?

22 A. I do not recall. It's been too long ago.

23 JUDGE BARTHE: Thank you. Witness, we have talked about the MUP
24 building and the second location extensively. Do you know of other
25 detention sites apart from these two that were allegedly used by the

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1 KLA in June 1999 or earlier?

2 A. Well, I know that the troops from Wuppertal who were there also
3 liberated hostages, but I don't know any details.

4 JUDGE BARTHE: In Part 3 of the transcript of your SPO
5 interview, you mentioned two other incidents; namely, the murder of
6 two elderly Serbs, a man and a woman, in two houses on opposite sides
7 of the street in the old town of Prizren. Do you remember saying
8 this to the SPO in 2019?

9 A. Yes, I do recall this. I also remember the situations in which
10 these two people were found.

11 JUDGE BARTHE: Was that during the time of your deployment in
12 Kosovo, in Prizren?

13 A. Yes, I was there myself. I saw both bodies, actually.

14 JUDGE BARTHE: Can you give us more details about these two
15 incidents, please?

16 A. Well, it was Mr. Menzel who was mentioned before, I don't know
17 his exact grade at that point, he was patrolling. And at first he
18 found an elderly man on one side of the street who had been hit with
19 the blunt part of an axe, and there were some pictures lying on the
20 floor showing a Yugoslav soldier, but these pictures were very old.
21 It was probably -- they were probably pictures of himself or his son.

22 And on the opposite side of the street, they found an elderly
23 woman who was killed in the same way. And if I remember correctly,
24 she was in her bedroom and had been trying to hide behind the door of
25 a wardrobe. So she was hunched there behind this door.

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1 JUDGE BARTHE: Do you know who committed these crimes, these
2 killings?

3 A. Mr. Menzel arrived shortly after it happened, as it appeared.
4 And then he sent out a lot of people to try and find any suspects,
5 but we didn't see anybody.

6 JUDGE BARTHE: Are you aware of other crimes apart from the
7 crimes you described earlier today that were attributed to the KLA?
8 I'm not talking about the two incidents, the killings in Prizren of
9 the man and the woman. Detentions or mistreatments? Are you aware
10 of any other crimes, detention crimes, mistreatments, killings?

11 A. We found another body outside of Prizren, somebody who had been
12 stabbed, but the body had been lying there for a few days. That was
13 visible when you looked at the maggots, et cetera. We opened the
14 jacket and we were able to see the stab wound. And another scene is
15 the one with the priest that I mentioned before who was kidnapped and
16 where we couldn't really follow the car of the kidnappers. But I
17 cannot tell you what kind of grouping the suspects belonged to or
18 what kind of background this had.

19 JUDGE BARTHE: Thank you very much. I have no further
20 questions.

21 PRESIDING JUDGE SMITH: Judge Mettraux.

22 JUDGE METTRAUX: Thank you, Judge Smith.

23 And good afternoon, sir. I have a few follow-up questions on
24 questions that were asked of you in relation to what was
25 characterised as the chaos or vacuum that you witnessed in some of

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1 the locations in which you were operating. Do you recall those
2 questions?

3 A. Yes, I do recall them.

4 JUDGE METTRAUX: Now, to your knowledge, and based on the
5 observations that you were able to make on the ground, what steps or
6 measures had the KLA taken to try to prevent or reduce the chaos that
7 you witnessed?

8 A. I did not see any measures by the KLA in order to prevent or
9 reduce the chaos except for the illegal checkpoints that I described.
10 Other than that, I cannot recall any measure taken by the KLA.

11 JUDGE METTRAUX: So may I take your response as indicating, for
12 instance, that you did not see the military police of the KLA trying
13 to take steps to protect civilians or civilian properties?

14 A. That is correct. I did not see them doing this.

15 JUDGE METTRAUX: And in your experience as an experienced
16 military officer of 40 years, what would you expect a reasonable
17 military structure to do in order to reduce or eliminate the risk
18 associated with such a volatile environment? What I'm asking you is,
19 in effect, what would you have done in such an environment to prevent
20 this sort of violence?

21 A. I would have established a clear structure. So if we look at
22 the KLA, I would have split the city in different sectors with their
23 own contact for KFOR so that there could have been exchanges between
24 the KLA and KFOR. That would have been one measure. But since this
25 didn't happen, we were on our own and we didn't have any contacts on

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1 the other side.

2 JUDGE METTRAUX: And in such context, taking your own experience
3 as a German officer, what would be the role of the military police in
4 trying to prevent these sorts of incidents? What tasks or
5 responsibilities would you assign to the military police?

6 A. In Germany, this is very restricted to actual deployments. But,
7 basically, military police can act as the general police, take on
8 police -- general police tasks. But this wasn't done neither by the
9 German military police, with the exception of investigations and
10 protocols, nor the KLA.

11 JUDGE METTRAUX: And the same question in relation to commanding
12 officers. What is the responsibility of commanding officers in this
13 sort of volatile environment to try to prevent the commission of
14 crimes?

15 A. Keep up discipline, make sure that your own orders are followed
16 up, and preventing any violence against innocent people, unless
17 there's a violent armed conflict, of course.

18 JUDGE METTRAUX: And did you witness that happen in the areas in
19 which you were operating at the time in and around Prizren?

20 A. The only thing I saw was the following: Some of those people
21 that I saw, the people I saw as commanders, had radio equipment that
22 they used to communicate with, so there must have been some kind of
23 communication channel. So they had Motorola radio devices.

24 JUDGE METTRAUX: And are you aware of any efforts on their part
25 to rein in on the violence that you described and witnessed?

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1 A. The only thing I remember is the ban on weapons for all kinds of
2 fighters. At the beginning, the legal people in Prizren, they were
3 given an armband. I forget the colour of it. But this was the sign
4 for us that they were legally armed, and all the others would have
5 been illegally armed. But this was only valid for one day.

6 JUDGE METTRAUX: Thank you, sir.

7 PRESIDING JUDGE SMITH: Judge Gaynor.

8 JUDGE GAYNOR: Thank you, Judge Smith.

9 Good afternoon, Witness. I'd like to ask you, first of all, a
10 few questions about the torture instruments that you say that you saw
11 in the basement of the former MUP building in Prizren.

12 The reference for the other participants is P1177.1 at pages 34
13 and 41.

14 Do you recall giving evidence about those torture instruments?

15 A. Yes, I do recall that.

16 JUDGE GAYNOR: Could you describe what they were exactly?

17 A. I took a picture of them. They were some weapons used for
18 stabbing and beating. Some of them were makeshift. But I only spent
19 little time there. It was not my task to investigate things more
20 closely on the spot. I was the one who was responsible for the
21 overall situation. I took a quick look and then exited the building
22 again in order to keep an eye on the situation outside.

23 JUDGE GAYNOR: Now, later on, and this is in your ICTY statement
24 from October 2001, that's P1176 at page 4, you say that you saw
25 "signs of the hostages having been mistreated, including gaping

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1 wounds. It was obvious that they had been tortured."

2 Do you recall that evidence?

3 A. Yes, I do recall that. And people came out of the building
4 limping, some of them bleeding, and I saw them.

5 JUDGE GAYNOR: And is that why, because they were limping and
6 bleeding, is that why you concluded they had been tortured?

7 A. Well, that was my conclusion because it was the only conclusion
8 possible to me with regard to those people who had been detained.

9 JUDGE GAYNOR: And did you see any injuries on those persons
10 that were consistent with the use of any of the torture instruments
11 that you had seen in the former MUP building?

12 A. I cannot give you a very clear answer on this. I cannot confirm
13 exactly that those were the instruments used.

14 JUDGE GAYNOR: Very well. Moving to a separate subject also
15 concerning the former MUP building. You said that it was used as
16 "collection point to hand in weapons or mines." That was today at
17 page 36 of the transcript. And that you went there several times.

18 Am I right in understanding that it was a collection point for
19 the KLA to hand in their weapons?

20 A. No, you must have misunderstood this. It was the brigade's
21 command post. It was not the MUP building. It was the former OSCE
22 building, the Progress building. This is where the ops brigade had
23 established this collection point for all kinds of weapons that we
24 found. Some of them we found in the street or while searching
25 houses, or they were given to us. So this was the brigade's

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1 collection point for all kinds of weapons.

2 At this point, the KLA wasn't surrendering its weapons yet.

3 JUDGE GAYNOR: So those mines, for example, which side had they
4 originated with?

5 A. I remember that two mines came from the school, actually. I had
6 a tough talk with my soldiers because of this because they went into
7 the school and took out the mines. I have a picture with these two
8 anti-tank mines on a car. So they were that big, 25 centimetres
9 diameter. One of them was square. From Yugoslav production, both of
10 them.

11 JUDGE GAYNOR: Very well. Did you supervise the organised
12 disarmament of the KLA at any stage?

13 A. We seized weapons from KLA once. I remember that. But I don't
14 remember the exact location. All I remember is that either
15 General von Korff or Mr. Bescht asked me to give the weapon back to
16 one of the KLA people because it was a special weapon with a wooden
17 handle. But I did not follow up on this order because I forgot where
18 I had put the weapon.

19 JUDGE GAYNOR: Could I ask the Registrar to bring up P1189,
20 please, and do not broadcast it to the public.

21 Witness, in a moment we'll see a report which you've already
22 seen, which is the German KFOR military police report from 23 June
23 1999. And you will see in the report, we discussed it earlier, the
24 report says that since a certain individual was not on the list of
25 authorised armour bearers, then the gun and ammunition that he had

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1 were seized.

2 And in the English version, it's the fourth line from the
3 bottom. And it looks like about the third line from the bottom in
4 German. Or the fifth -- perhaps the sixth line from the bottom in
5 German. Do you see that?

6 A. Yes, I see that.

7 JUDGE GAYNOR: Now, I want to understand this list of authorised
8 bearers of arms. Did you see the list of authorised bearers of arms?

9 A. I don't recall whether I saw the list or not.

10 JUDGE GAYNOR: Do you recall if this list was a product of the
11 agreement between Drini and KFOR?

12 A. It would be conjecture. I don't know. But I can imagine that
13 we used our radio to find out whether a certain person was authorised
14 to bear arms or not. But a printout or a written version of a list
15 in any other form, I don't recall that.

16 JUDGE GAYNOR: Perhaps you can help me understand. At this
17 stage, was the ordinary KFOR -- excuse me, correct that. Was the
18 ordinary KLA soldier permitted to carry weapons or was the ordinary
19 KLA soldier being disarmed at this stage?

20 A. There was one group that was authorised to bear arms. I
21 remember that. And at a certain point, nobody else was allowed to
22 bear arms anymore.

23 JUDGE GAYNOR: And who was allowed to bear arms and who was not
24 allowed to bear arms?

25 A. I can't tell you who decided who was authorised to bear arms or

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1 not. All I know is that there were people who were authorised to
2 bear arms and those who weren't, but I can't tell you who decided
3 this and where it came from.

4 JUDGE GAYNOR: Very well. Thank you for your answers. I have
5 no further questions.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 One question, possibly two.

8 Witness, in your time in the Prizren area, how many times did
9 you discover a person wearing a KLA uniform with an armband or a cap
10 shield who was, in fact, not a KLA member, or if ever?

11 A. At the beginning, I saw a lot of people in uniform and partial
12 uniform who we weren't able to identify, and their numbers dwindled
13 over time. But I couldn't tell all the time whether people were KLA
14 members or not. As long as they didn't do anything suspect, we
15 tolerated them partially.

16 In terms of time, I can't really tell you when what happened. I
17 don't recall.

18 PRESIDING JUDGE SMITH: And when you did suspect, did you ask to
19 see their ID?

20 A. Yes, we did ask for IDs. And, of course, we always asked them
21 what they were doing there. Illegal checkpoints, for example, or
22 when we found people in the vicinity of houses where they weren't
23 supposed to be, for example, in the old town.

24 PRESIDING JUDGE SMITH: Thank you.

25 Does the Prosecution have any follow-up questions for --

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Further Cross-examination by Ms. Tavakoli

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1 MS. CLANTON: No.

2 PRESIDING JUDGE SMITH: -- based upon the Judges' questions?

3 MS. CLANTON: No.

4 PRESIDING JUDGE SMITH: Anything from Thaci Defence?

5 MS. TAVAKOLI: Yes, Your Honour.

6 PRESIDING JUDGE SMITH: Go ahead.

7 Further Cross-examination by Ms. Tavakoli:

8 Q. You were asked a series of questions by Judge Mettraux about the
9 steps that the KLA took once you had deployed as KFOR to protect
10 civilians. Do you remember that?

11 A. Which scenario are you talking about?

12 Q. Sorry. The Judge --

13 A. What kind of civilians and where?

14 Q. No. The Judge -- I'm responding to the questions that the
15 Judges asked. You were asked questions by the Judge, Judge Mettraux,
16 who's in the middle, about the steps you saw the KLA take to protect
17 civilians after KFOR had deployed. Do you remember that? Do you
18 remember him asking you those questions?

19 A. I remember the question, yes.

20 Q. Thank you. And you were also asked what you would expect a
21 reasonable military structure to do in a situation like that to stop
22 it, to calm down a volatile situation. Do you remember that
23 question?

24 A. Yes, I do recall it.

25 Q. Now, once KFOR had deployed, once you went in, who had the power

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Further Cross-examination by Ms. Tavakoli

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1 legally to stop any violence?

2 A. I cannot tell you this in detail. All I know is that I had the
3 task to establish order and security and prevent crimes.

4 Q. Yes, so it was your task, no longer the task of the KLA, was it?

5 A. Well, I don't -- I can't tell you whether it was a KLA task at
6 this point in time still.

7 Q. Well, I'm going to suggest that legally it couldn't be because
8 pursuant to UN Security Council Resolution 1244, the resolution that
9 authorised you to deploy, all power in this regard transferred to
10 KFOR and to NATO. Would you disagree with that?

11 A. Yes, I agree with that.

12 Q. Thank you. Now, you were asked questions, the way the questions
13 were framed were in the context of you being an experienced military
14 officer of 40 years in the German army. Now, in the German army,
15 what would happen if a commander took his troops into an area that he
16 had been forbidden to go into by his higher-ups? Would that be
17 allowed in the German army?

18 A. No, it would not be allowed, but it would depend on the
19 circumstances on the ground. I remember one incident where I was in
20 somebody else's district, but I had been given the order to go there,
21 but there hadn't been any coordination. So there can be overlapping
22 tasks and deployment situations.

23 Q. I understand that.

24 PRESIDING JUDGE SMITH: Ms. Tavakoli, could you -- sorry to
25 interrupt you.

Witness: Dietrich Jensch (Private Session)

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Further Cross-examination by Ms. Tavakoli

1 MS. TAVAKOLI: Sorry.

2 PRESIDING JUDGE SMITH: But we have an issue that has come up
3 that we have to deal with.

4 Please go into private session.

5 It's not with you. It's --

6 MS. TAVAKOLI: Oh.

7 PRESIDING JUDGE SMITH: -- a question for -- concerning a
8 redaction, and there's not much time left on the tape delay.

9 [Private session]

10 [Private session text removed]

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Further Cross-examination by Ms. Tavakoli

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17 [Open session]

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

19 PRESIDING JUDGE SMITH: All right. Go ahead.

20 MS. TAVAKOLI:

21 Q. Sorry, I might just reverse slightly and then go forward to my
22 point about the German army. But in terms of whose responsibility it
23 was to restore order, you said it was yours. And it follows, doesn't
24 it, that if you'd have thought it was the KLA's responsibility, you
25 wouldn't have dismantled their checkpoints, would you?

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1 A. Well, if they had had a right to have checkpoints, then we would
2 have to have them kept, these checkpoints.

3 Q. Thank you. And they didn't have the right and so you dismantled
4 them; correct?

5 A. That is correct. Yes.

6 Q. Now going back to the German army. Let me phrase it this way:
7 In the German army, if you're in a theatre of combat and you are
8 expressly told by you chief of staff not to lead your forces into a
9 particular area and you do that, what would happen to you? Is that
10 allowed?

11 PRESIDING JUDGE SMITH: I believe that question's already been
12 asked and answered by him.

13 MS. TAVAKOLI: I know, but it's -- he did, but he said -- he
14 gave an alternative scenario that's not the exact scenario that I've
15 asked.

16 PRESIDING JUDGE SMITH: All right. Go ahead. Answer.

17 THE WITNESS: [Interpretation] I personally have to weigh that,
18 whether an order I got, I will override that order, and I must have a
19 good reason for that. And, if necessary, I have to face the
20 responsibility afterwards towards my superior and in a given case
21 even before a court. But if I myself believe that I have a
22 compelling reason for doing that, then that can happen.

23 MS. TAVAKOLI:

24 Q. Okay. Now, if I can now bring up this KLA war log -- sorry,
25 KFOR war log.

Witness: Dietrich Jensch (Open Session)
Further Cross-examination by Ms. Tavakoli

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1 MS. TAVAKOLI: So the reference is SITF00225092 to SITF00225184,
2 and the German is SITF00224836 to 00225261.

3 Q. And this is a series of questions about what the KLA did or
4 didn't do when German KFOR was on the ground, and this is in response
5 to, again, the questions by Judge Mettraux about what the KLA was
6 doing to stop the violence.

7 MS. TAVAKOLI: Now, if we can please go to -- it's page 291,
8 which is SITF00225139. And we go to reference 181125Bjun, I guess.
9 Thanks.

10 Q. Now, it's at the bottom of that page, and German KFOR, so your
11 colleagues, have made the following entry:

12 "Sitrep from KFOR Recce

13 "In talks between senior Muslim figures and KLA commanders at
14 Dragas, both sides solemnly agreed not to carry out reprisals against
15 one another."

16 Now, were you aware of that?

17 A. No, this incident is not known to me.

18 Q. Thank you.

19 MS. TAVAKOLI: And now can we please go to page SITF00225125.
20 And here, the first reference that I want to go to is 171040Bjun.

21 Q. And there it says:

22 "Report from Ops Info:

23 "The area of SMAC DM7783 and NOVAKE DM 8083 largely vacated by
24 Serbs although KLA officer Tscholaku made earnest attempt to persuade
25 the Serbian population to remain."

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1 Were you aware of that?

2 A. No.

3 MS. TAVAKOLI: If we can go further down the page, please, to
4 17100Bjun -- sorry, I've got the wrong -- it's 17100. Sorry, I'm
5 having trouble finding my page. Okay. Here we go.

6 Q. "Report from Ops Info," at 171040:

7 "Refugees were repeatedly and emphatically informed that KFOR
8 wants the population to remain and that also the KLA for its part has
9 signalled its agreement for them to remain."

10 Were you aware of that?

11 A. I only just now can see the report in German, but I see the same
12 report as just before. I think you need to verify the passage.

13 Q. This is the evidence.

14 MS. TAVAKOLI: And one final entry, please, at SITF00225139.
15 And at 191500Bjun. Thank you.

16 Q. It says here:

17 "2 KLA fighters report to Ops Brig offering their services for
18 mine clearance."

19 Do you see that? Were you aware of that?

20 A. [No interpretation].

21 Q. Were you aware of that happening?

22 A. No, that was not known to me.

23 Q. Thank you. So there were things going on within your area that
24 were not known to you. That's the conclusion we draw from that,
25 isn't it?

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Further Cross-examination by Ms. Tavakoli

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1 A. Well, the two KLA fighters approached the brigade, deployment
2 brigade. I was in a different place, in the old city, so this is a
3 different place that it's referring to.

4 Q. It's no criticism. I'm just saying you couldn't have eyes
5 everywhere.

6 A. [No interpretation].

7 Q. So, in fact, there are instances here that whilst they didn't
8 have the power legally, there were some KLA trying to assist to calm
9 down the situation and to offer their services. That's what this
10 diary shows, doesn't it?

11 A. Whether they wanted to demonstrate their cooperation with that,
12 I don't know. They offered their participation, but what the basis
13 of that was is unknown to me.

14 Q. Thank you very much.

15 MS. TAVAKOLI: Can I tender these pages, please, those three
16 pages, SITF00225139, SITF00225125, and SITF00225131, I think.

17 PRESIDING JUDGE SMITH: Any objection by the Prosecution?

18 MS. CLANTON: No.

19 PRESIDING JUDGE SMITH: SITF00225131, SITF00225125, and
20 SITF00225139 are all admitted and will be assigned an exhibit number.

21 THE COURT OFFICER: Your Honours, those pages will be assigned
22 Exhibit 1D1131. But, Your Honours, I will kindly ask that I confer
23 with counsel at the break to confirm the pages since there were some
24 discrepancies. Thank you.

25 MS. TAVAKOLI: Thank you.

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1 PRESIDING JUDGE SMITH: Yes.

2 MS. TAVAKOLI: Thank you.

3 No further questions.

4 PRESIDING JUDGE SMITH: Ms. O'Reilly?

5 MS. O'REILLY: Your Honour, yes, I do have a couple of questions
6 and a couple of pages of the same document that I've used previously
7 to tender. Would you like me to do my questions now?

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. O'REILLY: Okay.

10 Further Cross-examination by Ms. O'Reilly:

11 Q. So if we're staying on that same document, I would just like to
12 bring up one more entry in a similar vein that you may know about
13 because it involves the raid on 18 June.

14 MS. O'REILLY: And that can be found in the English at page 41,
15 and in the German at page 301.

16 Q. And I'll read the English to you. The heading is "Discussions
17 with KLA Commander Drini," and this is on 19 June:

18 "With Ops HQ Ops Brig (Maj de Kant)

19 "- Discussions with KLA Commander Drini re: disarming KLA in MUP
20 building.

21 "- Offer from Commander Drini to support the Brigade if it
22 should have problems with looters and robbers in the Prizren area.

23 "- Proposal for creation of a joint police force."

24 Now, given your involvement in that operation, is that something
25 that you recall, Witness?

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1 A. I do recall that, but there were two incidences mixed up with
2 each other. First of all, it is the discussion with the OPZ with
3 Officer de Kant, and then it must be the situation there on the
4 ground.

5 Q. I'm afraid I actually -- I didn't follow that clarification.
6 Would you mind -- I'm not sure what point exactly you're trying to
7 clarify there. Could you maybe take another stab at it?

8 A. Where you assume that all of that happened at the MUP building.
9 Did I understand you correctly?

10 Q. It does appear that there were discussions that were had, which
11 is the important point, with Commander Drini regarding disarming KLA
12 in the MUP building, and an offer from Drini to support the brigade
13 if it had any problems with looters and robbers. Do you recall that?

14 A. That did not take place in my presence and apparently with the
15 deployment brigade, because here the OPZ is mentioned.

16 Q. Okay. Thank you, Witness, for that explanation.

17 MS. O'REILLY: So, Your Honours, I would like to tender that
18 page and the two pages of the document that I used earlier, which
19 were page 60 of the English, and 320 of the German; and then,
20 secondly, page 88 of the English, and page 348 of the German.

21 And I can arrange to --

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. O'REILLY: It's the same -- I can't give you the ERNs for
24 the specific pages, but I can provide them to the Registry after
25 court today.

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1 PRESIDING JUDGE SMITH: All right. Do so. And we'll adopt --
2 we'll admit them as soon as you've done that.

3 MS. O'REILLY: Okay. Thank you.

4 Q. And then there was just one last thing that I wanted to clarify
5 with you, Witness.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 [Trial Panel and Court Officer confers]

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 Let me say that again. Is there any objection to those
10 additional exhibits? Because they're all part of the same document
11 that has already been tendered.

12 MS. CLANTON: Assuming those are the page numbers that were used
13 previously, which I'm sure that they are, we have no objection.

14 PRESIDING JUDGE SMITH: We will adopt them and admit them at
15 this time. If there's any question about the identification, the
16 Court Officer can take it up with you. Thank you.

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

18 Q. And so, lastly, Witness, at page 90 of the transcript today,
19 Judge Barthe had asked you about this issue of ethnic Albanians
20 wearing uniforms, be they German, Swiss, or KLA. And you said:

21 "... when it comes to looting, all I can remember are KLA
22 uniforms actually."

23 Now, I just wanted to clarify with you, Witness, that when you
24 say those individuals were wearing KLA uniforms, you were talking
25 about people who you had reason to believe were not actually KLA

1 members who were participating in looting but were donning the KLA
2 uniform; is that correct?

3 A. That is correct.

4 Q. Thank you, Witness.

5 MS. O'REILLY: Those are my questions.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. ROBERTS: I have nothing, Your Honour.

8 PRESIDING JUDGE SMITH: Mr. Roberts. Okay.

9 Mr. Baiesu.

10 MR. BAIESU: No questions. Thank you.

11 PRESIDING JUDGE SMITH: Witness, your testimony is completed.

12 We thank you for being with us and giving us the testimony. We wish
13 you well in the future. Thank you again for being here.

14 You may leave the courtroom now.

15 THE WITNESS: [Interpretation] Thank you very much.

16 [The witness withdrew]

17 PRESIDING JUDGE SMITH: Does the Prosecution have another
18 witness in the wings?

19 MS. CLANTON: Yes, we do. We would just need a short break.

20 PRESIDING JUDGE SMITH: [Microphone not activated] ... get as
21 much finished as we can.

22 So we will be adjourned for ten minutes. Please stay close at
23 hand.

24 --- Break taken at 3.48 p.m.

25 --- On resuming at 3.59 p.m.

1 PRESIDING JUDGE SMITH: You may bring the witness in,
2 Madam Usher.

3 [The witness entered court]

4 PRESIDING JUDGE SMITH: Good afternoon, Witness.

5 THE WITNESS: [No interpretation].

6 PRESIDING JUDGE SMITH: I will read out the text of a solemn
7 declaration concerning your requirement to tell the truth, and I will
8 read it in parts and then it will be translated for you, and you can
9 then repeat after me.

10 Conscious of the significance of my testimony. You may repeat
11 that.

12 THE WITNESS: [Interpretation] Conscious of the significance of
13 my testimony.

14 PRESIDING JUDGE SMITH: And my legal responsibility.

15 THE WITNESS: [Interpretation] And my legal responsibility.

16 PRESIDING JUDGE SMITH: I solemnly declare that I will tell the
17 truth.

18 THE WITNESS: [Interpretation] I solemnly declare that I will
19 tell the truth.

20 PRESIDING JUDGE SMITH: The whole truth and nothing but the
21 truth.

22 THE WITNESS: [Interpretation] The whole truth and nothing but
23 the truth.

24 PRESIDING JUDGE SMITH: And that I shall not withhold anything
25 which has come to my knowledge.

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1 THE WITNESS: [Interpretation] And that I shall not withhold
2 anything which has come to my knowledge.

3 PRESIDING JUDGE SMITH: You may be seated.

4 Witness, you've heard the solemn declaration. Do you consent to
5 the declaration?

6 THE WITNESS: [Interpretation] Yes.

7 WITNESS: JOHAN FRITSCH

8 [The witness answered through interpreter]

9 PRESIDING JUDGE SMITH: Witness, today we will start your
10 testimony, which is expected to last -- I believe it will be one day,
11 one full day.

12 As you may know, the Prosecution will ask you questions first,
13 and then the Defence has the right to ask questions of you, and
14 members of the Panel might also ask questions of you.

15 The Prosecution estimate for your examination is one -- I'm
16 sorry.

17 Madam Prosecutor, how long will your examination be?

18 MS. IODICE: Approximately 45 minutes, Your Honour.

19 PRESIDING JUDGE SMITH: All right. It will be approximately
20 45 minutes. Following that, the Defence will ask you questions. And
21 we ask the counsel to be judicious in the use of their time. The
22 Panel may also allow redirect examination if conditions for it are
23 met.

24 Witness, please try to answer the questions clearly with short
25 sentences. If you don't understand a question, feel free to ask

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1 counsel to repeat the question and tell them you don't understand and
2 they will try to clarify. Also, please try to indicate the basis of
3 your knowledge of facts and circumstances that you will be asked
4 about.

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

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

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

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

19 If you feel the need to take breaks, please make an indication
20 and we will try to accommodate you.

21 Do you have any questions about those rules?

22 THE WITNESS: [Interpretation] No, sir.

23 PRESIDING JUDGE SMITH: Thank you very much.

24 We begin with the questions from the Prosecution. They are
25 seated to your left. Please give them your attention.

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Examination by Ms. Iodice

1 Madam Prosecutor, you may begin.

2 MS. IODICE: Thank you, Your Honours.

3 Examination by Ms. Iodice:

4 Q. Good afternoon, sir. We've met before. My name is Vega Iodice,
5 and today I will be asking you questions on behalf of the SPO.

6 As explained during our last meeting, rather than asking you
7 questions about every relevant issue you might have information
8 about, it may be possible to admit some of your prior statements
9 containing such information into evidence. There are a number of
10 procedural steps to follow in order to do so.

11 Before turning to these, I will first establish your identity.
12 Could you please tell us your name?

13 A. My name is Johan Rudolf Fritsch.

14 Q. And what is your date of birth?

15 A. On 3 November 1951.

16 Q. And what is your place of birth?

17 A. Munich.

18 Q. And your nationality?

19 A. German.

20 Q. What is your former profession?

21 A. I am a retired professional soldier.

22 Q. And what was the last rank you held in the army?

23 A. I was sergeant major.

24 Q. Thank you. I will now show you some documents.

25 MS. IODICE: Could the Court Officer please bring up ERN

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Examination by Ms. Iodice

1 071136-TR-ET Part 1 Revised 1 RED in English; and the original,

2 071136-TR Part 1 Revised RED.

3 Q. Sir, do you recall being interviewed by the SPO in 2019?

4 A. Yes.

5 Q. Do you remember reading this statement in your language in April
6 when we met?

7 A. Yes.

8 Q. Do you recall that you had the opportunity to provide
9 clarifications to your statement?

10 A. Yes.

11 Q. Do you recall that those clarifications were written down in a
12 note and read back to you?

13 A. Yes.

14 Q. Do you confirm that what was read back to you in that note
15 reflects your changes fully and accurately?

16 A. Yes.

17 Q. Now if we include all the corrections and clarifications you
18 made, is the information in your statement accurate and truthful to
19 the best of your knowledge and belief?

20 A. Yes.

21 Q. If you were asked the same questions today about the same
22 events, would your answers be the same?

23 A. Yes.

24 MS. IODICE: Having fulfilled the Rule 154 criteria, and in
25 accordance with decision F02245, paragraph 96(A) and (B), we hereby

1 tender the transcript. That's 071136-TR-ET Part 1 Revised 1 RED,
2 Part 2 Revised 1, Part 3 Revised 1 RED, and Parts 4 and 5 Revised 1
3 into evidence together with the Albanian translation and the original
4 in German.

5 PRESIDING JUDGE SMITH: Any objection?

6 MS. TAVAKOLI: No, Your Honour.

7 PRESIDING JUDGE SMITH: ERN 071136-TR-ET Part 1 Revised 1 RED1,
8 Parts 1 through 5, and the Albanian are admitted and will be granted
9 an exhibit number.

10 THE COURT OFFICER: Your Honours, for the ERN 071136-TR Part 1
11 Revised RED, together with the Albanian and English versions, it will
12 be assigned Exhibit P1191.1.

13 Part 2 with the same ERN and the German, English, Albanian
14 combinations will be assigned Exhibit P01191.2.

15 Part 3, German, English, and Albanian will be assigned
16 Exhibit P01191.3.

17 Part 4, English, Albanian, German, will be assigned
18 Exhibit P1191.4.

19 And Part 5, English, Albanian, and German versions will be
20 assigned Exhibit P1191.5.

21 And we can confirm the classification?

22 MS. IODICE: Public, Your Honour.

23 PRESIDING JUDGE SMITH: If need be to reclassify, it will be
24 public.

25 Go ahead.

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Examination by Ms. Iodice

1 MS. IODICE: We also would like to tender Preparation Note 1,
2 and that is ERN 120506 to 120509.

3 PRESIDING JUDGE SMITH: Any objection to the note?

4 MS. TAVAKOLI: No, Your Honour.

5 MR. ROBERTS: Nothing, Your Honour, no.

6 PRESIDING JUDGE SMITH: ERN 120506 to 120509 is admitted.

7 THE COURT OFFICER: And that will be Exhibit P1192. And, again,
8 if we can confirm the classification.

9 MS. IODICE: That can also be public.

10 PRESIDING JUDGE SMITH: Reclassified as public.

11 MS. IODICE: Moving on to the associated exhibits. We have
12 created one excerpt from video 054010-02, 00:32:26 to 00:32:56, with
13 its corresponding transcript excerpt, and we would like to tender
14 that into evidence as public as well.

15 PRESIDING JUDGE SMITH: Is that the only associated exhibit?

16 MS. IODICE: Yes, Your Honour, because the other one was already
17 admitted in full as P00501, and I will address the diary separately.

18 PRESIDING JUDGE SMITH: Any objection to the proposed exhibit?

19 MS. TAVAKOLI: No, Your Honour.

20 PRESIDING JUDGE SMITH: The associated exhibit is admitted and
21 will be assigned an exhibit number.

22 THE COURT OFFICER: Your Honours, that will be assigned
23 Exhibit P01193 and will be reclassified to public.

24 MS. IODICE: And as stated, I will address some excerpts of the
25 diary during the examination.

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Examination by Ms. Iodice

1 PRESIDING JUDGE SMITH: Thank you.

2 MS. IODICE: I would now like to read a summary.

3 PRESIDING JUDGE SMITH: Please do.

4 MS. IODICE: W03881 was deployed to Kosovo from 14 June to
5 3 August 1999 as press officer within the KFOR contingent. His tasks
6 included accompanying journalists, documenting and reporting, and
7 taking crime scene photos at the request of KFOR military police.

8 W03881 was present on 18 June 1999 when KFOR raided the former
9 MUP building in Prizren occupied at that time by KLA soldiers and
10 freed several injured detainees.

11 W03881 saw the body of a deceased detainee and confirmed that
12 KFOR treated the detainee's injuries. He photographed the victims,
13 their injuries, and the materials KFOR seized from the KLA soldiers.

14 W03881 also witnessed and documented violence against Serb and
15 Roma minorities.

16 W03881 kept a handwritten diary with photos he took.

17 Q. I now have a few additional questions for you, sir.

18 MS. IODICE: Could the Court Officer please bring up ERN
19 071142-071313 in English; and in the original, 071139-071313. And go
20 to page 071142 in both languages. And this should not be broadcasted
21 publicly. Yes, thank you.

22 Q. Sir, do you recognise this document?

23 A. Yes, this is my diary.

24 Q. Did you write it?

25 A. Yes, daily in the evening.

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Examination by Ms. Iodice

1 Q. Okay. And daily in the evening when exactly? In what year?

2 A. 1999, starting from my deployment to Macedonia via the entry
3 into Kosovo until my return in August 1999.

4 Q. Thank you.

5 MS. IODICE: Could we now move to page ERN 071180 in both
6 English and German. That's page 42 in German and 39 in English.
7 And, again, it shouldn't be broadcasted.

8 Q. Sir, do you recognise this entry?

9 A. Yes.

10 Q. And did you also write this entry?

11 A. Yes, I did that in the evening or in the night from the 18th to
12 19th June 1999.

13 Q. Thank you.

14 MS. IODICE: And now if we move to the second part of the page.
15 That's in English, it's the last paragraph. And in German, it's a
16 little bit further down, when it starts: "In the afternoon we
17 drive ...". Yeah, that's perfect in German.

18 Q. Could you please read this section starting, "In the
19 afternoon ..."

20 A. [No interpretation].

21 Q. Sir, just you can read it to yourself. There is no need to read
22 it out loud. Thank you.

23 Do you remember this event?

24 A. I do very well remember that day.

25 Q. Does the date of the diary correspond to the date of the event

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1 described there?

2 A. Yes, I remember that exactly because it was my wedding day.

3 Q. And is this the same event that you discussed in your interview
4 with the SPO regarding the KFOR raid at the MUP building?

5 A. Yes, I do.

6 Q. Is it accurately described in this entry?

7 A. It's described briefly but correctly.

8 Q. And did you review and consult this diary entry during your SPO
9 interview?

10 A. Yes.

11 MS. IODICE: Could we now move to the next page in both
12 languages.

13 Q. Sir, who took this photograph?

14 A. I did.

15 Q. Could you describe what it shows?

16 A. Yes. These are soldiers from the Air Defence Company, a company
17 that was involved in the liberation of this prison. Well, they
18 basically liberated the prison.

19 MS. IODICE: Could we now move to the next page in both
20 languages.

21 Q. Is this a continuation of your previous diary entry?

22 A. Yes.

23 Q. If you could please focus on the first two lines where you refer
24 to ethnicity of the victims and then state "'Collaborators', says the
25 KLA." What were you referring to here?

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Examination by Ms. Iodice

1 A. I was referring to conversations we had with the liberated
2 persons.

3 Q. And is that when you heard about these persons being
4 collaborators?

5 A. Well, we could not verify this. This is something that the KLA
6 people told us.

7 Q. Okay. Thank you.

8 MS. IODICE: And if we could go to the next page in both
9 languages.

10 Q. Sir, who took these photos?

11 A. These are pictures that I took on behalf of the military police
12 during and after the liberation.

13 Q. What do you mean by "liberation"?

14 A. We went into the former MUP prison. We liberated the prisoners,
15 and we also found the deceased person on the 1st floor. The KLA
16 members who were there were disarmed, and the injured, such as you
17 can see here in these pictures, were treated by our medics.

18 Q. Thank you. And just to be completely clear, can you describe
19 the photos you took that are shown in front of you.

20 A. You can see some of the 10 to 12 men, as far as I remember,
21 whose injuries I documented using my camera. They had abrasions,
22 bruises, things that pointed towards torture or mistreatment.

23 Q. And there's a caption in between the two photographs. Did you
24 write that yourself?

25 A. Yes, I did.

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1 Q. What was your basis of knowledge for that caption?

2 A. The men we liberated told us this.

3 Q. Thank you.

4 MS. IODICE: And now if we could go to the next page in both
5 languages.

6 Q. Who took these photographs?

7 A. I did on behalf of the military police.

8 Q. When did you take them?

9 A. In the afternoon of 18 June 1999.

10 Q. Was that part of the raid on the MUP building?

11 A. Yes, it was. During this intervention, we found this deceased
12 person.

13 Q. And the caption that we can see in between two photographs, what
14 did you mean by that?

15 A. The dead man was examined by one of our medical officers and he
16 said that we had arrived about an hour too late. This man probably
17 died one hour before our arrival.

18 Q. Thank you.

19 MS. IODICE: Could we move --

20 Q. Is that the state you found the man in when you first saw him?

21 A. Exactly like this.

22 MS. IODICE: Could we please move to the next page in both
23 languages.

24 Q. Did you also take these photographs?

25 A. Yes, during the examination by our medical officer.

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1 Q. And do they show the same man that was in the previous pictures?

2 A. Yes.

3 MS. IODICE: And could we move to the next page in both
4 languages.

5 Q. Did you also take these photographs?

6 A. Yes, I did.

7 Q. When?

8 A. After I had taken the pictures of the dead man and the liberated
9 people.

10 Q. What do these photographs show?

11 A. Handcuffs that were used to chain people to pipes. And the
12 lower picture has wooden -- one wooden truncheon, for example.

13 Q. And the caption that's in between the two photographs, what did
14 you mean by that: "The means of torture have not changed"?

15 A. Well, this was my diary, my personal diary, and what I meant by
16 this was that the MUP before they left, as well as the people who
17 took over the prison after them, i.e., the KLA, used the same or had
18 the same means at their disposal, the same instruments.

19 Q. Thank you.

20 MS. IODICE: Your Honour, for planning, I could finish this
21 topic in the next five minutes if that's feasible or continue
22 tomorrow.

23 PRESIDING JUDGE SMITH: You can finish if you can do it in five
24 minutes.

25 MS. IODICE: Thank you.

1 MS. O'REILLY: Well, Your Honour, I'm sorry, I do have an
2 objection to the last exchange. We've had no foundation. The
3 witness has said that the same means were used by the MUP before they
4 left and then after, but we've had no foundation for his belief that
5 these are belonging to the KLA.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 What's the objection?

8 MS. O'REILLY: That there was no foundation for the witness's
9 answer, and I suppose I wonder if that could be explored: What is
10 his basis for concluding that these belong to the KLA and not the
11 MUP, because this was the MUP building up until a few days before
12 this took place.

13 PRESIDING JUDGE SMITH: Your objection is overruled. You can
14 explore that on cross-examination if you wish.

15 [Microphone not activated].

16 MS. IODICE: Thank you, Your Honour.

17 And if we could scroll through the next pages until page 071189
18 in German, in the original, and then go to the next page. And scroll
19 down. And then to the next page again.

20 Q. Sir, did you take these last five photos?

21 A. Yes, I did.

22 Q. When did you take them?

23 A. On the afternoon of 18 June.

24 Q. During the same raid described before?

25 A. Yes.

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1 Q. Could you please describe what is shown in these photographs.

2 A. What we are seeing are weapons, ammunition, and equipment of the
3 former Yugoslav Army or the security forces, all of which we found at
4 the MUP building and we removed from the building.

5 Q. Thank you.

6 MS. IODICE: Your Honours, I would now like to tender into
7 evidence pages 071180 through 071189 in both English and German.

8 PRESIDING JUDGE SMITH: Any objection?

9 MS. TAVAKOLI: No, Your Honour.

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

11 MS. IODICE: And this exhibit should--

12 PRESIDING JUDGE SMITH: Just -- 071180 to 071189 is admitted.

13 THE COURT OFFICER: And will be assigned Exhibit P1194.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. IODICE: And it should be confidential.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MS. IODICE: Your Honours, I would stop at this stage and
18 continue tomorrow.

19 PRESIDING JUDGE SMITH: All right.

20 Witness, I know you've testified just for a short time today,
21 but we wanted to get you started so we could not waste any time. We
22 adjourn now until tomorrow morning at 9.00. We will start promptly
23 at that time. Thank you for being with us so far.

24 Remember not to talk with anyone about your testimony outside of
25 this courtroom. Good afternoon.

1 THE WITNESS: [Interpretation] Yes, Your Honour.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: We're adjourned until 9.00 tomorrow.

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

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