

1 Tuesday, 5 December 2023

2 [Open session]

3 [The accused entered the courtroom]

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

5 PRESIDING JUDGE SMITH: Madam Court Officer, you may call the
6 case.

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

10 PRESIDING JUDGE SMITH: Good morning, everyone. Today we will
11 continue hearing the evidence of Prosecution Witness W04765. All of
12 the accused are in court today.

13 Madam Usher, please bring the witness in.

14 [The witness takes the stand]

15 PRESIDING JUDGE SMITH: Good morning, Witness.

16 THE WITNESS: [Interpretation] Good morning.

17 PRESIDING JUDGE SMITH: Today we will continue with your
18 testimony. I remind you to please try to answer the questions
19 clearly with short sentences. If you don't understand a question,
20 please feel free to ask counsel to repeat the question, or tell them
21 you don't understand and they will attempt to clarify.

22 Also, please try to remember to indicate the basis of your
23 knowledge of the facts and circumstances upon which you will be
24 questioned. I remind you that you are still under an obligation to
25 tell the truth as stated by you in your solemn declaration.

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

4 If you feel the need to take a break, please make an indication
5 and we will do our best to accommodate you.

6 We will continue with questions by Judge Mettraux.
7 Judge.

8 JUDGE METTRAUX: Thank you, Judge Smith.

9 WITNESS: SADIK HALITJAHA [Resumed]
10 [The witness answered through interpreter]
11 Questioned by the Trial Panel: [Continued]

12 JUDGE METTRAUX: Good morning, Witness.

13 A. [In English] Good morning.

14 JUDGE METTRAUX: Can the Registry please bring up P716.

15 Sir, do you recall being shown this document by Mr. Emmerson?
16 And I showed you to it to you again yesterday. Do you recall it?

17 A. [Interpretation] Just a second, please. Yes.

18 JUDGE METTRAUX: And do you accept, as you told Mr. Emmerson,
19 that you are the author of this document; yes?

20 A. Yes, I do.

21 JUDGE METTRAUX: And on 13 November 2023, that's page 9972 to
22 9973, you had this exchange with Mr. Emmerson that I want to ask you
23 about. Mr. Emmerson asked you this. He was pointing to the point 1
24 in that information. Can you focus on that, point 1?

25 A. Yes.

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1 JUDGE METTRAUX: And he said:

2 "And in the second point beneath that, it talks about the
3 accidental death of a soldier in the Nerodime zone by another soldier
4 'who is now serving a sentence and is awaiting the determination of
5 his responsibility by the same court.'"

6 And Mr. Emmerson went on to suggest:

7 "But, Mr. Halitjaha, there was no court of second instance on
8 8 February 1999, was there?"

9 And your answer is:

10 "You are putting one before the other, and this is not
11 unintentional, because before this, there was a request publicly made
12 to the General Staff asking for courts to be established in order to
13 deal with disciplinary matters regarding soldiers. We were having
14 soldiers who had loaded weapons and accidentally would wound, kill
15 people. So in our opinion, courts had to be established. This was
16 thought if the war lasted one, two, or three years. Otherwise, there
17 were no courts."

18 Do you recall having that exchange with Mr. Emmerson?

19 A. Yes, I do. That's accurate. This is how I said it. But if
20 possible, I wanted to add a sentence.

21 It is mostly a suggestion. It is mostly in the shape of a
22 threat to soldiers just to make them aware of the fact that they have
23 to be cautious of such occasions not to happen. Because I had heard
24 that something happened in Nerodime, but I didn't know who the person
25 was. And this is the reason that I wrote that second part there,

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1 just to make it serve as a threatening to the soldiers.

2 Everything that you read is accurate. I have to add that.

3 JUDGE METTRAUX: So if I understand you correctly, you were
4 suggesting that you are concerned that such events could occur and,
5 as a result, you asked for courts to be established. Is that what we
6 should understand?

7 A. Very true. The purpose for that was to be preventative.

8 JUDGE METTRAUX: And why was it important to have courts set up
9 to deal with these sorts of situations?

10 A. Logically speaking, when mistakes happen, there should be a
11 person that should be held accountable for what they do, and
12 disciplinary rules cannot be established without having courts in
13 place. So we asked for the courts, we wanted the courts to be
14 established, but we were far from establishing them.

15 JUDGE METTRAUX: So in the example you gave, if a KLA soldier
16 would kill someone and you had no courts, what would you do with him?

17 A. The maximum we would do is to demobilise the person, to remove
18 the weapon, to take away the uniform, and discharge him from his
19 tasks. That was the measure that we could take against such a
20 person.

21 JUDGE METTRAUX: And you told Mr. Emmerson that "there was a
22 request publicly made to the General Staff asking for courts to be
23 established in order to deal with disciplinary matters regarding
24 soldiers." What did you refer to there?

25 A. What you just read. Nothing more, nothing less.

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1 JUDGE METTRAUX: So that, the document we have in front of us,
2 is the public request you were referring to or is there another?

3 A. No, that was another letter.

4 JUDGE METTRAUX: And it's a letter that you sent to the
5 General Staff?

6 A. We prepared that for the General Staff. I don't know on whether
7 it reached the General Staff or not. So it was very difficult for us
8 to know whether such notices or such letters arrived in the
9 General Staff, because the General Staff was moving time and again.
10 I hope, and I think, that it reached the General Staff, but I can't
11 say that for a fact.

12 JUDGE METTRAUX: And you sent it to the General Staff because
13 you understood them to be the competent authorities to create courts
14 within the KLA; correct?

15 A. We always thought that the General Staff was a general
16 authority, and we have expected rules, regulations, orders, laws,
17 decisions to be issued, but they were not issued.

18 JUDGE METTRAUX: Because you at the battalion, brigade, or zone
19 level, you did not have the authority to create courts; is that
20 correct?

21 A. That's very correct. All we could do is just come up with two
22 or three regulations at the zone level. We could not otherwise issue
23 disciplinary rules or regulations for the soldiers.

24 JUDGE METTRAUX: I want to ask you about another document. And
25 if the Registry can please bring up SPOE00232491 to SPOE00232492-ET

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1 and it's the same ERN for the Albanian version.

2 Sir, I'll give you a moment to read the documents. Once you've
3 reached the end of the first page, let me know. There's a second
4 page that I would like to ask you about as well. Just take the time
5 to read it and tell me when you're at the bottom of the page.

6 A. It only thing that is missing in the document is the signature.
7 But I don't know where the courts were. Probably somebody has hidden
8 them. But I am telling you that these courts never existed. If such
9 courts existed, I would be thrilled. I mean, I don't know these
10 persons. I don't know of the existence of the courts. So Korpuzi
11 with the last name Korpuzi, so I can distinguish something from the
12 last name, but I can't relate the name with the last name. So there
13 was no court. No courts of first instance or other instances. I
14 don't know what to say.

15 JUDGE METTRAUX: Well, is it the case that there's no courts you
16 know of; would that be fair?

17 A. I don't know of any court. So I'm surprised to hear today that
18 there were courts.

19 JUDGE METTRAUX: Can we go to the next page, please.

20 So again take a moment to read this page, sir.

21 Do you agree that on its face, sir, first it bears a number,
22 7/99, and it's dated 2 February 1999. It comes from the military or
23 the general military prosecutor of the Kosovo Liberation Army, and it
24 refers to criminal charge number 03/99 of 1 February 1999 of the
25 military police of the Pashtrik operational zone against Osman Berat

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1 Korpuzi of Shala village. Do you see that?

2 A. Yes, that's clear. The way on how the document has been
3 perceived is good, the construction of the document is good. But,
4 again, I'm telling you that I was not aware that such a thing
5 existed. I am convinced that they did not exist.

6 And, again, in the second paragraph, they say that this was
7 based on this and that law, but what law are they talking about?
8 Only international law, because we didn't have other laws. I don't
9 understand. I have never seen this document. I have not ever heard
10 about the story that is told in this document.

11 JUDGE METTRAUX: Can we can go back to the first page, please.

12 And this one is a decision from the military court. It's called
13 the military -- or the general military court college, it's
14 translated in English. It bears the same number as the previous
15 document, 7/99, and this one is dated 11 February 1999, and it refers
16 back to the document we saw a moment ago. Do you agree?

17 A. Your Honour, please do understand me well. As we speak, Kosovo
18 doesn't have a military court. It doesn't have a college or a panel
19 nor judges of a military court. I mean, how is it possible to have
20 this type of a court back then? I'm surprised.

21 So this is how it reads. The structure of the paper is okay.
22 But, I mean, we don't even have today such military courts. Today,
23 25 years later, we don't have a military court.

24 JUDGE METTRAUX: And do you agree that, again, on the face of
25 this document, the person who is subject to the procedure is being

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1 prosecuted for desertion; is that correct?

2 A. That's what it reads. It's very clear. And that would have
3 been okay if the court existed, but I don't understand on why this
4 has been written. But I'm convinced that such a court did not exist
5 back then. We don't have a court of that nature as we speak today.

6 JUDGE METTRAUX: Can we go to the bottom of that page, please.
7 There are two names there. One is Shkelzen Ahmeti, as head of the
8 college, it's called, or the court, and Vjollca Mali. Are you
9 familiar with either of these names?

10 A. The name of Vjollca Mali I saw in another decision that you
11 showed to me yesterday, the decision of the chief of staff of the
12 Bislrim Zyrapi. She's a minute-taker. The name -- I saw this name
13 for the first time yesterday. Whereas about Shkelzen Ahmeti, I don't
14 know this person. I have not know him back then and I don't know him
15 till today.

16 JUDGE METTRAUX: And that's correct, sir, the name of Vjollca
17 Mali was in SPOE00248502 that I showed you yesterday.

18 Now, do you agree that, again on the face of that document, this
19 is, in effect, an appeal from the decision of the military prosecutor
20 where the appeal is rejected? Do you agree with that?

21 A. According to the structure of the document, because I'm a lawyer
22 by profession, the wording of the document is okay. But the person
23 who has written it, that's imaginary in nature. I'm not aware of the
24 fact that there was a structure or a body of this nature that was
25 called a military court or a military prosecution office. We didn't

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1 have lawyers, we didn't have judges, we didn't have prosecutors.
2 There was just one person, Sokol Dobruna, who was a legal adviser who
3 provided advice or probably took decisions. I don't know. But there
4 was no court. There was no physical facility to say that this
5 facility, this house or this building was a court.

6 So if there was such a thing as a court, we would have learned
7 that for one year and a half during the war.

8 JUDGE METTRAUX: Do you accept, sir, that this is an example of
9 a two-tiered legal system? In other words, there is a decision by a
10 military prosecutor and an appeal to a military court. Do you accept
11 that?

12 A. On its face, this is how it appears.

13 JUDGE METTRAUX: But as you said, you know nothing about these
14 procedures, institutions, all those. Is that your evidence?

15 A. Yes, that's true.

16 JUDGE METTRAUX: There's a last issue I want to ask you about to
17 be sure that we understand exactly what you are saying.

18 You are saying that you are not aware of any prison or detention
19 facility in the Pashtrik zone in 1998 or 1999; is that correct?

20 A. That's correct.

21 JUDGE METTRAUX: And at no point, if I understand your evidence
22 correctly, did you ever hear of civilians being detained within your
23 area of responsibility. I mean, the Budakove area.

24 A. No.

25 JUDGE METTRAUX: And I can take it from that that you would

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1 dispute any suggestion that you yourself ordered the arrest of
2 civilians; correct?

3 A. If something of this nature were true, I would order an internal
4 life imprisonment for myself. I have protected 200.000 civilians in
5 the Pashtrik area. And this is far from the truth. I had never
6 dealt with people that were not able to protect themselves, be them
7 of different minorities, be them of the Albanian ethnic origin or
8 other ethnic origins as well as.

9 JUDGE METTRAUX: And if I understand your evidence, that would
10 not be possible because there was no military police to ask to arrest
11 and no place to detain civilians; correct?

12 A. Your Honour, we didn't have prisons. We didn't have prison
13 facilities. We didn't have any structure in place for the prison to
14 exist, such as, for instance, prosecution offices, courts, the
15 police, guardians. We didn't have things of this nature. There was
16 no order too. If somebody has ordered for a civilian to be arrested
17 or to be detained, please give a sentence against that person,
18 whoever that person is, to the maximum of the punishment that there
19 exists out there.

20 JUDGE METTRAUX: And you never heard of a detention facility on
21 the outskirts of Budakove, right, in 1998 or 1999?

22 A. Never ever. No.

23 JUDGE METTRAUX: And you don't know and never heard of a
24 detention facility at or near the home of Lumi Palushi; right?

25 A. No, no. There was an outpatient clinic at the Palushis, but no

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1 detention house or no detention facility for that matter.

2 JUDGE METTRAUX: Thank you, Witness.

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 JUDGE GAYNOR: I've no questions. Thank you, Judge.

5 PRESIDING JUDGE SMITH: All right. Mr. Pace, do you have any
6 questions that arise from the Judges' questioning?

7 MR. PACE: No, thank you, Your Honour.

8 PRESIDING JUDGE SMITH: All right.

9 Mr. Emmerson, I think you started off, so you will start off
10 this phase.

11 MR. EMMERSON: [Microphone not activated].

12 I've just a couple of matters, if I may. One of them is being
13 prepared to my left with a call-up number, so there may be a slight
14 delay.

15 Further Cross-examination by Mr. Emmerson:

16 Q. I want to just ask you some further questions on some of the
17 matters that the Judges have raised with you, and both of the issues
18 that I want to ask you about relate to the questions that you were
19 asked by Judge Barthe on the right-hand side of the Judges' Bench
20 from where you sit.

21 Now, you were asked yesterday morning by Judge Barthe about the
22 process by which the Provisional Government of Kosovo involved
23 appointments from people that had previously been in the
24 General Staff. Do you remember that part of the questioning?

25 A. Yes, I remember that.

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1 Q. And specifically you were asked whether Mr. Veseli, when he took
2 up his role in the provisional government, was replaced by somebody
3 else as the head of the ZKZ, or ZKZ, in the Kosovo Liberation Army
4 General Staff. And you were specifically asked, and this is -- I'm
5 still on the provisional transcript, I'm afraid, page 45, line 16,
6 Judge Barthe asked you:

7 "So you cannot say whether Mr. Veseli was replaced or whether he
8 was dismissed from the General Staff? Is that your testimony?"

9 And you replied:

10 "That's correct. Mr. Veseli can answer exactly when, and the
11 chief of staff, Agim Ceku. They can say if somebody was appointed
12 there. Word has it that somebody was there, but I don't know who
13 that person might have been."

14 That's correctly stating your evidence, is it?

15 A. I would add something else to this. I have heard that somebody
16 replaced him, but I don't know who that person was and I just didn't
17 want to guess. I don't know the name of the person, and this is the
18 reason why I said that the Chief of Staff Agim Ceku might know that.
19 I can't guess because I don't know who that person was. I don't know
20 the name.

21 Q. No, I understand you don't know the name, but I was picking up
22 the remark which appears on the transcript where you say "word has it
23 that somebody was," and you're confirming now that you had heard that
24 somebody was appointed as head of intelligence within the KLA
25 General Staff to replace the role of Mr. Veseli when he became part

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1 of the provisional government; is that right? That's what you heard?

2 A. It's possible to be that way, but I was not sure because I
3 didn't know the name, I didn't know the decision that was taken to
4 replace him. It's just a guessing on my end. So about the things
5 that I know for a fact, I've said that I know for a fact.

6 Q. No, that's very fair.

7 MR. EMMERSON: Can I please call up DKV0806, single page. And
8 it's both the Albanian and the English translation on that ERN
9 number. And I think -- yes, it should all be visible on one. If we
10 can just make it a little smaller so we can see the headings.

11 Q. Now, this we can see in the top left-hand corner is coming from
12 the Kosovo Liberation Army General Staff ZKZ service on 4 May 1999.
13 Do you see that on the top left?

14 A. Yes, I do.

15 Q. And you agree it's addressed - and we can see this the next line
16 down on the right - to the prime minister and the minister of
17 defence. Do you see that?

18 A. Yes.

19 Q. And if we look at the content, the subject is "Information," and
20 it reads:

21 "The directorate for intelligence and counterintelligence, based
22 on the information/data it possesses, informs that the situation in
23 Kosovo may soon change, so it may come to the intervention of ground
24 forces. Based on what was said above, we issue this:

25 "Information

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1 "At the end of this week and at the beginning of next week,
2 Great Britain is sending a Commando unit and Marine special forces to
3 the territorial waters of Albania.

4 "Their start point is Plymouth.

5 "Their transportation is done with the 'OCEAN' ship.

6 "The combat force is 1000 Commandos, with them will also be the
7 gunners.

8 "15 'CHINOOK' or 'SEIKING' helicopters (are on the ship).

9 "The 'OCEAN' ship will be the platform of their action and
10 massive invasion with helicopters.

11 "Attacks of helicopters after the approval of the plan will act
12 in the rear (on the back) of the enemy.

13 "The 'OCEAN' ship will be joined by the 'FEARLES' warship, which
14 is specially equipped for landing on the water's edge and uses small
15 combat vehicles."

16 Then there is a handwritten remark which is a bit difficult to
17 decipher, I'm afraid, other than it starts with the words "The
18 commando battle group ..."

19 And then we see immediately after that -- it's easier to see in
20 the original because the name is included. We see:

21 "Chief of the ZKZ service:

22 "Mensur Kasumi."

23 Do you see that with the signature?

24 A. Yes, I know the name. I don't know the person, but I've heard
25 of the name. So there is a signature to the document. The

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1 information is complete. There is an explanation of this
2 information. It can be this way, but I didn't know that for a fact.
3 So that's why I can't say for sure.

4 Q. Very well. But you knew at least by reputation Mensur Kasumi;
5 is that right?

6 A. Yes. As a name, yes.

7 Q. Can you tell us anything more about him?

8 A. He was somewhere in the Shala zone, soldier that is. He
9 probably is from Vushtrri area by origin. But I did not have any
10 contact with him. But as a name, it is familiar.

11 Q. Have you heard that he had had prior military experience
12 fighting in Bosnia?

13 A. I did hear that he was an officer, yes.

14 Q. Now, in terms of the focus of the intelligence service within
15 the General Staff, it's clear, isn't it, from the content of this
16 letter, that Mensur Kasumi, who was by then, in fact, the head of the
17 General Staff intelligence, was passing on highly confidential
18 military information that he had received concerning proposed British
19 military manoeuvres in support of the KLA or, rather, in opposition
20 to President Milosevic?

21 A. I did not come across any document originating from him, neither
22 was I informed of a document. I didn't know him as a person before
23 the war or during the war. I never came into contact with him. I
24 knew he was an officer. I don't know that he replaced Kadri Veseli,
25 but I see on this document that that was the case.

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1 Q. But specifically from the content of the document -- I
2 appreciate you've never seen it, but that's not an objection in this
3 Court to inviting comment.

4 Looking at the content of the document, it's clear, isn't it,
5 that this is a role that involves liaising with foreign military
6 sources because it's got advanced knowledge of the deployment of
7 British forces to the region of Albania? Liaison with foreign
8 intelligence. Would you agree?

9 A. That's what this document suggests. I would have liked that he
10 really knew this information. We did expect the alliance forces to
11 bring us weapons, but unfortunately they didn't. But the bombing did
12 take place.

13 Q. But this is quite specific, isn't it, this information?

14 A. Yes.

15 Q. And --

16 A. You can tell that he's a military.

17 Q. And from your experience, governments engaged in international
18 armed conflict don't normally publicise the details of where they
19 intend to deploy particular warships and hardware in advance, do
20 they? That's confidential information, isn't it?

21 A. I'm surprised by the fact that there's no confidentiality
22 marking, discreet underlined. It should have been marked like that.

23 Q. You mean the document should have a confidentiality marking?

24 Yeah, it may well be it should have.

25 A. Yes, I mean the document.

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1 Q. Very well. Thank you for that.

2 MR. EMMERSON: I'd like to have that, please, marked for
3 identification.

4 Can I now --

5 PRESIDING JUDGE SMITH: Marked for identification or are you
6 admitting -- tendering it?

7 MR. EMMERSON: I will be tendering it --

8 PRESIDING JUDGE SMITH: All right.

9 MR. EMMERSON: -- in due course.

10 PRESIDING JUDGE SMITH: Okay.

11 MR. EMMERSON: Yes. And the second document I want to turn to,
12 please could I call up DKV0807 to 0814. That's the page range.

13 Q. Now, while that's being done, because I'm not going to ask you
14 yet about the document. I just want to have it there for us.

15 MR. EMMERSON: And for Your Honours, this has been provided by
16 the Swiss authorities, and it's Mr. Veseli's passport records. These
17 are documents that we've released in response to questions that have
18 been asked by the Judges. Very well.

19 Q. Now, pausing there. You were asked by Judge Barthe how you
20 could know that Mr. Veseli was not in the country given that whilst
21 you were at the General Staff you left for a period during the Recak
22 massacre on 15 January. Do you remember that?

23 A. Yes.

24 Q. You gave evidence that he wasn't there at the time that you were
25 there from the beginning of December until you accompanied him back

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1 into the country in April. That was your recollection. But
2 specifically you were challenged by Judge Barthe to -- on the basis
3 that in the middle of January, there was the Recak massacre and you
4 left the headquarters and you were away for some time. Can you
5 remember how long it was you were away at the time of Recak?

6 A. Five days at a minimum. I don't think it was longer than that.
7 The Recak battle lasted for four days. I arrived on the second day
8 of the battle following the massacre. We then battled for four days.
9 This was it.

10 Q. And that --

11 A. And then I went to the General Staff.

12 Q. And that would have been roughly between the 15th and the 19th?
13 Is that what you're suggesting? Because the massacre, I believe, was
14 perpetrated on the 15th, is that right, the Serbian massacre?

15 A. That's right.

16 Q. Now you -- and you didn't leave before that. You left in
17 response to the news of the 15th?

18 A. I went there to help the population in Recak and to fight the
19 Serbian forces for those four days. I did not abandon the area. I
20 left. Because abandoning during the war is something different. I
21 went to fight in Recak. I hope you understand.

22 Q. No, I -- it's just the dates I'm trying to pin down. You would
23 have left the General Staff on the 15th, is that right, and been away
24 until about the 19th.

25 MR. EMMERSON: Could we turn, please, to internal page 0810.

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1 It's the lower half of the page. Sorry, it appears slightly
2 different to mine. Yes, that is the correct page. Sorry.

3 Q. So we can see there that this is a visa and entry stamp for
4 Mr. Veseli to enter Slovakia -- I'm sorry, Slovenia between the 13th
5 and 18th of January. Can you see the date of the -- towards the
6 bottom of the page? There's the date of entry and then there's the
7 handwritten date of departure. Can you see that?

8 A. Yes, I see it.

9 Q. Does that help you answer Judge Barthe's question a bit more
10 accurately about whether Mr. Veseli was in Kosovo during those dates?

11 A. I believe I've answered this question correctly to what I knew
12 then and to what I know now. But this document maybe speaks louder
13 than words because it has the entry and exit date. But I would say
14 something else. Maybe Veseli from Slovenia went to Albania or
15 France, but he was not at the General Staff. This date shows that he
16 was on the move, that he moved. But he was not at the staff.

17 Q. Thank you.

18 MR. EMMERSON: Sorry, yes, I apologise. Could that document
19 also please be tendered, marked for identification, and both
20 documents tendered for admission.

21 PRESIDING JUDGE SMITH: Any objection by the Prosecution?

22 MR. PACE: No objection to admission of both documents.

23 PRESIDING JUDGE SMITH: Both documents will be admitted and be
24 assigned an exhibit number, Madam Court Officer.

25 THE COURT OFFICER: Your Honours, the first document, DKV0806,

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1 will be assigned Exhibit 2D17.

2 And the second document, DKV0807 to 0814, will be assigned
3 Exhibit 2D18. Thank you.

4 PRESIDING JUDGE SMITH: All right. Mr. Kehoe.

5 MR. KEHOE: Thank you, Your Honour.

6 Further Cross-examination by Mr. Kehoe:

7 Q. Good morning, Witness. Again, I just have a few brief questions
8 for you. They're not very long. So just if you could bear with me a
9 few moments. And I'm just going to touch on a few topics that came
10 up with the Judges and one with the Prosecutor. Okay?

11 Just going back - and this is in no particular order - you
12 talked, in response to some questions by the Judges, about the
13 meeting in Junik near the Albanian border with Ambassador Richard
14 Holbrooke. Do you recall that?

15 A. Yes, I explained that meeting which took place in Junik in June
16 1998 at the headquarters of the KLA in Junik with Hajdin Abazi. I
17 explained that at that moment he toured the armed forces, which were
18 with uniforms, armed, and he observed that there was a liberation
19 army and not what the Serbs called us before that, a terrorist
20 organisation, a religious organisation, and so forth.

21 Q. Now, just to clarify, something that you had briefly touched on
22 was that the Junik garrison, if you will, was well supplied because
23 it was near the Albanian border with uniforms, weapons, et cetera;
24 right?

25 A. Yes, it was easier for them to provide themselves with uniforms

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1 and weapons because the terrain was better in that part.

2 Q. I'm sorry. My apologies for interrupting. So this meeting in
3 Junik I believe you told us also took place in June 1998; is that
4 right?

5 A. Yes, that's right.

6 Q. Now, you're not -- your testimony here is not that throughout
7 the rest of the KLA that they were well armed and well uniformed and
8 have weapons in June 1998, are you?

9 A. Not all parts of the KLA were equally armed or uniformed. There
10 were lacks of uniforms and weapons. But we were talking about this
11 particular event at this particular location.

12 Q. And I understand you, sir. And at this point, I think you told
13 us, without going into this, that you were in a period of forming
14 your battalion in Budakove, and the -- obviously the Pashtrik
15 operational zone as we knew it didn't come into effect until late in
16 1998, into 1999; is that right?

17 A. The zones, all of them, were created towards the end of 1998 and
18 beginning of 1999, especially in January 1999. Until the end of
19 1998, they were at the level of battalion, and then turned --
20 transformed into level of brigade, and then the zones were created.

21 In some areas, there were subzones because they did not comprise
22 more than three brigades. But in our area, that was possible because
23 at the beginning we had five brigades and at the very end we had
24 seven brigades.

25 Q. And just move to your establishment of the operational zone in

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1 Pashtrik. We're talking about, for instance, Drini coming in --
2 Commander Drini coming in in December 1998 and then staying in as
3 head of the operational zone commander into the early months of 1999;
4 is that right?

5 A. Yes, that's right.

6 Q. And prior to him leaving Albania or the Albanian-Kosovo border,
7 he had nominated Mr. Qadraku as his intel head, intel chief; right?

8 A. No, the other way around. Before you enter Kosovo from Albania,
9 not before they went there.

10 Q. I stand corrected. And my apologies on the flipping of those.
11 But Drini, in fact, he was the one that nominated Qadraku and brought
12 him in as his intel chief; right?

13 A. Yes, but he was given the decision after he entered Kosovo in
14 January.

15 Q. I understand. And you didn't see any documents where that
16 decision by Drini putting Qadraku in that position, you didn't --
17 have seen any documentation from the General Staff approving that,
18 have you?

19 A. I didn't see any, but this was public knowledge for us in the
20 zone. G2 was very important. G1 was administration personnel.
21 Before G1 and other Gs, the G2 was appointed. That was the first of
22 all the other Gs, and Qadraku was appointed within G2.

23 Q. And he was appointed to the head of G2 by Commander Drini,
24 wasn't he?

25 A. G2. At the zone level. G2.

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1 Q. I want to touch a couple of topics, and I'm going to shift gears
2 here a bit. And you were asked some questions by Judge Mettraux
3 about Blerim Kuqi. And the document that I believe you were shown by
4 Judge Mettraux was SPOE00248507.

5 MR. KEHOE: I believe that's it. Excuse me, it is -- and I
6 believe that's SPOE00232264. My apologies. If we can put that on
7 the screen, I'd appreciate it.

8 Q. Now, this is a document that you've testified that you've never
9 seen before concerning Blerim Kuqi. But if we can go to the second
10 page, in the top paragraph, if we can, can you see that part that --
11 in the English, it's approximately -- or it's about three lines down,
12 and I believe it's four lines down in the Albanian. And it reads
13 that:

14 "On 11.09.1998 ..."

15 Do you see that, Witness, where that is?

16 "... 11.09.1998, following the enemy offensive in the Pashtrik
17 operational zone, he," talking about Blerim Kuqi, "dispersed Brigade
18 123 being its Commander and together with a number of soldiers,
19 without a permit from the KLA General Staff fled to ... Albania, and
20 with this action seriously affected the soldiers military morale by
21 dropping their weapons and ammunitions, spreading fear, disorder and
22 confusion among [the] soldiers."

23 Now, putting aside the document, Witness, it is a fact, is it
24 not, that Blerim Kuqi deserted his post in the face of a Serb attack
25 in September 1998, didn't he?

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1 A. It is realistic, except for that date. It cannot be
2 11 September. The great Serb offensive took place between 22nd and
3 24th August, and they - those that you named - deserted during this
4 offensive. I think that 11 September as a date is a late date. I
5 don't know how it came to appear in this document.

6 The offensive took place in August, and he was not in Kosovo
7 after that battle. I was the commander of the brigade, and his last
8 message to me was: Take care of the civilians. They're unprotected.
9 Do something with the internationals, with the
10 International Red Cross. Explain to them that they are at risk, they
11 run the risk of being massacred. And that was the last I heard from
12 him. So he hadn't been there as of 24 August. Although this date
13 appears in this document, this is how I know that the events
14 happened.

15 Q. If I may. So this -- his desertion took place between 22nd and
16 24th August; is that right?

17 A. That's right.

18 Q. And with his desertion, the 123rd Brigade and members of the
19 123rd Brigade also fled to Albania with him in the face of this
20 aggression by the Serbs; right?

21 A. The entire 123 Brigade staff left together for Albania.

22 Q. And they deserted and went to Albania?

23 A. Well, since they left the battle, you cannot call it the other
24 way. Although it was a liberation, voluntary-based army, when you
25 leave, abandon battle, it's called desertion in military terms.

1 Q. Let me shift gears a little bit, and I would like to just talk
2 to you about a list that you were questioned about by the Prosecution
3 and I believe also by Judge Mettraux.

4 MR. KEHOE: And that would be P711 MFI. This is the list of
5 individuals that was referred to by Judge Mettraux. If we can put
6 that on the screen.

7 Q. Do you recall this -- this document being discussed in your
8 testimony both prior to court and also with Judge Mettraux? Do you
9 remember this, sir?

10 A. I think I saw this document yesterday. I did not see it before
11 that.

12 Q. Well, I do believe that the SPO showed you this document as
13 well, did they not, prior to your testimony here?

14 A. It could be, but I don't recall that. I remember seeing it
15 yesterday.

16 Q. And this document, sir, when you were discussing this document
17 with the SPO, did they ever tell you that they had -- that this
18 document came from the Serb authorities? Did they tell you that?

19 A. No, I don't think I've seen this document before yesterday.

20 Q. Well, what I'm asking you is where this document came from. Did
21 the SPO tell you that they understood that this document has been
22 received from Serbian authorities? Did they tell you that before
23 they asked you any questions about this?

24 In other words, the SPO are saying this document came from the
25 Serbs.

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1 A. No, counsel. I did not see this document. There's no
2 addressee, no date when it was received, and I cannot speak about it
3 because I don't know any of the names on it.

4 Q. Okay. And putting aside the names, though, did anybody from the
5 SPO tell you, when they showed you this document, that this document
6 came from the Serb authorities? Did they ever tell you that?

7 A. I already told you that this document was not shown to me. If
8 I've ever seen it, that was yesterday. Not before that.

9 Q. We'll move on, sir. Let me show you a document that, in fact,
10 you were shown by the SPO, and that is 1D71.

11 Now, this was a document that -- I'll wait till it comes up.
12 This was a document that was shown to you by the SPO, and you said
13 that you don't think this is a -- and this comes from your
14 preparation note on 10 November and preparation note by the SPO
15 paragraph 12, Preparation Note 2. You maintained that you didn't
16 think that this was a valid order since the order is from the
17 General Staff and cannot be signed by or for Drini. You did not
18 think there was a General Staff meeting on 5 January as referred to
19 this document as he was in the J1 in the General Staff at the time.

20 Do you recall saying that to the Prosecution?

21 A. Yes, this is what I said based on the structure of the document.
22 It doesn't resemble a General Staff document. And the signature on
23 behalf of Ekrem Rexha, the name of Ekrem Rexha appears there but
24 Sylejman Kollqaku signed on his behalf. He was there for some time
25 and left later. But this document has not been compiled by the

1 General Staff.

2 THE INTERPRETER: Interpreter's note that the interpreter did
3 not hear the position of the person that the witness mentioned.

4 MR. KEHOE: I'm sorry, Judge. I'm not sure I --

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 We're not sure what exact person you're mentioning.

7 THE INTERPRETER: The position of Mr. Kollqaku. The witness
8 mentioned it, but the interpreter did not hear it.

9 MR. KEHOE:

10 Q. And did you say something about the position of Mr. Kollqaku?
11 Because there was some interpretation gap. Our apologies.

12 A. Yes. At the end of the page, we see the name Ekrem Rexha,
13 Commander Drini. However, the signature is of Sylejman Kollqaku, who
14 signed on behalf of Ekrem Rexha. He was deputy commander of the
15 Pashtrik operational zone at the time, and he was not authorised to
16 sign documents on behalf of Ekrem Rexha, let alone on behalf of the
17 General Staff.

18 Q. Well, the preliminary paragraph notes it's talking about a
19 meeting at the General Staff of 5 January 1999. Do you see that?

20 A. Yes, I do. I saw that. And I said it before as well, there was
21 no meeting, because I was at the General Staff. If there was a
22 meeting in another place, I can't tell. But speaking about the
23 General Staff, there was no meeting held there. I'm not aware of any
24 meetings being held there.

25 Q. And the Prosecution showed you a document, which is SPOE00226468

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1 and 69.

2 MR. KEHOE: If we could put that on the screen.

3 THE COURT OFFICER: Can we have the number again?

4 MR. KEHOE: It's SPOE00226468. It was the document that was
5 used by the Prosecution. They had put it on their queue in redirect
6 examination. It had not been on their queue initially.

7 MR. PACE: Just in case it can assist. I'm looking at the
8 transcript. The first document I put to the witness in this context
9 is -- and I'm not sure that's the one Mr. Kehoe wants, is
10 SPOE00227677 and then I turned to page 678, but I'm not sure if
11 that's the same one.

12 MR. KEHOE: I'm just reading what they gave us which is the --
13 these numbers are flying around, Judge. I'm just reading the number
14 at the top of the page. It's all I can do.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Can we look at the one Mr. Pace just now indicated. Is that the
17 one?

18 MR. KEHOE: I'm sorry?

19 THE WITNESS: [Interpretation] That's the same document. It's
20 the same document.

21 MR. KEHOE: Yes.

22 THE WITNESS: [Interpretation] It's the handwritten document.

23 MR. KEHOE:

24 Q. This is some type of notes with an agenda. Now, if there was a
25 meeting -- look at the reporting down. You see names down there? If

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1 there's -- if --

2 A. Yes, yes.

3 Q. If there's a report of a meeting on 5 January, and you, at this
4 point, I take it, are in J1 on 5 January, you're not invited or
5 you're not there, are you?

6 A. They should have invited me because Adem Grabovci was not there.
7 It was myself instead. But I don't know if this meeting took place
8 in another facility, because there were other facilities as well.
9 But when it comes to the General Staff, I'm not aware that such a
10 meeting took place there.

11 Q. And -- and --

12 A. And I was not attending it for sure.

13 Q. And Adem Grabovci at this point is gone, isn't he?

14 A. He was away. I don't know where he went, but he was not there.

15 Q. He was away, I take it. Okay. But also on this list, there was
16 no Hashim Thaci listed either.

17 A. No, he's not there.

18 Q. Okay. And this --

19 A. He's not mentioned.

20 Q. And this is the point where I believe that you had testified
21 previously during this entire timeframe from November to March where
22 Hashim Thaci was the face of KLA diplomacy throughout the world,
23 wasn't he?

24 A. He contacted the war territories as well. From what I know, he
25 contacted with Hill and many other persons such as, for instance,

1 Tina Kaidanow and other diplomats that came to visit us. I mean, he
2 has contacted other persons in my area in Dragobil as well.

3 Q. But during the period from November through March, he is out of
4 the country meeting international leaders, isn't he?

5 A. In particular, after the Rambouillet, he was abroad most of the
6 time. That is from 8 February, if I'm not wrong. But from
7 8 February onwards, he constantly was not in Kosovo. But I've not
8 seen him before either. During the time that I was at the
9 General Staff, I have not seen him.

10 Q. So the entire time you're at the general --

11 PRESIDING JUDGE SMITH: Mr. Kehoe, this has to come from the
12 questions the Judges raised.

13 MR. KEHOE: Yes, Your Honour.

14 PRESIDING JUDGE SMITH: This is a little outside that.

15 MR. KEHOE: I'm just ending right now.

16 So, actually, Judge, what I had said and reserved prior to that
17 was a re-cross on this particular document that had not --

18 PRESIDING JUDGE SMITH: Yeah, but this isn't on that document.
19 You already established he wasn't there. That's --

20 MR. KEHOE: That's fine, Judge.

21 Q. So at this point, sir, you never saw Hashim Thaci at the
22 General Staff, did you?

23 A. I told you that I saw him in Budakove once, and, coincidentally,
24 I met him another time in the yard of the staff in the spring. So I
25 saw him in distance. I saw him from further afield than I can see

1 you right now. I've seen him two times in total during the wartime.

2 Q. And that was during --

3 PRESIDING JUDGE SMITH: This material has already been covered
4 before.

5 MR. KEHOE: Yes, Your Honour. Yes, Your Honour.

6 Q. But that's in the spring and summer of 1998, not between the
7 latter part of 1998 and 1999, was it?

8 A. In 1998. 1998.

9 Q. Thank you very much.

10 MR. KEHOE: No further. Nothing further, Judge.

11 PRESIDING JUDGE SMITH: Thank you.

12 Mr. Roberts.

13 MR. ROBERTS: Thank you, Your Honour. Just five or ten minutes,
14 I think.

15 Further Cross-examination by Mr. Roberts:

16 Q. Good morning, Witness. I just have a couple of follow-up
17 questions from some questions that Judge Barthe asked you yesterday
18 morning, and I'll just quote from the transcript to make it easier
19 for you to understand.

20 So this is at page 10 -- sorry, 10409, and it was about
21 Mr. Selimi being replaced in the General Staff. And your answer was:

22 "I am convinced that somebody must have replaced him there, but
23 I do not know who was that person. I don't have such information."

24 And then there was a discussion about which Selimi you were
25 referring to, and then you clarified:

1 "To my knowledge, Rexhep Selimi was minister of public order in
2 the provisional government, and I do not know if somebody replaced
3 him at the General Staff or if his position was left vacant."

4 Do you recall that evidence from yesterday morning?

5 A. I have nothing else to add.

6 Q. If I was to suggest that Shaban Shala may have replaced him as
7 inspector general, would that help you to recall?

8 A. He was with the TMK. He might have as well been with the KLA.
9 I'm talking about Shaban Shala. That's all I know. I don't know
10 that Shaban Shala was with the KLA. I've said that before.

11 Q. Okay. And just as a connected question, in response to another
12 question from Judge Barthe, you -- and also, actually, questions that
13 I had asked you before in relation to a couple of visits from
14 Mr. Selimi to the Pashtrik zone. I think your answer that you gave,
15 and this is at transcript page 10406:

16 "Judge Barthe: You just said that it is your conviction that
17 he," referring to Mr. Selimi, "conducted routine visits and gathered
18 information about the overall situation. My question is how do you
19 know that? Because he wasn't there. You just met him once; right?

20 "A. I think that -- I haven't come across any document, any
21 report proving that he conducted any inspections. This is why I
22 deducted, and this is my opinion, that his visits were routine
23 visits."

24 Do you recall that question and answer?

25 A. I do recall the question and the answer. And that's the truth.

1 It was my opinion, my perception. I think that he was having routine
2 visits, spontaneous visits, and was asking what the situation was
3 like. It was normal for the commanders, for the superiors. That's
4 what I think.

5 Q. Just to be clear, it's that word "routine visits." And I think
6 you corrected it there when you said "spontaneous visits." Because
7 when you say "routine," you don't mean regular, do you? Because you
8 only saw him once in the Pashtrik zone.

9 A. The right word is "spontaneous." It's true, though, that I
10 mentioned the word "routine," but I correct myself. I don't know how
11 relevant that is. But, yes, you are correct. So those were
12 spontaneous visits rather than routine ones.

13 But I have not seen any reports about the inspections that he
14 has conducted like the usual inspectors would do. I haven't seen
15 anything like that.

16 Q. And just on that point, he didn't introduce himself as inspector
17 general - I think you confirmed that the other day or two weeks ago
18 when I spoke to you - on that one time that you met him. That's
19 correct, isn't it? Sorry. If you could just respond "yes" or "no"?

20 A. That's true. I knew him because of his brother, Ramadan
21 Selimi --

22 Q. Sorry to -- sorry to --

23 A. -- and I knew him as Rexhep Selimi not as an inspector general.

24 Q. Sorry to cut you off. I just want to get through your questions
25 as quickly as possible. And, obviously, him not introducing himself

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1 as inspector general would be consistent with him not occupying that
2 post at that time, which would be April and May 1999. That's
3 correct, isn't it?

4 MR. PACE: Objection, Your Honour. That's not a question for
5 the witness. It's argument.

6 PRESIDING JUDGE SMITH: It's also speculative, and you've
7 decided how he came up with that information. So that's not a proper
8 question.

9 MR. ROBERTS: I'll withdraw it, Your Honour. Thank you.

10 Q. No more questions, Witness.

11 A. To me, he was not introduced as such.

12 PRESIDING JUDGE SMITH: Witness -- Witness, the question was
13 withdrawn.

14 MR. ROBERTS: Thank you, Your Honour. That was my last
15 question.

16 PRESIDING JUDGE SMITH: Ms. Alagendra.

17 MS. ALAGENDRA: Your Honours, we have no questions for the
18 witness, but we have one outstanding matter, tendering two pages of a
19 document that was shown to the witness on 16 November.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 MS. ALAGENDRA: The reference is SPOE0026714 and 715, shown to
22 the witness on 16 November. And the transcript reference would be
23 10341 and 10342.

24 MR. PACE: No objection to that. I believe those are pages, if
25 it assists, from SPOE00226697. No objection to the pages shown --

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1 MS. ALAGENDRA: That's correct.

2 MR. PACE: -- shown to the witness. And while we're on this
3 matter, I also have one document that I would like to raise with
4 Your Honours.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 MS. ALAGENDRA: The two specific pages I wish to tender,
7 Your Honours, is 226714 and 226715.

8 PRESIDING JUDGE SMITH: 714 and 715 will be admitted.

9 MS. ALAGENDRA: Thank you.

10 PRESIDING JUDGE SMITH: And assigned an exhibit number.

11 THE COURT OFFICER: Your Honours, those pages will be assigned
12 Exhibit 4D14.

13 MR. PACE: Thank you, Your Honour.

14 So my submission is in relation to the admission of what has now
15 been MFI'd as P711. Your Honours MFI'd it and you said you would be
16 returning to it at a later date. I just wanted to check whether you
17 have such ruling or you still need more time in that regard.

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. KEHOE: Well, yes, Judge. I mean, obviously, nothing has --
20 it's even gotten worse in the fact that this witness, despite all
21 this questioning, knows nothing about this. I mean, this is -- this
22 is a document that apparently came -- didn't apparently. The SPO
23 said it came from the Serbs. They admitted it in an e-mail to us
24 which we can provide to the Court on -- or the e-mail is, in fact, on
25 the 11th of -- excuse me, 3 November 2022.

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1 PRESIDING JUDGE SMITH: The Court Usher will now provide you
2 with the text of the solemn declaration that you are asked to take
3 pursuant to our Rule 141(2). You may look at the document and then
4 read it aloud.

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

9 WITNESS: SANDRA MITCHELL

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

11 Witness, today we will start your testimony, which is expected
12 to last two to three days. As you may know, the Prosecution will ask
13 you questions first. Once they are done, the Defence has the right
14 to ask questions of you, and members of the Panel may also ask you
15 questions.

16 The Prosecution estimate for your examination is three and a
17 half hours. The Defence estimates that it will need 11 hours. As
18 regards each estimate, we hope and urge counsel to be judicious in
19 their use of the time allotted. The Panel may allow redirect
20 examination if conditions for it are met.

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

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1 be asked about.

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

6 Please also speak into the microphone and wait five seconds
7 before answering a question, and speak at a slow pace for the
8 interpreters to catch up.

9 Witness, during the next days while you are giving evidence in
10 the Court, you are not allowed to discuss the content of your
11 testimony outside of the courtroom with anyone until you have
12 finished giving evidence. If any person asks you questions outside
13 the Court about your testimony, please let us know immediately.

14 Please stop talking if I raise my hand or ask you to stop, which
15 means that I need to give you an instruction.

16 If you feel the need to take breaks, please make an indication
17 and an accommodation will be made. Understand?

18 THE WITNESS: Yes, sir.

19 PRESIDING JUDGE SMITH: Thank you. We will begin with the
20 Prosecution, who are seated at your left.

21 MS. MAYER: Thank you, Mr. President.

22 Examination by Ms. Mayer:

23 Q. Good morning, Witness. You and I have met before, but I'll
24 reintroduce myself. My name is Deborah Mayer, and I will be asking
25 questions on behalf of the SPO.

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1 Can you please state your full name for the record.

2 A. Sandra Lynn Mitchell.

3 Q. And your date of birth?

4 A. 2 May 1962.

5 Q. And your nationality?

6 A. American.

7 Q. I'd like to ask briefly if you can tell the Panel about your
8 educational and your professional background. So if you can start
9 with your educational background, briefly.

10 A. I have an undergraduate degree in business administration and
11 accounting, and I have a Juris Doctor degree in law. I initially
12 practiced criminal defence law and also clerked for the Supreme Court
13 of the state of Oklahoma. I then practiced bankruptcy law, mainly
14 for bankruptcy trustees in liquidation and reorganisations. And then
15 I subsequently began an international career first in Bulgaria with
16 the American Bar Association doing rule of law reform, judicial
17 reform. And then I moved to Bosnia in the late 1990s and did human
18 rights work and election work. And then worked for the OSCE in
19 Poland and subsequently Kosovo.

20 Q. It's that time in Kosovo that I'd like to focus on now. And
21 tell us how your work in Kosovo started, including prior to entering
22 Kosovo, so how it is that you got started working related to Kosovo.

23 A. I was -- excuse me. I was working as a rule of law adviser for
24 the OSCE's Office for Democratic Initiatives and Human Rights in
25 Warsaw, Poland. That was during 1998, the first part. During the

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1 summer, OSCE began discussions on launching a peacekeeping or
2 cease-fire operation in Kosovo, and I was deployed to the Vienna
3 headquarters of the OSCE to assist in designing the human rights
4 component of that mission.

5 Q. And briefly, if you can tell us what were the types of things
6 that you were doing when you were in Vienna designing the human
7 rights part of the mission?

8 A. We were, of course, looking at the mandate that was given, which
9 was to document what was happening to the civilians in Kosovo. That
10 required determining which international and domestic laws were at
11 play, as well as what the initial tasks of the department would be,
12 how it would be staffed, and what type of staffing would be required.

13 Q. And did there come a point after this development phase that you
14 actually moved into Kosovo?

15 A. Yes, I was then deployed to Kosovo as part of the start-up
16 operation, to assist on the ground with the staffing as new staff
17 were coming in and standing up the department with regards to tasks,
18 documentation requirements, and day-to-day activities.

19 Q. Was there a name for this mission that you were part of as you
20 were entering Kosovo? You said it was part of the OSCE, but was
21 there a specific component that you were working for?

22 A. It was the Kosovo Verification Mission with the acronym KVM.

23 Q. And then within that, you mentioned that your focus was the
24 human rights work. Was that a subdivision or a component of the
25 larger KVM operation?

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1 A. The KVM operation was set up as part of an agreement between the
2 OSCE and the Yugoslav government or the Serbian government. And its
3 mandate was to monitor a cease-fire between the Kosovo Liberation
4 Army, the KLA, and the Yugoslav and Serbian forces, as well as
5 incorporating other OSCE requirements for all member states such as
6 human rights monitoring.

7 Q. So within that KVM mission, it included human rights. Was there
8 actually a division or a department that was ultimately set up as
9 part of the KVM's mission to focus just on human rights?

10 A. Yes, it was. It initially was a small department. But at the
11 time of the evacuation, I think we had about 75 employees.

12 Q. Okay. I want to stick with the beginning time. Approximately
13 when is it that you moved in from Vienna and started to be setting up
14 the team in Kosovo with the KVM?

15 A. I was in Vienna over the summer, and I think I deployed to
16 Kosovo in end of October, November. I was -- I forgot the rest of
17 your question. I apologise.

18 Q. That was really it.

19 A. Okay.

20 Q. It was the timeframe. But keeping on with that, tell us -- tell
21 the Panel, if you will, when you first came in, about how many were
22 there with you, and what were the first steps that you took when you
23 first arrived in Kosovo?

24 A. Thank you. The KVM had also absorbed diplomatic observation
25 missions, so there was already staff on the ground that had been

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1 working in the areas and knew the areas. We absorbed a few of those
2 staff members. If memory serves correct, maybe eight or nine. And
3 then we were receiving seconded staff from member states of the OSCE.
4 And where possible, we were asking people to identify their interest
5 in human rights, their experience in human rights. A lot of these
6 would have been police people or retired police people who would have
7 had the skills to do those types of investigations.

8 Q. So when you first come on the ground in sometime around late
9 October, early November timeframe, and you're absorbing these
10 observers that were already there and you're also getting new staff
11 in, what was your position at the time?

12 A. I was at some point made the director of human rights, reporting
13 to a German diplomat named Bernd Borchardt and also to Ambassador
14 William Walker. My responsibilities were in making sure staff were
15 properly deployed, that they had accommodation, that they understood
16 their responsibilities. Introducing them to wherever they were being
17 deployed. And then also being in touch, sometimes on a daily basis,
18 depending on the events, as to what was happening in their areas of
19 responsibility, getting documentation, providing feedback.

20 Q. And you mentioned Ambassador William Walker. What was his
21 position at the time?

22 A. Ambassador Walker was the head of the Kosovo Verification
23 Mission.

24 Q. And as part of your work, you mentioned that you reported to --
25 you identified two people, but that Ambassador Walker was one of

1 them. Did you report directly to him on certain matters?

2 A. I did. Bernd Borchardt was very easy to work with, and so it
3 was very common to report to him or to Ambassador Walker, whoever was
4 available at the minute.

5 Q. Going back to your role and your team, you mentioned a few
6 things about the kind of things you would do for staff. I want to
7 just unpack that a little bit. When you were first setting up, you
8 mentioned that the mission was -- part of it was monitoring a
9 cease-fire. Can you describe what the human rights department that
10 you were the director of, what was the vision for what your group
11 would be doing?

12 A. When I arrived in Kosovo, it was a state of armed conflict. It
13 was a military occupation. There were Serbian tanks, heavy military
14 presence in Prishtine, snipers around, many soldiers pointing guns
15 with little red lights, and that was common throughout the territory.
16 Our role was to monitor the condition and the treatment of civilians,
17 so we focused primarily on the responsibilities of the Serbian and
18 Yugoslav government at the time as a member state of the OSCE.

19 They were certainly creating overwhelming human rights tensions
20 and aggravations in the province. We also looked at the behaviour of
21 the Kosovo Liberation Army primarily relating to people that were
22 missing, access through their territory and to detainees.

23 Q. You mentioned, again at the outset, with your staff, when they
24 would come in, getting them assigned to different roles. And not
25 only making sure they had what they needed to be living there, like

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1 housing and things like that, but also overseeing the work.

2 Can you just briefly describe what the structure of the human
3 rights department was like? Who was working in that department? And
4 an overview of what the responsibilities were for each of the staff,
5 in general terms.

6 A. So there was myself. There was a deputy director, sometimes
7 called a field coordinator. There were five regional offices at the
8 time. Do you want me to name them?

9 Q. Sure.

10 A. So we had one in Prishtine, in Mitrovice, in Peje, in Gjilan,
11 and in Prizren. These were large regional offices that sometimes had
12 a hundred or more staff. They all had a senior human rights officer.
13 And then other human rights officers, as they were deployed, were
14 assigned to them.

15 Some field -- some regional offices also had field offices. In
16 Prizren, for example, there was a significant presence in Rahovec, so
17 field staff would have been deployed there as well.

18 Q. And under the supervision of the senior human rights officers in
19 these offices that you've described, what type of work would occur?
20 What -- kind of on a day-to-day, what would a typical human rights
21 officer fieldwork consist of?

22 A. A lot of the work would have consisted of trying to get access
23 to detainees. These would have been people that were detained by
24 Serbian forces. Family members distraught, looking for missing or
25 people that had been taken by the police. We were also doing a fair

1 amount of trial monitoring. At the time, there was a lot of
2 "terrorism" cases being tried by the Serbian authorities in the local
3 courts, so we were looking at those.

4 There was access to hospital care, access to police, judiciary,
5 public services, these types of things that were predominantly at
6 that time controlled by the Serbians, and Albanians were having very
7 difficult times getting access at times. So these were the types of
8 day-to-day things that we were dealing with. Busses, checkpoints,
9 any kind of movement issues as well.

10 Q. And as part of this, you mentioned, I think earlier, some
11 reporting. Was there a typical way that the folks on your team would
12 document their activities in reporting with daily reports, weekly
13 reports, situation reports? Can you explain that part of it?

14 A. Every day a regional office would send in a sitrep, a situation
15 report to the headquarters in Prishtine. There would be a segment in
16 that for human rights reporting. At times, we would also get a more
17 in-depth human rights report. If there had been a critical incident
18 that they were reporting on, killings or something of this nature,
19 those would come in as well. And then at the week -- at the end of
20 the week, we would have a weekly report that we would then compile,
21 and that would give an opportunity for a little bit more analysis on
22 what was going on in a particular region as well as across the
23 province.

24 Q. And in addition to these written communications that you had
25 between the field and other offices, the headquarters, did you also

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1 have meetings; and, if so, can you describe generally what your
2 meeting structure was?

3 A. Yeah, I -- myself or my deputy, Susanne Ringgaard, would be out.
4 Kosovo was a small place. It was not uncommon to be out every day,
5 every other day, for part of the day, going to one of the regional
6 centres or to one of the field offices, following up on a particular
7 report that had happened or assisting the regional director in
8 meetings with local authorities in that particular area over
9 something that may have happened.

10 We would also meet with the local offices, the OSCE offices,
11 explain what we were doing, try to develop better procedures as the
12 mission was moving forward.

13 Q. Would you also have meetings sort of up the chain of command to
14 keep information flowing about what was going on the ground, up to
15 Ambassador Walker?

16 A. Sure. I attended a monthly -- excuse me, a morning briefing
17 that was conducted with the senior staff and Ambassador Walker, or
18 whoever the head was at that particular time, and the events of the
19 last 24 hours would be reviewed as well as the ambassador would be
20 keen to know what were the expectations for the upcoming day, the
21 upcoming 24 hours - where were people going, what was the priorities
22 being set. So these were very operational meetings. Maybe they
23 lasted 35 minutes, 45 minutes, something like this.

24 And then, of course, there would be *ad hoc* meetings that would
25 come up, briefings for people in Vienna. Access to Kosovo was

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1 somewhat restricted, so there was a lot of phone conferences with
2 delegations as well as NGOs and others in the human rights and
3 humanitarian field. We would also meet with local representatives on
4 the ground, ICRC, UN reps, NGOs, et cetera, again to exchange
5 information.

6 Q. And now you've mentioned some outside groups in addition to KVM
7 and OSCE. Would you also share information -- for the people that
8 were not in the country or people outside the organisation, would you
9 share any of those written reports that you mentioned? So these
10 sitreps or daily or weekly reports, would you ever share those beyond
11 just the KVM team in the country?

12 A. Prior to the evacuation, I think it only party that my
13 department would have been sharing information with would have been
14 ICTY. Judge Arbour at the time was trying to gain access to Kosovo
15 and was having great difficulty, so we were exchanging information
16 with her.

17 Other parts of the mission may have been sharing information
18 with a NATO Extraction Force that was based in Macedonia as well as
19 diplomatic missions in their capital cities.

20 Q. Would you share the information within OSCE for people that were
21 not in Kosovo?

22 A. The OSCE itself was -- is an intergovernmental agency, so
23 reports that were coming from the KVM would have been shared with
24 all. I think there were 54 member states at the time and would have
25 been shared with those member states. There may have been some other

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1 international organisations that may have received information in the
2 form of those reports, ICRC, the UN, et cetera, that were given
3 status by the headquarters.

4 Q. You mentioned that one of the things that your work involved was
5 focused on detainees or individuals that were missing. So I want to
6 talk about that now.

7 First off, how would you learn -- either you personally or your
8 team, how would you all learn about individuals being detained or
9 being missing?

10 A. This was an issue of enormous stress for the population across
11 Kosovo, really, at that time. So local political leaders would tell
12 us of the missing. Family members would come to the office and want
13 to report missing family members. They may have been very frustrated
14 because they've been bounced around to different international
15 organisations. We may also -- and when we were in the villages, we
16 would hear from the village representatives about people that were
17 missing or that were detained. So there was a lot of information at
18 the time coming directly from the civilian population.

19 Q. And when you say "the missing" or "the detained," what was your
20 understanding or what were the kinds of reports that you were getting
21 about where these people were? When you say "missing," like, what
22 was -- give us an example, if you can, of the kinds of things that
23 you were hearing that led you all to believe that these people either
24 were detained or were somehow unaccounted for.

25 A. I put them in two categories. One would have been Kosovo

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1 Albanians who open the door one day and there was a Serbian police
2 officer there, wanted information, took a family member to the police
3 station presumably, perhaps never to be seen again or contacted. So
4 the impression there was that they would have been detained by the
5 Serbian police.

6 Then there would be cases where there may have been fighting in
7 a particular area and someone never came home. In that case, they
8 would probably be classified more as missing.

9 Then there were cases later, not in October, November that I
10 remember, but once we'd been there a few months, a few weeks, of
11 people being detained by the KLA. We may have heard from the Serbian
12 police, for example, that they had police officers that they believed
13 were detained or in the custody of the KLA.

14 Q. I want to focus on that last part that you told us which is when
15 you started to learn that there were detainees or individuals that
16 had been taken by the KLA. First of all, did you use any other terms
17 for the KLA? Did you understand that there was another name or
18 acronym for the KLA?

19 A. Yes, and I may use them interchangeably, the Albanian acronym
20 UCK.

21 Q. So you mention that after you had been there for a few months
22 you started to hear of these -- of potentially detainees for -- by
23 the KLA, and you mentioned the example of Serbian police coming to
24 you. Did you ever get reports of information from citizens, not
25 police or VJ, about detainees, where there were reports that the KLA

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1 had taken these individuals?

2 A. Yes. Particularly in those areas where the KLA was operational
3 and had a perimeter, so they actually secured the land and secured
4 the territory and one would have to access through checkpoints to go
5 into that territory. We used to call these no-go areas for the
6 Serbian forces except when they would, perhaps, mount a frontal
7 attack. But for the most part, these were areas that were secured by
8 the UCK.

9 And we would hear where they were doing policing in those areas,
10 trying to provide some sort of a government, quasi-government
11 administration. And as part of their policing duties, they would
12 arrest criminals, and then they would arrest also people that they
13 deemed as collaborators.

14 PRESIDING JUDGE SMITH: Madam Prosecutor, we need to take the
15 morning break.

16 Witness, we have a break scheduled at 11.00. We will be back in
17 a half hour. The Court Usher will escort you out of the courtroom.

18 THE WITNESS: Thank you.

19 PRESIDING JUDGE SMITH: Remember not to speak to anybody about
20 your testimony outside of the courtroom.

21 THE WITNESS: Yes, sir.

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: So we're adjourned until 11.30.

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

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

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

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. Witness, we will continue
5 with the direct examination.

6 Madam Prosecutor.

7 MS. MAYER: Thank you, Your Honour.

8 Q. Witness, when we left off, we had just started talking about
9 detainees by the KLA. You had mentioned before the break that one of
10 the examples you gave us was an individual having someone come to
11 their door, take them to a police station, and then they were
12 presumed to be detained.

13 Did you ever have reports of that when it came to the KLA being
14 the individuals or the entity that showed up and took a person with
15 them and detained them?

16 A. Yes.

17 Q. Can you give us an example of the kind thing that -- a report
18 that you would hear about that would fit that description?

19 A. Again, these were often in areas that were controlled by the
20 UCK, where you didn't have the Serbian authorities in place. And
21 there would be instances where we would receive information from
22 family members that men dressed in black with an UCK insignia had
23 come and knocked on their door and asked to take a brother, a father
24 for an informative talk, and they would go, and they would be
25 questioned by the UCK.

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1 Q. This phrase, "informative talk," was that a term of art, as you
2 understood it, that was something that the UCK had said when they
3 came to take a person?

4 A. Yeah, "informative talk" is a phrase that was used commonly
5 throughout the Balkans for when police or authorities came to
6 question somebody and take them to the police station. It was termed
7 "an informative talk."

8 Q. Had you also received reports where some -- an individual would
9 receive an summons or a notice of some kind, a written notice telling
10 them they had to report to the KLA in order to answer questions?

11 A. Sometimes. Less frequently, but sometimes.

12 Q. And in these instances, if you can tell the Panel were there
13 times where you would get reports of detainees and then learn that
14 they had been released?

15 A. Yes, absolutely. That was one of the things that we were always
16 trying to do, both with the Serbian authorities and with the KLA, was
17 to try to understand why people were being detained and questioned
18 and what was happening to them.

19 So, yes, we would get reports both from the Serbian authorities
20 where successful negotiations had obtained the release of usually a
21 police officer, and then also from family members, where people would
22 be detained and then they would make their way home in some fashion.

23 Q. And was the OSCE ever involved, to your knowledge, in
24 negotiations about the release of detainees?

25 A. The OSCE was often involved in negotiations regarding the

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1 release of Serbian police and military forces. We may have been also
2 involved in some of the civilian releases, but the ones that really
3 stand out were with regards to the MUP and the VJ.

4 Q. And, again, I don't necessarily mean you personally, but are you
5 aware that the OSCE was also involved in negotiations for the release
6 of individuals, as you said, possibly including civilians?

7 A. Yes, absolutely. Myself not necessarily, but members of the
8 regional offices for sure.

9 Q. And I just asked you about whether you were aware of individuals
10 being detained and then released. Were you also aware of reports
11 where individuals were detained and weren't seen again, were never
12 found as far as the family members reported to you?

13 A. Yes, unfortunately. Again, the scale was quite different. The
14 scale, the numbers of people that were detained by the Serbian
15 authorities far exceeded those that were detained by the UCK.

16 Q. Why don't you explain that to us, again, just in terms of scale,
17 and then I'll ask you a follow-up question.

18 A. Again, this would have been during the Serbian occupation, and
19 there was a lot of Serbian security forces in Kosovo, a little
20 postage-stamp country in relative terms. So the Serbian authorities
21 did have a tendency to scoop up young men in particular that they
22 perceived as being members or potential members for the UCK. And
23 there, they would take some of their detainees to Serbia proper. And
24 the numbers there, we never really knew how many. We relied on ICRC
25 to give us those numbers, and those numbers were in the hundreds if

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1 not the low thousand. And then we would also receive information
2 about UCK detention facilities, but these were not standalone
3 facilities in the sense of proper police stations, prisons, things of
4 this nature that a state structure would have. These were much more
5 on village-oriented houses, things of this nature where you had
6 detention facilities.

7 Q. Understanding the difference in scale, I want to focus on the
8 reports that you had of detention by the KLA. And we talked a little
9 bit about people being taken. You mentioned an example of -- for
10 example, and again it was just an example, of individuals dressed in
11 black with the KLA insignia taking a family member.

12 Do you recall ever receiving reports of a similar instance of
13 individuals being taken by KLA from a public place or was it always
14 from a home?

15 A. No, we had -- we saw the UCK do this, take people from the
16 funeral following the Recak killings. So wherever they felt that
17 they had policing authorities, they would behave as police and would
18 detain people.

19 Q. You mentioned Recak. Can you talk to us about what, if
20 anything, happened in January 1999 in Recak that impacted your work
21 regarding detainees by the KLA?

22 A. By mid-January, we had the largest compendium of staff following
23 the holidays, et cetera. Everybody was back in theatre. There were
24 fears of a spring offensive being prepared by the Serbian
25 authorities, which raised the level of tensions throughout the

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1 province.

2 And one of the techniques that the UCK did was to hit a Serbian
3 patrol and ambush a patrol and then withdraw. And then when the
4 Serbians would retaliate, they would often retaliate on the villages
5 surrounding the area of the ambush. They may or may not have had UCK
6 fighters in the subsequent retaliation.

7 In Recak, you had in sort of the days or weeks building up to
8 this particular event, the UCK had taken the high area over one of
9 the supply routes between Serbia and Kosovo that the Serbs were using
10 to move troops and resources back and forth. This was deemed as
11 quite provocative. So there were skirmishes that were building up
12 around these villages, including Recak.

13 Then we received reports -- I don't remember the exact date of
14 the Recak killings, but the night before we started receiving reports
15 of a lot of gunfire in the vicinity of Recak. KVM verifiers went
16 out. They were there in the morning. There was a lot of bodies,
17 40-plus bodies killed, men, I think one woman and a child, killed on
18 the hillside. We -- verifiers took pictures of all of the bodies.
19 Most -- many, many of them had gunshot wounds to the head. These
20 were common villagers. They were not in UCK clothing. The family
21 members we talked to, many verified that these were not, in fact,
22 UCK. And this appeared to KVM, and certainly to Ambassador Walker,
23 as being very brutal, the worst massacre that we had seen in our
24 period in Kosovo at that particular time.

25 This intensified tensions incredibly. There was frustration, of

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1 course, at the Serbian authorities but also at the UCK for pushing
2 these ambushes and knowing that it would precipitate this
3 disproportional response from the Serbian authorities. That had been
4 their pattern and that continued to be their pattern.

5 Q. And so did this event then create a focus within KVM regarding
6 locating and accessing detainees?

7 A. I think what Recak did was it was a paradigm shift for the KVM.
8 Those people that had not necessarily been involved in human rights
9 issues, perhaps not understanding fully what human rights are, became
10 very, very concerned about the rapidly deteriorating situation. This
11 was a massacre that many of us had never seen before. So it did
12 intensify the monitoring of the -- both the UCK and certainly of the
13 Serbian authorities.

14 Q. And understanding that it intensified both, I want to focus on
15 the visits to any detainees held by the KLA. So did there come a
16 point in that timeframe, in the January-February 1999 timeframe,
17 where you personally were involved in trying to access KLA detention
18 sites and to visit KLA detainees?

19 A. Yes, absolutely. There had also been a series of démarches or
20 small protests outside the headquarters in Prishtine by Serbian
21 families wondering where their missing were, as there was a number of
22 Serbians that were missing as well. And Ambassador Walker became
23 very, very concerned about what we perceived -- and it may have been
24 a perception based on the fact that we had more people on the ground,
25 so we were actually -- more information was coming in, so the number

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1 of missing and detainees seemed to be going up. Whether that's real
2 or not, it was the impression that we had.

3 And efforts were then made to -- we had always tried to get
4 detention to the Serbian detainees. I think ICRC was successful in
5 that regard, state-to-state kind of issues. But with the UCK, it was
6 very difficult. So we -- those that were dealing -- the liaison
7 officers to the UCK started pressing for access to detention
8 facilities.

9 And I do remember going to one detention facility in particular,
10 there's notes about it, in early February, mid-February 1998.

11 Q. Before we get there, let me slow you down. You mentioned
12 liaison officers. I think that's the first time you've mentioned
13 those. So can you tell the Panel who these folks are, and when you
14 mentioned they were trying to gain access, explain what you mean?

15 A. Just stepping back. The KVM was a quasi-military type
16 cease-fire operation, so you had a lot of individuals with military
17 experience in the KVM. A lot of brigadier-generals were usually
18 responsible for regional centres. And each regional centre would
19 have had former military officers who they would appoint as liaison
20 officers to the UCK, to the MUP, the Serbian police, and to the VJ,
21 the Serbian army.

22 These liaison officers would establish rapport with their
23 counterparts, they would be three different individuals, and then
24 they would be in constant touch with them about activities, about
25 things that were going on, events in the news. And so those liaison

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1 officers were really our primary inroad to the systems and the chain
2 of command of either the UCK, the MUP, or the VJ.

3 MS. O'REILLY: Your Honour, just before we continue, if we could
4 just clarify, page 56, line 17. I believe the witness meant to say
5 1999 as opposed to 1998.

6 THE WITNESS: I did. Thank you.

7 PRESIDING JUDGE SMITH: Thank you, Ms. O'Reilly.

8 MS. MAYER:

9 Q. So focusing on your -- when you mention that you personally
10 visited -- you recall a visit in February. Do you recall
11 approximately how many times you visited KLA detention sites in the
12 January to February 1999 timeframe?

13 A. It wouldn't have been much. It wouldn't have been many times.
14 I remember that one specifically. The others, frankly, are a little
15 foggy.

16 Q. Understanding that you don't remember the details, do you recall
17 it being approximately five or six times?

18 A. It may have been that, yes.

19 Q. Well, since you recall the one in February in particular, if we
20 can -- let's talk about that. Can you describe for the Panel how
21 that visit was arranged, if it followed the pattern that you were
22 sort of describing with your liaison officers, or what you recall
23 about how it was arranged.

24 A. We would have received reports from the field of a detention
25 facility in a particular AOR, area of responsibility. And then

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1 having consulted with the human rights officers and the regional
2 staff in that particular case, the decision would have been made to
3 apply pressure to the UCK to gain access. That pressure would come
4 from the liaison officers at their level. And by their level, chain
5 of command-wise, these may have been a captain, lieutenant type
6 level, bearing in mind that the regional directors were
7 brigadier-generals so they would have been dealing more with the
8 equivalent in the UCK, which I guess would have been a zone commander
9 at that particular point.

10 Anyway, efforts would have been made, names would have been
11 given of everybody that was going to visit the detention facility, so
12 myself, Susanne Ringgaard, a driver. There would have been a
13 security officer, and there most likely would have been a translator.
14 Sometimes the translator would be the same as the driver. And then
15 coordinates would be given, a time would be given as to when the
16 visit could take place.

17 Q. So if I'm understanding you correct, you wouldn't necessarily be
18 the person -- or I'll take out "necessarily." You wouldn't be the
19 person who would be contacting the KLA. One of these liaisons would
20 contact the KLA and discuss whatever you are asking them to discuss,
21 as you said, applying pressure to get access. And then they would
22 come back to you with the details of a meeting that had been agreed
23 to; is that right?

24 A. That's correct.

25 Q. Okay. If you can continue. You've now told us who's going to

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1 be on this visit. So there's a small group of people from your
2 group. If you can just remind us who Susanne Ringgaard is?

3 A. Susanne was my deputy at the time.

4 Q. So it's the two of you, a driver who might also be a translator,
5 but a driver and a translator from your office and somebody -- a
6 security person; is that right?

7 A. That's right. There may have -- we usually travelled in two-car
8 convoys. This visit was at night, so for sure we would have had a
9 two-car convoy. The other car would have had the KLA liaison officer
10 in them, a satellite phone, and security.

11 Q. And is there -- can you explain to us why it wasn't a human
12 rights officer from the field that was doing this visit? Why it was
13 you who's the director of the Human Rights Division and your deputy?

14 A. One of the tricky things in these types of human rights
15 operations when you have to start démarching and putting political
16 pressure on one particular side is it can damage relationships. And
17 so what we would try to do is the day-to-day staff that were dealing
18 with the UCK or the VJ on just regular day-to-day things - access
19 issues, primarily movement issues - so as not to interrupt that
20 relationship, we would often send people in from the headquarters to
21 do higher-level meetings where more direct pressure could be applied
22 without the -- so much the concern as to how you're going to have
23 coffee with this person the next morning.

24 So for those types of reasons, people from the headquarters
25 would also go. And also I think to signify the importance of the

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1 issue. Coming from the headquarters from Ambassador Walker's
2 direction did carry a weight.

3 Q. Understood. So your group is setting out. You've been given
4 coordinates. You said you recall this particular meeting was -- it
5 was already dark outside, and it was January, February. So what do
6 you recall about the temperature outside?

7 A. Kosovo is very cold in the winter. I remember this -- it was a
8 cold night. It was wet. There was not -- the electricity was out,
9 so you would only see those houses that were lit by generators.
10 There would have been very little movement of traffic on the roads.
11 The Serbs would have still been very much in control of the
12 territory, so night-time travel between areas was quite dangerous at
13 that point. That was also when the Serbs would often have ambushes,
14 go into villages, things of this nature, kind of terrorise the
15 population.

16 So it was a cold -- a cold, wet night on that particular visit.

17 Q. Speaking of movement and travel, were the KVM vehicles marked in
18 any kind of way or were they recognisable?

19 A. When the KVM first deployed to Kosovo in October, mid-October,
20 end of October, they deployed with the standard white Pajero that
21 everybody was driving back then. Unfortunately, these were the same
22 cars that the Serbian police were driving. So our initial verifiers
23 were getting shot at a lot. I think it was General DZ,
24 Drewienkiewicz, who was the operations director, decided to paint all
25 the cars bright orange so there could be no mistaking that these were

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1 KVM to both the local population as well as to the UCK and to the
2 Serbian authorities. So all the vehicles were painted in that
3 fluorescent orange that you may recall from the 1990s.

4 Q. So you're in your two-car convoy on the way to this visit with
5 the people that you've identified, and you mentioned that you would
6 have to -- that you would be given coordinates and that you would
7 have to be verified. So can you walk us through the journey of how
8 you would actually get to the location where a visit was going to
9 happen?

10 A. Sure. So there would be a fair amount of prep work that was
11 done, not necessarily by my team but by the liaison team. They would
12 call ahead, remind the KLA that we were coming, that this was a
13 meeting agreed to. All of the names would be verified. Often the
14 license plates of the vehicles would be given as well at that point.
15 This would have been maybe the hour or two before the visit.

16 Then we would drive there, as I said, in a two-car convoy.
17 There wouldn't have been -- very little traffic on the roads. These
18 would have been in UCK stronghold areas where they controlled what
19 was going on in the area and they would have had a perimeter around
20 that they could then withdraw from if needed.

21 So we would stop at the first checkpoint, first UCK checkpoint,
22 and provide all the information, names, why we were there, et cetera.
23 Often, the person usually always at the checkpoint would make a phone
24 call up the chain of command to verify the information. More often
25 than not, they knew we were coming, so it was not a surprise. But,

1 still, they had their procedures to go through.

2 After clearing the first checkpoint, we would then go to the
3 command house or wherever the commander's office was for that
4 particular area. In this case, we did that. We'd have a
5 conversation, usually a cup of tea or coffee, discuss why we were
6 there, what we were intending to do. We were modelling our visits
7 very much after the ICRC, so we would urge that we would have
8 privacy, that the detainees would be given an opportunity to provide
9 correspondence to their family members through us. That we would
10 want to speak to them about their health and their overall conditions
11 and any concerns that they had.

12 And then we would be taken to the location of where the
13 detentions -- the detention facility was, which in this situation was
14 a house.

15 Q. And before we get to the house, you mentioned going through the
16 first KLA checkpoint. Was there more than one checkpoint before you
17 got to your first meeting with one of the individuals that had
18 arranged this?

19 A. There would usually be -- I mean, outside the commander's
20 location, of course, there would be a perimeter, security. This
21 being the centre of command. So we would have shown our credentials
22 to get into that house.

23 Q. And you gave us your background, but is it fair to say that you
24 yourself don't have a military background?

25 A. I do not have a military background, no.

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1 Q. But you were deployed with and you worked with, sounds like,
2 many folks who had a military background?

3 A. I had just come from five years in Sarajevo, in Bosnia, where I
4 dealt quite a bit with the Implementation Force there. I was doing
5 human rights work there as well, as well as a lot of election work.
6 So we were dealing quite a bit with the NATO forces. So I quickly
7 learned to adapt to the lingo, the language that the military uses as
8 way -- as well as their behaviours, their kind of expectations of me
9 as a colleague, et cetera.

10 Q. So when you talk about, again, what you observed from a military
11 perimeter, understanding that you don't have military training, can
12 you just describe for the Panel, like, what that -- what you
13 observed.

14 A. Sure. Just to be fair, since Kosovo, I've spent many, many
15 years dealing with the military in different conflicts around the
16 world, so it is sometimes hard for me to discern what I knew in 1998.
17 But a perimeter would have been -- you could see the -- you can see
18 the soldiers, you can see the -- they would have had some sort of
19 protection, whether -- they wouldn't have had T-walls back then, so
20 it would have probably been old cars, abandoned cars to provide some
21 sort of a perimeter around the checkpoint to stop people from coming
22 in. There may have been old -- big old barrels, the steel barrels
23 that would be around these locations.

24 Most combatants had AK-47s with these little red dots. When
25 they put their finger on the trigger before pulling the trigger, they

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1 could - what's the word? - tee in on you. I'm losing my words here.
2 Where they would point at you and then they could figure out where
3 the bullet was going to go. And so you'd see little red dots on the
4 ground moving around, and you knew that there were people with guns
5 around you.

6 Q. So like a laser sight --

7 A. Thank you.

8 Q. -- that was aimed at you?

9 A. A laser sight. Exactly.

10 Q. So after getting through these checkpoints on the visit that you
11 recall, do you recall whether you went straight to the house or the
12 detention facility or whether or not you had a meeting prior to that?

13 A. I think we first stopped at the commander's house, which would
14 have been protocol if they were there. And then, as I said, we would
15 have gone again through why we were there, his expectations. And
16 then we would have -- we moved to a different -- different location
17 within the village.

18 Q. Do you recall the date of this meeting in February 1999? Do you
19 recall the precise date?

20 A. No, I don't.

21 MS. MAYER: If I could ask the court to pull up what's in
22 evidence as P00116. And there's no Albanian version.

23 Q. If you look on your screen in the sort of top half of that page.

24 MS. MAYER: If we can zoom in just a little --

25 MR. KEHOE: Excuse me, counsel, if I might interrupt you. I'm

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1 pretty sure that this is 1D7? Do we have duplicate numbers for this
2 document?

3 MS. MAYER: No, that's a different document -- I mean, I'm
4 sorry, I believe that's a different document, which I'm also going to
5 show, but --

6 MR. KEHOE: My apologies. My apologies. I just didn't want to
7 get the record ...

8 PRESIDING JUDGE SMITH: [Microphone not activated]. Thank you
9 for that.

10 MS. MAYER: If we could zoom in just on the top half of the
11 document just to make it a little easier to read for the witness.
12 Great.

13 Q. Do you see here -- first of all, is this an OSCE document from
14 the letterhead and the Human Rights Division in particular?

15 A. Yes, it is.

16 Q. And do you see the notation there, it has -- it's a record of a
17 meeting from 18 February 1999, and it says it's a meeting with the
18 zone commander and the military police chief of the KLA in
19 Llapashtice regarding detention visits? And you can read down. I'm
20 not going to read the whole thing to you. If you read down the first
21 full paragraph, if that refreshes your memory. Is this the visit
22 you're thinking of?

23 A. Yes, it is. May I just note that the date -- there's two dates.
24 The one that says 25-Feb-16. We used to use back then the automatic
25 calendar, the automatic dating, so whenever you open the document the

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1 date would change. So I don't know about that date. But the record
2 of the meeting is February 18th, 1999.

3 Q. Thank you for that clarification. Speaking of that, if this was
4 a meeting on 18 February 1999, typically when would this type of
5 document be written? Would it be written contemporaneously with the
6 events or some time later?

7 A. Certainly notes were taken contemporaneously, and then the
8 meeting visit, depending on what time we got home, we would either
9 draft it up that night or usually immediately the next day.

10 Q. And if you look at that, it notes that you're there and your
11 deputy is there as well, Ms. Ringgaard, who you've mentioned. But it
12 also mentions this Zone Commander "Remi" and the Military Police
13 Chief "Fati." Both of those are in quotes. Can you tell us if you
14 remember those individuals?

15 A. I remember them based on this document. I would not recognise
16 them, no.

17 Q. Just tell us what you remember about each of those two
18 individuals and your dealings with them.

19 A. I remember Remi as being a name -- the zone commander names we
20 more or less knew. "We" being, you know, those people in human
21 rights, because we would be in meetings and we would hear people
22 speaking about the zone commanders. These were usually nicknames,
23 not necessarily their real names.

24 So Remi I would have heard about a bit because there was quite a
25 few issues in the Podujeve area.

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1 Q. And what about Fati?

2 A. Fati less so.

3 Q. Understanding that it was less, had you -- do you recall if this
4 is it only time that you remember dealing with Fati or if you had
5 heard the name beyond just this one meeting?

6 A. I really don't remember. Yeah, I don't remember.

7 Q. Regarding these meetings -- if we can scroll down on the
8 document so that you can see more of the recitation of the summary.
9 Do you recall your conversation, what you discussed with the zone
10 commander Remi and the military police chief Fati in this meeting
11 when you arrived?

12 A. We would have been talking to them about process and procedure,
13 trying to find out, you know, on what authority -- these were not
14 elected officials. They were not state officials. They were their
15 own organisation administering their own location, so we would have
16 tried to find out where they fit on the scale of due process
17 considerations. Did they have laws, did they have judges, did they
18 have specific rights that they would have given to detainees,
19 responsibilities, how are they caring for the detainees, what were
20 their plans for the detainees. Just the general discussions about
21 the specific detainees. That would have been the purpose of our
22 meeting. And our conversation really would have been limited to
23 that.

24 Q. And was the main purpose of your visit to get access to the
25 detainees, or was it also to have this conversation with the KLA zone

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1 commander or local leadership?

2 A. Our primary objective was access to the detainees.

3 Q. And after this meeting that's documented in the memo with the
4 zone commander and the military police chief in that area, were you,
5 in fact, granted access to detainees?

6 A. Yes, we were.

7 Q. I just want to mention, before we move off of this document, and
8 what is at the top of your screen right now --

9 MS. MAYER: If we can scroll the document down a little bit.

10 Perfect.

11 Q. The paragraph that starts with the word "During the first
12 meeting ..." About midway through that first paragraph, it mentions
13 the ZC, which -- is that an abbreviation for zone commander?

14 A. That's correct.

15 Q. "The ZC informed us that we would have access to eight
16 detainees, all Albanians, charged with looting, stealing and
17 'collaboration with the enemy'."

18 You actually mentioned certain categories of offences that your
19 understanding were charges against people earlier in your testimony,
20 and you mentioned this word "collaboration." Can you tell us what
21 your understanding of collaboration with the enemy was, based on this
22 being in quotes?

23 MR. KEHOE: Can we get the foundation for that, please?

24 PRESIDING JUDGE SMITH: Overruled.

25 You may ask the question -- you may answer the question.

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1 THE WITNESS: "Collaboration" was a term that was used, in my
2 mind, very, very broadly. It could have meant a Kosovo Albanian
3 having a beer with a Serbian. It could have been going to the
4 Serbian police station to inquire about the location of someone or to
5 report a crime. That could have been deemed as collaboration at the
6 time.

7 So collaboration was very, very broad, and it really would
8 include any interethnic contact between Albanians and Serbs,
9 particularly if the Serbs were viewed as being part of the police or
10 the VJ. It was the analogue to when one would visit the MUP, they
11 would refer to every Albanian as a terrorist and every crime as
12 terrorism. So these were words that we viewed very, very broadly
13 when they were used, not in a narrow focus that I would consider
14 collaboration to be actually, you know, working hand in glove to
15 achieve the same objective. It was not often that case.

16 MS. MAYER:

17 Q. So after this meeting you are told you are going to be given
18 access to eight detainees. Did you then stay in that office where
19 you were meeting with the zone commander and military police chief,
20 or did you move to a separate -- or to a new location?

21 A. I think we moved to a different location.

22 Q. And if you can describe to the Panel what you recall about that
23 location - when you arrived, where you were brought, and if you can
24 walk us through that.

25 A. I do remember it was a standalone house, not an apartment

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1 building. Walked up the stairs to the house and then walked into
2 what was a little entryway. And then off to the left, I think, was
3 the -- where the commander's office was, and it was a living room for
4 all intents and purposes but had a desk and chairs in there.

5 Q. You had mentioned it was dark. So what was your visibility of
6 the grounds when you arrived? What do you recall about seeing the
7 grounds?

8 A. Again, I -- there would have been a soldier or so around
9 guarding, walking the perimeter, walking around the house. The whole
10 area would have been secured insofar as there would have been no cars
11 driving around the neighbourhood or anything like this. So it was
12 very quiet, it was very cold, it was very wet. That's what I
13 remember about the environment.

14 Q. Were you given a tour of the grounds by the KLA liaisons that
15 were escorting you?

16 A. No, no.

17 Q. So you're brought into this room. And when you get there, did
18 you -- were you given a tour of this house as you describe it?

19 A. No, I don't recall receiving a tour. No. We walked in. You
20 could -- you know, it's a house, so you could kind of see up the
21 stairs, you could see down the little hallways.

22 Q. But beyond the one room that you were taken to, were you shown
23 the other rooms within the house during your visit?

24 A. No, not that I can remember.

25 Q. And what happened in terms of how did it come to pass that you

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1 met with these eight detainees?

2 A. The procedure was that we would sit down and then we would wait.
3 The door would open and a soldier would bring in a detainee who would
4 then sit on a chair opposite us. We were on the couch. And then the
5 soldier would walk out the room.

6 Q. When the detainee was brought in to you, was that just
7 individually, one person at a time, or were -- was there a point at
8 which you were meeting with multiple detainees at once?

9 A. I only remember one by one.

10 Q. And when they were brought in, do you recall if they were
11 restrained in any way, if they were wearing handcuffs or bound in any
12 way?

13 A. When they came into the room, I -- I don't recall them being
14 bound in any way. No.

15 Q. Do you recall on this visit whether or not you saw detainees on
16 the property or somewhere like in -- as you mentioned, looking up the
17 stairs or down a hallway, that were bound or hooded or restrained in
18 some way?

19 A. I did recall seeing somebody hooded, yes.

20 Q. But for the detainees when they were brought in to meet with
21 you, that was not their condition; is that right?

22 A. That's correct.

23 Q. And what happened after they came in? You mentioned that they
24 would come in and sit across from you. What, if any, conversation
25 occurred?

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1 A. I was -- I remember being struck by how polite the detainees
2 were. They were very -- appeared very submissive, perhaps afraid.
3 Dressed in civilian clothes, regular villagers. I don't recall
4 seeing anybody of a professional standing, with suits and ties or
5 anything like this on. And I remember that they would answer all of
6 the questions that we had. They never had any complaints. They
7 didn't have messages for their families.

8 Q. And how did that part strike you, not having messages for their
9 families?

10 A. Well, it's just very rare to meet anybody that doesn't really
11 have a complaint. So, you know, we felt that it had -- maybe they
12 had been coached or told how to behave.

13 Q. You had also mentioned earlier that KVM would receive complaints
14 or inquiries from families that were looking actively for family
15 members that were missing or detained. So how does the not having a
16 message for your family match up with the other side of the equation
17 that you were seeing, which was family members wanting to locate
18 their relatives?

19 A. Yeah, it didn't really square up. Although, some of the
20 detainees told us that their family members knew where they were,
21 that their family members had been informed by local UCK members,
22 maybe people in the villages that knew the family and were part of
23 this particular process as well, you know.

24 Q. Now, you mentioned that you had these conversations. Was this
25 through an -- the interpreter that you had with you or the

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1 translator?

2 A. Yes, yes. I think it only people that really could speak
3 English at that particular time were the very young people that were
4 picking it up off TVs and movies. But we would have met with adults
5 in the villages and not many of them could certainly carry on a
6 conversation in English.

7 Q. And you mentioned that they answered all of your questions, but
8 that what they said to you seemed to be kind of consistent, one to
9 one.

10 A. Yes.

11 Q. Is that right?

12 A. That's right.

13 MS. MAYER: If we could pull up 1D00007, please. And that does
14 have an Albanian version as well.

15 Q. If you can take a look at this document on the screen that's in
16 evidence as 1D00007, and it -- also at the top there it's an OSCE KVM
17 Human Rights Division document with the -- referencing this same
18 date, 18 February 1999, with that same automatic date that you've
19 described to us in the upper right.

20 But this starts out talking about how it's interviews being
21 conducted, and then it lists some information there. If you can just
22 take a look at that, and then I'll ask you a couple of questions.

23 All right. Do you see here these -- these names, they are
24 listed 1, 2, 3, and then there are some descriptions underneath. Is
25 that the record of the individual conversation you had with each of

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1 these detainees?

2 A. Yes, that's correct.

3 Q. And in -- for example, under entry number 2, it mentions that
4 the individual received an S from the KLA and is accused of
5 collaboration with the enemy. Oh, and, I'm sorry, the first sentence
6 starts out that that individual "came to Llapashtica himself after
7 having received a 's'," in quotes, "from the KLA."

8 I had asked you a little bit earlier about whether you were
9 aware of individuals receiving a notice of some kind to report.
10 Would that be an example of that situation?

11 A. Yeah, I think the S would have been a summons, our shorthand, in
12 quotes because, again, it wasn't from an authority, an elected
13 authority.

14 Q. And then it right there says that:

15 "He is accused of collaboration with the enemy."

16 So that would be the basis for detention according to your
17 meeting with the individual?

18 A. Yes.

19 Q. When these individual detainees were brought in to see you, do
20 you recall noticing about their physical appearance, how they looked
21 to you, aside from what you told us, which was their demeanour of
22 being rather submissive? Did you notice any injuries, any signs of
23 maltreatment, anything like that?

24 A. No. If we did, it would have been noted. If somebody was
25 limping or if they had blood or if they were badly bruised, we would

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1 have noted that in this internal document. That being said, it was
2 really cold, so everybody had coats on and was bundled up.

3 Q. So you couldn't see what was underneath their --

4 A. No.

5 Q. -- clothing?

6 A. No.

7 Q. And this was -- was this a prearranged visit where the KLA knew
8 that you were coming to see these detainees?

9 A. Absolutely, yes.

10 Q. Did you decide which detainees you saw or did the KLA decide
11 that?

12 A. No, we didn't know who was there. So just -- as they came in,
13 it was the first time that we would have met them, obtained their
14 name.

15 Q. And speaking of that, you didn't know if you were meeting with
16 all of the detainees there or if this was only a portion of them?

17 A. That's right.

18 Q. And do you know how many KLA personnel, soldiers or other people
19 were at these sites as well? Were you given that information?

20 A. No.

21 Q. So do you have an opinion about whether or not the KLA would
22 have brought detainees that were visibly injured or malnourished to
23 see you?

24 MR. KEHOE: I object, Judge. I mean, her opinion as to what the
25 KLA would do or not do? I mean, that -- she can tell what she saw,

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1 what she heard, who she didn't --

2 PRESIDING JUDGE SMITH: Sustained.

3 MS. MAYER:

4 Q. Did the KLA bring you anybody that was obviously injured as far
5 as you could tell?

6 A. No.

7 Q. And after you had each of these meetings -- about how long did
8 each of these individual meetings last?

9 A. You know, they wouldn't have lasted very long. I'd say on
10 average 20 minutes, with translation.

11 Q. And were you ever shown where these detainees were held or where
12 they slept, where they ate? Were you ever shown any of those areas?

13 A. No, we were not.

14 Q. And from this exhibit that's up on the screen, this report, it
15 looks like the detainees that you met with, they ranged from having
16 been there from a matter of days up through months, four months. Did
17 you have any indication from the KLA as to when these detainees were
18 going to be released?

19 A. No.

20 Q. As part of your visit and discussions with the KLA, either in
21 this instance or your other visits, were you ever given an indication
22 about any process for these detainees in terms of any charges against
23 them or any process for them?

24 A. Yes, I believe in the meeting with the commander or with the
25 police chief, I can't remember which one, they would have talked

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1 about the process, very similar to the Yugoslav process at the time,
2 which would have been waiting for, I think, an investigative judge.
3 They talked about having a code of justice, a military code that they
4 were using.

5 We would have asked to receive copies of all of these things,
6 and I don't think we did receive copies.

7 Q. Do you recall ever being shown an example of accusations or a
8 dossier about each of these individual detainees? And, again, if you
9 don't remember these specific ones but on one of your visits?

10 A. Yeah, no, I definitely remember seeing the dossiers. The need
11 for the process was certainly something we were looking at, and it
12 was something that the UCK was pretty clued into, so they did try to
13 show us a process. They showed us files. I do remember looking
14 through them. They looked a bit like the files that I would see in
15 the police stations, kind of a big file, and you would flip through
16 it. It would be divided into different sections.

17 I didn't -- don't speak Albanian, so I couldn't understand the
18 specific language, but as a lawyer, I got the gist of it. That, you
19 know, there may be fingerprints, there may have been a summons. Then
20 there may have been other documents in there. Whether they were
21 statements, I don't know, but there would have been documents in
22 these -- I would call it a dossier file, yeah. And I think they
23 referred to them as dossiers.

24 Q. Was there any mention of trials or a system of justice for these
25 individuals?

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1 A. Yes.

2 Q. And what were you told by the KLA about that?

3 MR. KEHOE: Excuse me, just can we have a -- who is this person
4 that's talking? Could we have some foundation for these
5 conversations?

6 PRESIDING JUDGE SMITH: Yes, please. Please indicate who was
7 delivering this information to her.

8 MS. MAYER: Yes, Your Honour.

9 Q. Just if we can continue talking about this meeting that we've
10 been talking about with the zone commander and military police chief.
11 Either in that meeting or one of your other five to six detention
12 site visits, after being shown these dossiers, were you told anything
13 by the KLA about a system of justice?

14 MR. KEHOE: With respect, Judge, who in the KLA are we talking
15 about here? Who is this conversation with as opposed to a generic
16 KLA?

17 PRESIDING JUDGE SMITH: At least get her to answer that
18 question, please.

19 MS. MAYER: Understood, Your Honour. I believe she said she
20 doesn't know.

21 Q. But can you tell us if you can recall specifically if it was
22 with this zone commander, Commander Remi, and Fati, the military
23 police chief, or if it was in one of your other meetings? Can you
24 tell the Panel that?

25 A. I believe it was with Remi and Fati, and it was noted in the

1 other document that you showed previously where we tried to find out
2 what the extent of due process was. And in that particular
3 conversation with Fati or Remi, they would -- they told us that there
4 was a code that they were following, and I think that they'd also
5 mentioned they were waiting for judges.

6 MS. MAYER: And we can pull that back up with the Court's
7 permission, P00116.

8 THE WITNESS: This is what I was referring to, yes.

9 MS. MAYER:

10 Q. And if we can start at the top in the first -- the second full
11 paragraph that starts with, "During the first meeting ..." at the
12 bottom of that paragraph, it says:

13 "The ZC was not well informed on the actual details of the legal
14 procedures and asked us to rely on the MPC ..."

15 Is that military police chief?

16 "... for this information."

17 A. That's correct, that was Fati. And then we went -- after the
18 zone commander, we went to Fati's office.

19 Q. And that's at the bottom of the first page here where it talks
20 about you went to the MPC's office, and then that whole next
21 paragraph is talking about Fati's explanation about their authority
22 to indict according to the KLA military rules and their authority for
23 pre-trial detention up to two to three months?

24 A. Yes.

25 Q. All right. And, again, to your understanding, though, you were

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1 not ever given a copy of this military code even though you asked for
2 it?

3 A. No, I was not.

4 Q. And, again, as we've just talked about, one of the detainees you
5 met with was being held for four months, so that would be longer than
6 the two to three months that you were told?

7 A. That's right.

8 Q. When you were meeting with these individual detainees, you've
9 described your team, the staff. So was everyone from your team in
10 the room with them? Was it yourself, Ms. Ringgaard, the driver, the
11 translator, and your security person, or was it a subset of those
12 people?

13 A. It would have been a subset. It would have been myself,
14 Susanne, and a translator. Assuming security felt the situation was
15 fine, they would have waited outside. And I don't recall them ever
16 being inside.

17 Q. And what about the KLA? Were you able -- well, first of all,
18 did you want to meet with these detainees privately?

19 A. Yes, we did. We wanted to meet with them privately so that they
20 could speak freely. It's hard to speak freely when the person
21 detaining you is in the room.

22 Q. And were you allowed to meet with them in a setting that was
23 guaranteed to you to be private?

24 A. No, no guarantee. Sometimes they'd come in, they'd bring you
25 tea, they'd pick up files.

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1 Q. So there were times where you were alone in the room but there
2 was no promise that someone wouldn't come in, and you didn't have any
3 warning about when they would come in; is that right?

4 MR. KEHOE: Objection leading, Your Honour.

5 MS. MAYER: I'm just trying to --

6 PRESIDING JUDGE SMITH: Overruled.

7 MS. MAYER: -- clarify, Your Honour.

8 PRESIDING JUDGE SMITH: Overruled.

9 Go ahead.

10 THE WITNESS: That's true. That's correct.

11 MS. MAYER:

12 Q. And after these meetings, and after having met with each of
13 these individual detainees, do you recall how it is that you sort of
14 left it? Did you, on the back end, meet with the zone commander or
15 military police chief again, or was your visit concluded after
16 meeting with the detainees?

17 A. We may have had a quick handshake on the way out, but there
18 would not have been any substantive meeting that I can recall
19 following these meetings, no.

20 Q. And understanding that, as you sit here today, you don't recall
21 the specific details of some of these other visits that you mentioned
22 that you went on, do you recall whether or not they were sort of
23 generally consistent with what you've described to us for this
24 18 February 1999 visit?

25 MR. KEHOE: Excuse me, Judge, I would object. And the witness

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1 has said she doesn't remember, and now --

2 PRESIDING JUDGE SMITH: Sustained.

3 MR. KEHOE: Yeah.

4 MS. MAYER:

5 Q. All right. Let me ask you a different question. Do you recall
6 any of the general nature of the other visits that you've said you
7 undertook during January, February 1999 to KLA detention facilities?

8 A. I don't remember any visit being substantially different from
9 this. Nothing stands out. We never went into a prison setting, for
10 example. These were in villages.

11 Q. Understood. After having this meeting with this zone commander
12 on 18 February, Remi, and the military police chief Fati, were there
13 any other times during this time period - so I want to focus on the
14 time period between January and March of 1999 - where you had
15 conversations with KLA authorities about the detention of
16 individuals?

17 A. I don't remember specifically, but I can say, as a matter of
18 practice, that when we -- I -- when I would have been involved in
19 meetings with the UCK prior to the evacuation, it would have been in
20 the presence of others, regional directors, things of this nature.
21 So I would have focused on the specific human rights issues,
22 detention being one of them. I would have followed up for this code
23 of war, military code of conduct, and pressed for more information on
24 their expectation that they were providing some sort of due process.

25 Q. On that front regarding due process, you earlier in your

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1 testimony mentioned that you were observing trials conducted by
2 Serbian authorities. Did you similarly ever get access to observe
3 any trials conducted by KLA authorities?

4 A. No, we did not.

5 Q. Did you ever ask for such access?

6 A. Without a doubt.

7 Q. Do you know if any such trials were ever conducted?

8 A. Not to my knowledge. I'm not aware of any specific trial, no.

9 Q. Is that consistent -- trials not being conducted, is that
10 consistent with what you were told by Fati in the meeting that you
11 had with him?

12 A. No. I mean, the -- they said that they were conducting trials,
13 but we never -- "we" being members of my team or the KVM. I never
14 saw any reporting on anybody attending by the KVM attending trials by
15 the UCK.

16 Q. Did you ever meet any other zone commanders that you remember by
17 name?

18 A. I remember meeting Ramush in the Prizren area.

19 Q. Do you recall Ramush's last name?

20 A. Ramush Haradinaj. Forgive my pronunciation.

21 Q. And do you recall any other zone commanders or any other KLA
22 commanders that you met with, even if it wasn't a zone commander,
23 that you remember their name and meeting with?

24 A. No, not specifically.

25 Q. Do you recall whether you ever met with someone that you knew to

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1 be Commander Drini?

2 A. Ah, yes. I know that name.

3 Q. What was your understanding of Commander Drini's position?

4 A. I think Drini was one of the zone commanders. I think there was
5 six or seven zone commanders at that particular time that KVM was
6 dealing with, and the zone commanders were geographically defined.

7 Q. When you say "at that particular time," what timeframe are you
8 talking about?

9 A. Between mid-December, late December, and the evacuation in the
10 middle of March.

11 Q. So December 1998 and March 1999?

12 A. Thank you, yes. That's correct.

13 Q. In that timeframe, do you recall any conversations with any of
14 those commanders that we've just talked about, either Ramush
15 Haradinaj, Commander Drini, or any other conversations with
16 Commander Remi, about KLA's detention of individuals, their treatment
17 of individuals that they were detaining?

18 A. If there were specific meetings, we would have noted them,
19 written notes about them. I can't remember a specific one in the way
20 I remember this detention visit.

21 Q. Do you recall if you've given a prior statement where you
22 detailed your discussions with zone commanders about human rights
23 concerns that you had?

24 A. I remember speaking with Mr. Ramush about human rights issues.
25 Prizren was a very, very active area. The head of the regional

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1 office in Prizren was a Canadian brigadier-general, very focused on
2 human rights, and had a very good working relationship with Ramush.
3 So his name would come up I think more than anyone else's.

4 MS. O'REILLY: Your Honour, I'm just wondering if we could get a
5 more specific timeframe on this. I think we have, like, December to
6 March, but something more specific within that would be very helpful.

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MS. MAYER:

9 Q. Are you able to give us a more precise timeframe and narrow it
10 down than within December 1998 to March 1999?

11 A. With regards to Ramush, the conversations would have begun
12 immediately with regards to detainees and the missing because of
13 Rahovec and the events that happened there in the summer of 1998.
14 Then you have a break of probably four or five weeks over the
15 holidays, where you have a lot less reporting coming in because
16 there's less staff in the field. Then it would have ramped up again
17 in early January until probably the early part of March. Following
18 the collapse of the Rambouillet agreements, the mission was very much
19 focused on bigger geopolitical issues that were taking up the time of
20 the zone commanders, frankly. So if I had to narrow it even more, I
21 would say really probably between Recak and maybe March 15th, 1998.

22 Q. So that would be between January and March 1999?

23 A. Oh, excuse me, yes, 1999. But, again, there would have been
24 ongoing discussions specifically in the Prizren area immediately upon
25 entry of the KVM because of the number of missing resulting from the

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1 conflicts in 1998 prior to the entry of the KVM.

2 Q. So focusing on those conversations, can you recall you yourself
3 raising concerns about the KLA detaining individuals?

4 A. If given an opportunity with Ramush or any of the zone
5 commanders, I would have raised the issue of -- well, certainly with
6 Ramush in the Prizren area prior to January. Post January, post
7 Recak, when the focus very much became on the detainee issues for
8 Ambassador Walker, then any zone commander I came across. But I
9 don't remember specifics, no.

10 Q. Understanding that you don't remember specific date or time of
11 these conversations, when you raised these issues, what was the
12 response that you received about the allegations of detention and
13 mistreatment?

14 MR. KEHOE: And, again, Your Honour, with all due respect, with
15 whom? Who are we talking about the response coming from? Who were
16 these conversations with?

17 PRESIDING JUDGE SMITH: Yes, please do a little better in
18 identifying people that she is talking to, if she knows who they are,
19 and we hope she does.

20 MS. MAYER: Absolutely, Your Honour. Just so I'm clear on the
21 direction from the Court. I believe she's identified Ramush, and I
22 believe she's identified a two-month timeframe and --

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 When she's speaking of a specific instance, please get the name.

25 MS. MAYER: Will do, Your Honour.

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1 Q. Hearing that direction, can you tell us, raising with Ramush in
2 particular in this timeframe of January to March 1999, do you recall
3 raising concerns about human rights issues; specifically, the
4 detention of individuals by the KLA?

5 A. Between January and March 1999, I would have been attending
6 meetings with Ramush most likely in the presence of Michel
7 Maisonneuve, who was the brigadier-general for KVM responsible for
8 the Prizren area. General Maisonneuve was very involved in human
9 rights issues, so he would have given space -- he did give space in
10 meetings with Ramush for me to raise concerns, and I would have
11 raised the concerns about detention facilities generally. If we had
12 a specific individual, I may have named that, depending on the
13 family, and that was not unusual to do such things.

14 Q. And in the meetings with Ramush, what was his response when you
15 would raise these issues?

16 A. The UCK did not deny having detention facilities. They saw this
17 as a responsibility, as part of their policing roles in the areas
18 where the Serbian authorities were a no-go, to provide security for
19 the local populations. So they did acknowledge having detention
20 facilities for criminals and, as I said, for collaborators.

21 Q. And would he respond -- do you recall if he responded
22 regarding -- while there wasn't a denial of detention facilities, do
23 you recall ever raising the issue of abductions or individuals from
24 the UCK taking people and them disappearing, if you will?

25 A. Using that kind of language with the UCK was quite inflammatory,

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1 so we would have avoided that type of language, frankly. That was
2 language that was used by the population *vis-à-vis* the Serbian
3 authorities, so we would be very careful not to accuse the UCK of the
4 same thing using the same language. Okay?

5 Questions regarding the missing would certainly have been
6 raised. I think that the answers that we received from Ramush would
7 have been consistent with this note, that there was a process in
8 place. It was very important for the UCK to be seen as complying in
9 their -- with their understanding of international law and that there
10 needs to be processes for detainees.

11 So they -- Ramush would have -- did describe such a process that
12 would have been very similar to the one captured in this note.

13 Q. Do you recall meeting also with any individual named
14 Shukri Buja?

15 A. The name is familiar.

16 Q. Do you recall ever having met with that individual?

17 A. I don't.

18 Q. Have you given a prior statement where you may have described
19 meeting with that individual and would looking at that refresh your
20 memory?

21 A. Absolutely, yes.

22 MS. MAYER: If we can pull up 076826 to 076840 in the English.
23 The same numbers, -AT in the Albanian. And if we can go specifically
24 to page 076830, paragraph 16.

25 Q. And you can look at that document starting at paragraph -- well,

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1 you can look at the whole thing, but starting the first paragraphs
2 that are on the screen, 14, talking about meetings that you had, and
3 then ending with paragraph 16 there. And then look up at me when
4 you're done.

5 Having looked at that, does that refresh your memory as to
6 whether or not you met with an individual named Shukri Buja?

7 A. I did meet with an individual named Shukri Buja, but I'm afraid
8 I don't remember more context beyond what's written here.

9 Q. Do you remember -- since you're describing in this paragraph the
10 KLA, do you recall if this individual was in the KLA, had a position
11 in the KLA?

12 A. Well, based on how I've phrased the paragraph, I would say that
13 he was a member of the UCK, yes, in Podujeve.

14 Q. All right. Going back to your meetings. You've mentioned what
15 you recall about your meetings in the January to March 1999 timeframe
16 with Ramush and raising human rights issues or concerns that KVM had.

17 Understanding that you wouldn't use any language that was
18 inflammatory, would you -- or do you recall specifically addressing
19 not just the existence of detainees or detention facilities but the
20 arrest by individuals in the UCK or in the KLA and reports that you
21 were getting of KLA uniformed personnel arresting individuals? Would
22 you have raised that issue with him?

23 MR. KEHOE: With all due respect, Judge, can we just break that
24 question down a little bit?

25 PRESIDING JUDGE SMITH: No, overruled.

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1 Go ahead. If you can answer the question.

2 THE WITNESS: My apologies, I've lost track of it. I'm sorry.

3 PRESIDING JUDGE SMITH: Maybe Mr. Kehoe was right.

4 MS. MAYER: Happy to re-ask it.

5 THE WITNESS: My apologies.

6 MS. MAYER:

7 Q. No worries at all. So focusing back on the conversations that
8 you had with Ramush --

9 A. Yes.

10 Q. -- in the January to March timeframe --

11 A. Yes.

12 Q. -- and understanding what you told us just a few minutes ago --

13 A. Yes.

14 Q. -- that you would be careful about the language that you used,
15 you wouldn't want to use anything inflammatory.

16 A. Yes.

17 Q. So with that as the premise, the question is do you recall
18 raising the issue of reports that you received of individuals in KLA
19 uniforms arresting people or taking people?

20 A. Yes, this would have been something that the KVM would have
21 followed up on routinely. If we -- if any of the regional offices or
22 field offices received information, and this would usually be from a
23 family member that came into the office or from a local leader that
24 contacted the office, that somebody had been, quote, arrested or
25 taken away by the UCK, then that would have been the liaison

1 officers' talking points for the day, to inquire about that.

2 Q. And do you recall what Ramush's response to you was about
3 whether or not this was, in fact, the KLA doing this?

4 A. I mean, usually it wasn't -- it wasn't denied. If they, in
5 fact, detained somebody, they would usually tell you, "Yes, we have
6 detained them" for whatever reason, a crime or collaboration. If
7 they were -- or they would say, "We don't know what you're talking
8 about."

9 Q. Well, let me ask you within that distinction. So if it was
10 something they acknowledged, that was one possibility, were there
11 ever times where they didn't acknowledge it or denied it and gave you
12 an explanation that it was someone else or that it wasn't the KLA?

13 A. Oh, sure. Sure.

14 Q. Can you explain that to the Panel, those instances?

15 A. It could have been instances where --

16 MR. KEHOE: Excuse me, Your Honour. Can we have a timeframe of
17 this?

18 PRESIDING JUDGE SMITH: Sustained. You can ask her a timeframe.

19 MS. MAYER:

20 Q. I'm still staying in that same timeframe of January 1999 to
21 March 1999. So until I move off of that, that's the timeframe that
22 we're talking about. So if you can limit your answers from what you
23 recall to that timeframe.

24 A. Yes, I mean, people would -- would disappear. They may have
25 been taken by the MUP. They may have been taken by the other Serbian

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1 authorities.

2 Q. And I think specifically we were just talking about your
3 conversations with Ramush, though, about the KLA, not necessarily
4 about -- I don't think Ramush would be answering about the MUP or the
5 Serbian authorities; is that fair?

6 A. Well, if they didn't have them, and you were looking for a
7 Kosovo Albanian, it would be common for them to tell you to go ask
8 the Serbs.

9 Q. Fair. And if --

10 A. And we would. And we would go -- I would go to -- I met
11 regularly with Serbian authorities for detainees. I met regularly
12 with ICRC to verify whether or not they were visiting, we were
13 crossing tracks, and things of this nature. So we would have
14 followed up on those things.

15 Q. And when you were talking to Ramush in this January to March
16 1999 timeframe, were you only looking for Kosovar Albanians or were
17 you also inquiring about Kosovar Serbs or other individuals, other
18 reported missing individuals to KVM, or was it limited just to
19 Kosovar Albanians?

20 A. It was usually Kosovar Albanians or police, MUP, Serbian police.
21 And those were very high profile, those Serbian police ones. Those
22 were of a high priority for the mission to try to bring the
23 temperature down that would escalate when policemen were being
24 detained or had been captured by the UCK.

25 Q. Do you recall in this timeframe, January to March 1999, being

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1 told -- if there were reports of individuals wearing UCK, being told
2 that there was not -- these weren't UCK. There might just -- anyone
3 could buy a uniform. It's not UCK even if there's reports of KLA
4 insignia. Do you recall ever being told that as an explanation for
5 the KLA saying it was not involved?

6 A. It may have been said, but I remember that particular excuse
7 being much, much more prominent after the NATO campaign and upon
8 re-entry. Not before the NATO campaign. That's not to say it didn't
9 happen, but it doesn't stand out in my memory.

10 Q. Okay. And we're going to get to that a little bit later. But
11 just so that the Panel is clear, when you talk about the timeframe
12 for that particular explanation, when you say afterwards, the KVM --
13 can you tell the Panel when the KVM left because of the NATO campaign
14 and when they returned so the Panel knows that timeframe.

15 A. I think we withdrew around March 20th, 1999. And then I think
16 the agreement -- the cease-fire -- the end of hostilities was around
17 June 10th. I myself returned to Kosovo as part of the UN's advance
18 team, so I believe I entered Kosovo around the 12th or 13th June
19 1999.

20 Q. And so this explanation that we were just talking about is
21 something you recall more in the post-June 1999 timeframe; is that
22 right?

23 A. That's right.

24 Q. If we can back up now, focusing on the conversations you've had.
25 We've spoken a little bit about your conversations with Ramush.

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1 Using the same limits, if you can be as specific as possible, do you
2 recall having conversations about detained or missing individuals
3 with Commander Drini in the same timeframe, in the January to March
4 1999 timeframe?

5 A. I may have. I can't recall a specific instance. Ramush was so
6 much more accessible to KVM not only because of the geography that he
7 was involved in, but also because quite a few of the staff had good
8 contacts with him and he would answer his phone.

9 Q. And just backing up, if we can, you've mentioned before a little
10 bit about your contact protocols. Would you ever contact Ramush
11 directly or would you go through your liaison officers or other
12 people within the KVM in order to make contact with Ramush?

13 A. I don't recall contacting any of the zone commanders directly.
14 I would have gone through the liaison officers and followed the
15 internal protocols of KVM. If you wanted to get something done, that
16 was really the best way to do it.

17 Q. And your conversations with Ramush, do you recall what language
18 they were in?

19 A. There may have been some small talk in English, but the
20 substance would have always been through translation.

21 Q. And why is that?

22 A. I would want to make sure that what I was saying was being
23 conveyed and he's given an opportunity to really understand it. And
24 I think for anybody where English is a second language, it's -- and
25 you get into the technical substantive, it's nice to have those two

1 or three seconds to reflect during translation. So it would have
2 been very common, if not always, that I would have had a translator
3 there, as well as when I met with the Serbian authorities, and many
4 of them did speak English, but we would still go through translation.

5 Q. And is that the same for your conversations with the other zone
6 commanders that we've talked about, with Commander Remi and with
7 Commander Drini as well? The language I'm talking about.

8 A. Yes. Using a translator would have been standard protocol back
9 then with very, very few exceptions of maybe some of the journalists
10 or LDK members or others in kind of senior positions that had a
11 command of English and wanted to have a conversation in English,
12 those were really the exceptions.

13 PRESIDING JUDGE SMITH: Madam Prosecutor, it's time for the noon
14 break.

15 Witness, we will give you a lunch break now. We will be an hour
16 and a half, so we will reconvene here at 2.30. The Court Usher will
17 escort you out of the room. And please do not speak to anybody about
18 the case.

19 THE WITNESS: Yes, sir.

20 [The witness stands down]

21 PRESIDING JUDGE SMITH: We're adjourned until 2.30.

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

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

24 PRESIDING JUDGE SMITH: The Panel will now issue an oral order
25 on the admission of Exhibit P711, which was marked for identification

1 on 13 November 2023. This document consists of a handwritten list of
2 names of suspicious persons and suspected collaborators. It bears a
3 signature and the year 1998.

4 The Panel recalls that the SPO put this document to the witness,
5 W04765, during his testimony on 13 November 2023. The Thaci Defence
6 objected to its admission. The document was discussed again with the
7 witness during the Judges' questions.

8 While the witness was not able to clearly authenticate the
9 signature, he was in a position to comment on the signature and the
10 content of this list and recognised several names mentioned thereon.

11 The fact that the exhibit came or did not come from Serbia is
12 irrelevant to the issue of admissibility.

13 The Panel is satisfied that the requirements of Rule 138(1) are
14 met. The extent to which the witness was able to authenticate this
15 list and meaningfully comment on its contents or confirm the truth or
16 accuracy thereof will have to be taken into account when deciding
17 upon the weight and probative value to attach to it.

18 In light of the foregoing, and pursuant to Article 40(6)(h) of
19 the Law and Rule 138(1) of the Rules, Exhibit P711 MFI bearing ERN
20 U001-7854 to U001-7858 and its English translation are admitted.

21 The Panel asks the Court Officer to change the evidence's status
22 to admitted and to assign it a P number. That ends the order.

23 Madam Usher, you may go in and bring the witness into the
24 courtroom.

25 [The witness takes the stand]

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1 PRESIDING JUDGE SMITH: All right. Witness, we will continue
2 now with the direct examination by the Prosecution. Remember, you
3 are still under the obligation to tell the truth as you stated
4 earlier.

5 Madam Prosecutor, you have the floor.

6 MS. MAYER: Thank you, Your Honour.

7 Q. Good afternoon, Witness. When we left off before the break, we
8 were talking about the time period before March and then after June.
9 Can you tell the Panel what happened in March 1999 to your group, to
10 KVM, not just the Human Rights Division, to all of KVM in relation to
11 being located in Kosovo?

12 A. The security situation deteriorated substantially after the
13 failed agreements in Rambouillet at the end of February 1999, and in
14 March we saw an increasing buildup of Serbian forces coming into
15 Kosovo and engaging in battles, and this precipitated the withdrawal
16 of the KVM. The situation was just too unsafe to remain and the
17 level of violence of the armed conflict seemed to be increasing
18 substantially.

19 Q. So when you all left, did you have any warning about when you
20 were going to leave; and if so, did you do any planning to withdraw
21 your offices?

22 A. About a week or so, there was a lot of discussion of whether we
23 were going to withdraw or not. And then in the week or so before the
24 withdrawal, it was very clear that we would be. We did not know the
25 exact time. Although, there were discussions in place with the

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1 Serbian authorities who were then responsible for our security to
2 ensure safe passage out.

3 During those final days, we shredded a lot of documents, burned
4 a lot of documents because of the limited amount of space in the
5 vehicles to carry things out. And with regards to the Human Rights
6 Division, we were able to withdraw the majority of our documents as
7 well as we took the hard drives out of our computers.

8 Q. And did you take those hard drives and documents from the Human
9 Rights Division with you when you left Kosovo?

10 A. Yes, they were in my vehicle. I'm trying -- I can't remember
11 who else was in the vehicle. There were -- we were assigned
12 vehicles. There was one or two other human rights colleagues in the
13 vehicle with me. We withdrew the materials, and then they followed
14 me around until they were ultimately handed over to another part of
15 the OSCE. Meaning that they stayed in apartments that I rented or in
16 office space that we had during that period.

17 Q. And if you can tell the Panel briefly what -- did you continue
18 to do work related to human rights in Kosovo while you were not in
19 country, so when you pulled out of Kosovo?

20 A. When we withdrew from Kosovo, we, the mission, the KVM first
21 went to Skopje, Macedonia. And from there, the majority of the
22 staff, a thousand, 800 or so, were repatriated. The remaining staff
23 was transformed into task forces to assist with the humanitarian
24 crisis that was unfolding after the forced displacement of the
25 majority of Albanians from Kosovo into the wilderness of Albania and

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1 in Macedonia. It took some time for camps to be established in those
2 locations. So we were deployed assisting UNHCR, et cetera. Once
3 those camps were set up, and even during that period we had begun
4 taking statements from refugees who were victims or direct witnesses
5 to violence that was occurring in Kosovo in their villages as they
6 left.

7 Q. And you mentioned refugees and camps. Were those also referred
8 to as refugee camps?

9 A. Yes, refugees either went into camps that were usually run by
10 the host governments or UNHCR, and they also went into host families,
11 other Albanian families that would open their home for the Kosovars
12 as they were being forced out of Kosovo.

13 Q. Now, you described that a large majority of the KVM workforce
14 that was in country was repatriated home, but you also mentioned some
15 of the Human Rights Division work continued. How much of your
16 decision was intact when you left Kosovo but were in either Macedonia
17 or Albania?

18 A. When we left Kosovo, we had about 75 human rights officers.
19 They largely remained intact during the summer months during the
20 refugee crisis and were deployed to either Albania or to Macedonia in
21 order to continue the human rights work by speaking to refugees in
22 either camps or host families.

23 Q. And was that the majority of your work starting in the March,
24 April timeframe of speaking with refugees about human rights issues?

25 A. Yes. At this point, we were liaising very closely with

1 investigators from ICTY. I had had quite a bit experience managing
2 large volumes of information in previous jobs. This was a little bit
3 before computers were so widespread or even in use. So we came up
4 with standardised forms in which to collect the information and
5 organise teams that were then deployed to the camps and lived in the
6 communities.

7 Q. And in terms of your reporting, were you still doing the same
8 kind of situation report, daily report, weekly report, that you
9 described to us when you were in country, or did your documentation
10 change besides the forms that you've just described to us?

11 A. The majority of the reporting changed substantially, and the
12 reporting that would have been going to Vienna was very much about
13 where refugees were spread throughout Kosovo -- or, excuse me,
14 throughout Albania and Macedonia, about their situation, reporting on
15 the arrival of UNHCR and other aid agencies.

16 We were not, at that point, sharing information that we were
17 receiving from refugees about their statements of what they saw as
18 they departed Kosovo.

19 Q. Did there come a point where your organisation changed, like
20 within OSCE, and you shifted from being KVM to being something else?

21 A. Shortly after the withdrawal, since we were no longer in Kosovo,
22 there was an OSCE decision by the governing body in Vienna to create
23 this task force for Albania. I can't remember what it was called in
24 Macedonia. I assume it was analogous. And then those task forces
25 were empowered to assist on the humanitarian side, and then also to

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1 continue the human rights monitoring and reporting from Kosovo
2 through the refugees in the camps and host families.

3 Q. And did there come a point after you were out or around the time
4 you went back into country where you became OMiK, the OSCE Mission in
5 Kosovo?

6 A. OMiK was the creation of the UN Security Council resolution that
7 followed the conclusion of the hostilities where Kosovo was put under
8 UN administration, no longer having a functioning government, and had
9 four different pillars. One pillar was the humanitarian pillar,
10 which was headed and chaired by UNHCR, the head of whom was given a
11 deputy secretary or a special representative of security, that's --
12 Special Representative of the Secretary-General. Another pillar was
13 the European Union, which was responsible for reconstruction of
14 Kosovo, getting the business, getting the economy back going. Then
15 you had the UN Civil Administration, which was a temporary authority
16 until such time that there were elections. And then OSCE's pillar
17 was on human rights, developing a police school, rule of law,
18 democratisation types of activities. And that was OMiK, excuse me.

19 Q. And who was appointed as head of OMiK?

20 A. Initially I think Kare Eltervag, who was a Norwegian diplomat,
21 was the head of that and then -- for a few weeks, and then Ambassador
22 Daan Everts from the Netherlands was appointed as the head of
23 mission.

24 Q. And do you recall what timeframe that was when Ambassador Everts
25 was appointed?

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1 A. I can't remember when he was appointed. I think he arrived in
2 Kosovo late July, early August.

3 Q. Backing up, when you're not in country, had you encountered
4 Ambassador Everts when your team pulled out of Kosovo?

5 A. Yes, Ambassador Everts was the head of the OSCE mission in
6 Albania, the adjoining country to Kosovo. And that was more of a
7 traditional OSCE mission, which was to assist the government in rule
8 of law types of activities.

9 Q. So when your team came out -- and, I'm sorry, did you tell us
10 where you personally were based? You said initially Macedonia. Did
11 you travel at all to Albania during this timeframe?

12 A. I was appointed as the deputy to the task force in Albania where
13 the majority of the refugees appeared to be going. At least all
14 those on the eastern -- or, excuse me, the western portion. And I
15 was at the same time moving between Macedonia and also the
16 headquarters in Vienna, but there was a time when I had substantial
17 weeks in Albania.

18 Q. So did you meet Ambassador Everts before he was appointed as
19 head of -- before OMiK was even formed and before he was appointed
20 when you went to Albania?

21 A. Yes. The head of the task force was Michel Maisonneuve, who had
22 been the head of the regional office in Prizren. And under his
23 instructions, we deployed to Tirana and then immediately met with
24 Ambassador Everts.

25 Q. At what timeframe was this?

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1 A. This would have been end of March probably, end of March, early
2 April. I'm not exactly sure of the specific dates. 1999.

3 Q. And so you've described to us what you were doing in that time
4 that your team withdrew. Did there come a point where you and your
5 team went back into Kosovo?

6 A. Yes. As the NATO air campaign started slowing down and peace
7 talks started increasing, I was also involved in some of the planning
8 for the Kosovo mission and what it would look like as part of this UN
9 structure that I described. So I did have meetings in Vienna about
10 that and where the human rights department and some of the other,
11 shall we say, softer side of the mission, how they would be laid out
12 and how they would become operational.

13 Q. And what was the plan for whether or not you and your team would
14 go back into Kosovo?

15 A. It was agreed that we would go in as part of the advance team.
16 There was a small team of us, maybe six or eight, from the OSCE that
17 went back in immediately following the entry of the multinational
18 force in Kosovo. We were a part of -- at the time, the UN SRSG was
19 Sergio de Mello and we were part of his advance team going into
20 Kosovo.

21 Q. And was there a decision to bring back more of the human rights
22 team at some point after the advance team went in?

23 A. Yes, OSCE has a very strong commitment to human rights, and all
24 of its missions in some way cover human rights activities, treatment
25 of the authorities, the governing bodies, et cetera, towards the

1 civilian population. It was clear OSCE was going to continue that
2 mandate. They'd had that mandate in many of the other Balkan
3 countries following the breakup of Yugoslavia. So it was very
4 apparent that we would be redeploying into Kosovo.

5 And as I recall, I think almost all of the staff returned in.
6 Maybe there was a few that didn't for personal reasons, but most of
7 the staff did return in to Kosovo.

8 Q. And when was that? When did the bulk of the staff return to
9 Kosovo to continue the human rights work?

10 A. I think -- as I said before, I think the peace agreements were
11 in the middle of June. We entered a few days after the initial KFOR,
12 which was the multi-national force, before they entered. When I
13 entered Kosovo, the VJ and MUP were still in Prishtine, looting and
14 stealing everything that they could. And once we -- once they
15 officially had left, probably the third week of June, last week of
16 June 1999, then we were looking for accommodation.

17 And as soon as we could find accommodation throughout Kosovo, we
18 were bringing staff in. So staff were coming in pretty much daily
19 after that.

20 Q. And when you returned in country starting in June 1999, did you
21 resume the human rights work regarding people that were reported
22 missing or detained?

23 A. Our initial focus when we went back into Kosovo was to try to
24 quickly go to the locations of mass graves that we had identified
25 during the summer months when we were interviewing refugees, where

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1 mass graves may be, as well as mass graves that may have been
2 identified by coalition forces or ICTY.

3 And so we went in and first tried to document where all the mass
4 graves were. This was very difficult because returning Albanians,
5 obviously, wanted to exhume the bodies and give them proper burials,
6 so this was going on contemporaneously.

7 Initially, we were looking at the conditions for returning
8 refugees.

9 Q. So it sounds like it was dual purpose. It was following up on
10 reports of mass graves, which would be people that were -- either had
11 been missing or you knew something -- they had been killed, and
12 simultaneously focusing on the refugees; is that right?

13 A. That's right.

14 Q. And when you first got back on the ground, if you can tell the
15 Panel, in that early time period, from June to July 1999, what were
16 you finding as you kind of reconnected to what was going on the
17 ground in Kosovo about the human rights situation?

18 A. Kosovo itself suffered differently, depending on different parts
19 of the province. Over in the western portion, there had been heavy
20 fighting. And this is Pec, Peje, Djakovica area. Very, very heavy
21 fighting, and a lot of villages were badly destroyed. Refugees were
22 flowing in across from the Albanian border to their villages, as you
23 would expect, very distraught, very angry, compared that -- so the
24 situation there was one of great suffering and great sorrow as there
25 was little accommodation for the returning refugees.

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1 The other side of the province in Gjilan had been pretty
2 untouched as far as damage, battle damage by the Serbian forces. So
3 people returning there, Albanians returning there were trying to
4 restart their businesses and kind of rebuild their lives.

5 In Prishtine itself, there had been a lot of looting, a lot of
6 stealing, and refugees were, again, coming in but they did have
7 places to live. So it was somewhat different. There was no law
8 enforcement. It was -- there was no police at this point. The
9 government had collapsed, so there was no functioning services.
10 Albanians employed in the water system, electric grid, et cetera,
11 tried to go back to their jobs, many of them had been purged during
12 the Serb period, to try to keep these things going.

13 There was quite a bit of chaos in the hospitals. A lot of the
14 doctors were Serbian, afraid of what may happen to them. Albanians
15 afraid to go to the hospital because there were Serb doctors,
16 et cetera. So you had a lot of these tensions that you tended to
17 focus on. These -- what I would consider, you know, life-saving
18 access to services was the initial thing that we looked at, as well
19 as making sure that there was space for some of the other NGOs in the
20 west where the damage was very bad, to try to put shelters in place
21 quickly.

22 Q. Well, when you talk about the fact that there was not the kind
23 of infrastructure that there had been before, did OMiK now, as it
24 goes back in, have interlocutors that they connected with that seemed
25 to be filling that vacuum of running things?

1 A. And, again, it kind of varied where you were in Kosovo. When we
2 went back in, I remember the first trip to Pec, Peje, Djakovica area,
3 and this would have been four or five days into the return, so late
4 June, late mid-June. The security vacuum was quickly being filled by
5 the only authority that was there at the time, and that was the UCK.
6 They were directing traffic in the western part of the country where
7 they were -- had much more of a prominence at that point.

8 They were trying to find Albanians to run the electric, the
9 sanitation, basic services. As I said, many of the Albanians had
10 lost their jobs during the occupation by the Serbs. So there was an
11 effort to try to get things re-going quite quickly.

12 In the other parts of the country, the UCK's presence came a
13 little bit slower, but they nevertheless were stepping in to try to
14 fill what, at that point, was a security vacuum. The multinational
15 forces, the NATO forces that were in Kosovo did not see policing as
16 their function, so they were very reluctant to make arrests, although
17 they subsequently did, but they lacked any capacity to manage
18 prisons, police stations, anything like this. So those were filled
19 quickly by UCK or by Albanians that were appointed by the UCK. They
20 may not have been members of the organisation.

21 Q. Now, I want to focus on the time period once you're back in
22 country and things are starting -- your work is starting to -- your
23 work is continuing, I should say. So in the late June, July, August
24 timeframe. That's the timeframe that I'm going to be talking about.

25 Did you start to discern any trends or concerns about treatment

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1 of the different populations?

2 A. When we first got to Kosovo, as I said, the priority was to try
3 to identify and document mass graves and exhumations as they were
4 ongoing. Following that, we were looking at the situation for
5 returnees to assist UNHCR. It was frankly quite futile because the
6 refugees just returned home spontaneously.

7 Then the -- there was revenge, retaliation, acts of which we saw
8 in the form of dead Serbian people showing up, dead Roma people
9 showing up who were believed by the local population to have
10 collaborated with the Serbian authorities. So we started -- our
11 monitoring increased naturally, organically in the direction of the
12 minorities. There was then an exodus beginning in the time period
13 that you're discussing and then continuing through September and
14 October of many of the minorities in Kosovo fleeing to Serbia and
15 Macedonia, et cetera.

16 And then we started seeing the violence going a little bit more
17 intra-ethnic, so Albanian-on-Albanian types of violence occurring.

18 Q. And was your organisation still focused on getting reports from
19 individuals about these kinds of revenge and retaliation that you're
20 describing and then, as it progressed, to this Albanian on
21 Albanian -- the allegations of violence? Did you continue to get
22 reports of that and document that?

23 A. Yes. As soon as we returned to Kosovo, we immediately began
24 documenting everything. And we were under the UN umbrella at that
25 time, so that was really the only authority inside Kosovo that was

1 able to keep any kind of historical record of the events going on
2 during that time period, bearing in mind there was no police, there
3 was no functioning judiciary. There were judges, but as far as a
4 functioning judiciary, that had also been suspended through the
5 exodus of people.

6 So, yes, we were doing a lot of documentation, daily situation
7 reports, very similar to what we had done beforehand, but perhaps a
8 little bit broader because we were doing broader reporting for the
9 UN. So we were documenting a lot of meetings with utilities, with
10 the water board, with things that we didn't necessarily do before the
11 war.

12 Q. From that daily reporting that you were doing and the
13 documentation, did you discern whether or not the persecution or the
14 violence that you were seeing was organised or appeared to be
15 systemic?

16 MR. KEHOE: Your Honour, I would like a foundation for that
17 question, if I can. I object.

18 PRESIDING JUDGE SMITH: Overruled. Go ahead.

19 THE WITNESS: Initially, everything was just chaos. It's the
20 only way to describe it. There was just so much happening. People
21 came back, their houses were destroyed, they were distraught, they
22 got angry, they maybe beat somebody up. There was a lot of that.
23 It's very difficult to discern what was crime and what may have been
24 part of a more organised systematic approach in those early days.

25 I think as we were able to get more and more reporting coming in

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1 and we started looking at incidents and trends over weeks, we did
2 start seeing some patterns emerge. Yes.

3 MS. MAYER:

4 Q. And what were those patterns that you were seeing?

5 A. We were -- we were receiving a lot of reports about men dressed
6 in black with UCK insignias or people holding themselves out and
7 announcing themselves to be members of the UCK that were doing
8 policing, that were appointing people to jobs, distributing property,
9 apartments, things of this nature.

10 Q. Were there also reports of UCK abducting people during this time
11 period?

12 A. There were -- yes, there were reports of UCK abducting people,
13 arresting people, taking people for informative talks, of being
14 involved in a plethora of activities from house burnings to
15 threatening people, Serbian, Roma, to leave the province. Across the
16 board we were hearing this, and it was coming from all provinces, all
17 parts of Kosovo as the time progressed.

18 Q. So not isolated to one area?

19 A. No. The initial reports were coming from the west where the UCK
20 was handing out license plates and doing a lot of functions that a
21 government would do. But then that quickly appeared in Gjilan which
22 was an area that the UCK were not that active in prior to the
23 conflict.

24 Q. And at this time when you were back in country, did you have, as
25 an organisation, connections with or the ability to meet with or

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1 raise these issues with the KLA?

2 A. It was actually very easy to do that because most of the mayors
3 were appointed by the provisional government or the provisional
4 authority as they were called, which was the UCK leadership. And --
5 so, yes, we were having regular contact with either known UCK
6 officials or those that they had appointed.

7 Q. And did you raise in this time period -- now we're still in the
8 June, July, August 1999 time period. Did you personally raise any of
9 these human rights issues with KLA leadership?

10 A. I'm just thinking because, at that point, it was sometimes
11 difficult to access the leadership because of the efforts to stand up
12 a government, et cetera. So, yes, these were all -- would have all
13 been reported at the local level. Whether I myself during that
14 period was involved in discussions with the high level, I'd have to
15 really go back to some of the papers to see that. But certainly at
16 the field level, there were daily interactions.

17 Q. Then let's stick with that, at the field level. When raising
18 these issues about people showing up with UCK -- in black with UCK
19 insignia and taking people, what was the response that you would get
20 from the local KLA leaders?

21 MR. KEHOE: Once again, Judge, I mean, if she's talking about a
22 local leader, who is it?

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 MS. MAYER:

25 Q. You can answer.

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1 A. Okay. The response was consistent --

2 MR. KEHOE: Excuse me, Judge. Was that overruled, my objection?

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MR. KEHOE: [Microphone not activated]

5 PRESIDING JUDGE SMITH: I'm sorry, yes, it was overruled.

6 THE WITNESS: Their response was consistent. There was a
7 denial. The UCK local representatives that we would -- that my staff
8 would talk to would deny it. They would say that these were
9 imposters, people dressing up as the UCK.

10 MS. MAYER:

11 Q. Did you ever receive reports -- do you recall ever receiving
12 reports from your local staff where you determined that there were
13 actually imposters, either the KLA following up with you or other
14 information coming in?

15 A. I don't remember any specific follow-up at all. At times, often
16 the KLA interlocutor would say that they would look into it and we
17 would never hear anything back. Of course, the staff would go back
18 to follow up, particularly as the time progressed, and it became very
19 apparent that the OSCE was going to document what was happening and
20 was intending to make public the documentation that it was receiving.

21 Q. Was that the only explanation that your field staff would
22 receive?

23 A. No, no.

24 Q. Was it just that there were imposters? Were there any other
25 explanations that were --

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1 A. Sure.

2 Q. -- given? Or answers, I should say.

3 A. Yeah. These were criminals -- gangs, criminal gangs,
4 disgruntled, bereaved Kosovar Albanians, kind of a natural human
5 response to the suffering that they had endured. And we were often
6 told, you know, that we should be focusing on the exhumations, the
7 mass graves, and the crimes that were committed during the Serbian
8 occupation, and that would be a better use of our time.

9 Q. And you mentioned that these things were happening across
10 Kosovo, not limited to one geographic area. Were there meetings with
11 local KLA commanders across Kosovo or was it limited to one
12 geographic area?

13 A. No. As I mentioned, the provisional government, provisional
14 authority, which was *de facto* the UCK at this point, I think the LDK
15 had withdrawn from it, was appointing the head of the water board,
16 appointing people in the hospital, was making appointments to some of
17 the utilities, these basic services. So it was very easy to get
18 messages to the UCK by going to these officials.

19 And then also there were -- they were still wearing uniforms at
20 this point in time. Very busy. I think they were, you know,
21 genuinely trying to help restart and rebuild Kosovo. So there was a
22 willingness on their part to meet with the international community.

23 Q. Understood. My question is more just about those conversations
24 you were having with the local commanders -- or I should your staff
25 was having with the local commanders when they would raise these

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1 issues of men dressed in UCK -- with an UCK insignia taking people
2 and the response from the local commanders.

3 My question is was that limited --

4 A. Oh, I'm sorry.

5 Q. -- to one particular geographic zone or was that across Kosovo?

6 A. Thanks for repeating. It was across. It was across the
7 province. There was really no area that we didn't hear that from.

8 Q. So is it fair to say that that would be coordinated, that it was
9 similar across all of the zones, not limited to one particular group
10 of people or individual who gave you that explanation or that
11 response?

12 A. Yes. And the patterns are well documented by OMiK in this
13 regard. Allegations of UCK uniformed men doing A, B, C. Fill in the
14 blank.

15 Q. Have you met Hashim Thaci?

16 A. I have.

17 Q. Can you tell us when and in what context?

18 A. I think I first met Mr. Thaci with Ambassador Walker,
19 pre-evacuation. And then I also met him in Ambassador Evert's office
20 or conference room. And I think I was also in some meeting with the
21 UN that were held at the UN's office -- at Bernard Kouchner's office,
22 the SRSG, and Mr. Thaci would have been present.

23 Q. Taking up the first time that you met him with Ambassador
24 Walker, is that the only time that you met him before June 1999 to
25 your recollection?

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1 A. Yeah, I think so. Yeah.

2 Q. And can you tell us what was the circumstances of that meeting?

3 A. It was surrounding, I believe, the withdrawal of the KVM.

4 Q. Did you have any conversation with Mr. Thaci at that time?

5 A. Nothing specific, no. I would have been a note-taker for
6 Ambassador Walker.

7 Q. Understood. Then moving forward to the June 1999 through
8 October 1999. Did you have occasion to meet with Mr. Thaci at that
9 time?

10 A. I was in meetings, I believe, with Ambassador Everts and
11 Mr. Thaci certainly prior -- just prior to the release of our public
12 reporting during this period. There was a -- we made a démarche to
13 him, told him what was going to be in the report, what some of the
14 allegations were, et cetera.

15 Q. And before we get there. When you first met with Mr. Thaci --
16 and I understand this wasn't an individual --

17 A. No.

18 Q. -- meeting with you. This was a meeting that you were with
19 Ambassador Everts. Do you recall -- can you tell us more
20 specifically what timeframe that would be? Was it early on when you
21 first came back into country or towards the end of the year? If you
22 can recall.

23 A. I think it -- it was not early on. It was October, November,
24 maybe that timeframe.

25 Q. And do you know what Mr. Thaci's position was at that time?

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1 A. Mr. Thaci was the head of the provisional government or
2 provisional authority.

3 Q. And did you know whether or not he had previously had a position
4 within the KLA?

5 A. Yes, I believe he had.

6 Q. Did you know what that position was?

7 A. I don't know the exact -- I can't remember if he was a zone
8 commander. I do know that he was contacted immediately following the
9 Recak massacre to facilitate movement of the bodies through different
10 UCK zones.

11 Q. This was in January 1999?

12 A. Probably towards the end of January into February, early --
13 yeah, end of January I think the bodies were released.

14 Q. And tell us about that interaction with Mr. Thaci. What was
15 asked of him and what did he do?

16 A. I was there. I think Ambassador Walker was making the request.
17 And as I recall, the bodies had been moved to Prishtine by the
18 Serbian authorities, and they had crossed -- maybe had crossed a
19 zone. So there was maybe one or more zone commanders involved. And
20 he was requested to ensure that there was no problems with the return
21 of the bodies to the village. And then I think there was discussions
22 around the funeral as well.

23 Q. So was his involvement -- did that have something to do with the
24 fact that this matter crossed zones? Is that what I'm hearing you
25 say?

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1 A. Yes.

2 Q. Can you explain what you mean to the Panel?

3 A. As far as I understand the way the UCK was set up at that time,
4 there was six or seven zones geographically dividing Kosovo. And if
5 there was an interaction that happened in part of one zone and
6 another or you needed to cross a zone to transport bodies, for
7 example, you would go above the zone commanders, and Mr. Thaci was
8 somebody that facilitated that.

9 Q. I want to focus -- go back to the October, I think, November
10 1998 timeframe when you said you had these additional meetings where
11 you were there and Mr. Thaci was there, and they were meetings with
12 Ambassador Everts.

13 Did the subject of human rights or the treatment of detainees or
14 individuals within KLA control, did that come up at those meetings?

15 A. Yes. I also had met with him previously over a security
16 incident that involved myself, but we had also had meetings about
17 what we were finding, the reporting that was coming in.

18 Q. Well, let me take those in chronological order.

19 A. Okay.

20 Q. Why don't you start with the meeting that you had with him about
21 your security incident.

22 A. I believe that would have been October-ish, maybe early
23 November. We were - and by "we," I mean myself and one or two other
24 colleagues - were in the process of editing the public -- what
25 subsequently was a public report on the time period. And a lot of

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1 this work you would do at home at night, and I would do that
2 particularly.

3 I came home one night. It must have been about 7.00 or 8.00 at
4 night. My apartment was -- had been broken into. It had not been
5 the first time that that had happened. The door was wide open.
6 There were two UCK soldiers sitting at my table, my dining room
7 table, going through my laptop computer.

8 I ran. I ran back to the mission. I got security. I ran --
9 got a friend. By the time we returned, they had -- they had gone.
10 This was an issue that Daan Everts did raise with the KLA leadership,
11 who, of course, denied that it was their soldiers. These were people
12 dressed up like them. And that was the end of that.

13 MS. MAYER: If we can pull up 013312 to 013334 RED, and it's the
14 same for the Albanian. Going to page 013324. And if we can focus in
15 on paragraphs 36 and 37.

16 Q. So you note in paragraph 36 that there had been -- there was a
17 first incident where "KLA" was written on your door because where you
18 were staying, there -- you were living in a Serb-owned apartment.

19 A. That's correct.

20 Q. And that in response, you put a big OSCE sign on your door
21 and --

22 A. That's correct.

23 Q. And then that issue, if you can just tell us, it -- you say that
24 issue was elevated to the KLA. So what happened with that?

25 A. This was something that was happening not just to me but many of

1 the internationals that came back. Housing was very hard to find, as
2 I mentioned. Less so in Prishtine. There were a lot of apartments.
3 Many Serbians asked us to rent their apartments to protect them,
4 protect the apartment itself. I had one of those apartments.

5 So it was not unusual as the UCK had possession of the property
6 records. There were a fair number of evictions that were going on.
7 This was throughout Kosovo. And they would write on the doors those
8 apartments that they claimed. Mine was one of them. OSCE staff were
9 instructed to put signs, OSCE signs on the door. I think other
10 international organisations did the same thing, the UN, et cetera.

11 Kare Eltervag, who was the Norwegian representative, the *de*
12 *facto* head of mission prior to the arrival of Daan Everts, did raise
13 the issue with the UCK because it was happening not just to me but it
14 was a pattern, and that they respect these signs and not evict the
15 people. It did last for a few weeks, but then, as I said, sometime
16 later they had broken into my apartment and I subsequently relocated.

17 Q. And in that incident where you walked in and saw two KLA
18 individuals in your apartment looking at your computer, and you've
19 told us that you were preparing this report that eventually became
20 public, was it your understanding that it was raised with Mr. Thaci
21 himself?

22 A. Yeah, yes. Yes.

23 Q. And what was his response?

24 A. That this was not the UCK. This was people impersonating them.

25 Q. What were your observations of the KLA's control at that time?

1 And the timeframe I'm talking about is the timeframe of when this
2 break-in happened at your apartment.

3 A. From the moment the hostilities stopped until -- really until
4 the end of the year, the UCK was gaining more and more and more
5 authority as they filled the vacuums. I mean, there was a huge
6 security vacuum despite the presence of NATO forces. There was a
7 huge political vacuum because there was no elected authority.

8 So my impression was that the UCK were filling in these security
9 political vacuums, utilities, everything that I've mentioned. They
10 were doing it by making direct appointments, appointing their own
11 people. And when you would be introduced, or you would go into a
12 village and meet the new mayor, the new mayor would, you know, be
13 quite proud of saying that he had been appointed by Mr. Thaci.

14 So my impression was that the UCK, during the time period you're
15 discussing, stepped in and filled the vacuums that were vacant as a
16 result of the Serbian withdrawal and the absence of any international
17 presence.

18 Q. [Microphone not activated].

19 Based on that stepping in, from your observations, was -- how
20 would an imposter situation be handled?

21 A. This was always something I found very difficult to accept
22 because the UCK was a proud organisation. They felt that they had,
23 you know, contributed substantially to the liberation of Kosovo, that
24 they had been instrumental in bringing NATO forces to bear. And then
25 when they -- after everybody, the Kosovo -- the Kosovo Albanians

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1 returned, that they were filling in these voids.

2 And I personally found it very hard to believe that they would
3 tolerate a criminal gang or others going around, you know, dressing
4 like them and committing crimes in their name. Of course, that would
5 happen occasionally. There's no doubt. I'm sure it did. But the
6 patterns that we saw over the duration of the reporting that's now
7 public made it very difficult to believe that that was the case for
8 me.

9 Q. I want to continue with your meetings with Mr. Thaci. You've
10 talked about the meeting that happened in response to the break-in
11 where two KLA soldiers were at your computer. What was the next time
12 that you recall meeting with Mr. Thaci? And my question, I think,
13 from before, was did you discuss human rights issues with him?

14 A. Yeah, I mean, I would have been at -- whenever Daan Everts would
15 have been meeting with the KLA leadership, including Mr. Thaci, and
16 human rights was on the agenda, he would have me there. Similarly,
17 if elections were on the agenda, he would have the head of elections
18 there. Or the police, he would have the police school there. So
19 he's very systematic in that, making sure that the substantive
20 responsibilities were covered by whatever director was responsible.

21 The only other meeting -- so there may have been other meetings,
22 but the one that stands out the most is the one prior to the release
23 of the report where, as I said, we provided notice and informed
24 Mr. Thaci about the report, when it was going to be released, and
25 what some of the findings and the concerns were. And that, frankly,

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1 covered the entire plethora of human rights issues - everything from
2 killings, to access to hospitals, to freedom of movement in the
3 north, in Mitrovica, just everything.

4 Q. And when you briefed Mr. Thaci on this report and what the
5 findings were going to be, what was his response?

6 A. Well, I think, you know, he -- he took great issue at the
7 allegations for people that were wearing UCK uniforms, continuing
8 the -- you know, the persistent line that these were not UCK. These
9 were opportunistic people wearing the uniform to commit crimes,
10 et cetera.

11 He would have been asked to follow up on specific incidents.
12 That was the general practice. And we never received anything that
13 I'm aware of indicating that, you know, they had investigated these
14 things.

15 He'd also -- the UCK at this point would have been saying that
16 policing is no longer their responsibility. It is the responsibility
17 of KFOR or -- which was the multinational force, or the UNMIK, the UN
18 Mission in Kosovo, which wouldn't have been very many police on the
19 ground at that point in time. And that there was also criminality
20 involved and -- and, again, I think, you know, it was very
21 frustrating for the UCK. Their conduct was being reviewed in light
22 of the, really, all-encompassing humanitarian law violations that had
23 been committed by the Serbian authorities.

24 MS. MAYER: If we can pull up 076826 to 076840, and it's the
25 same in Albanian. And going specifically to page 076831. And

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1 looking at paragraph 21. If we can make sure that full paragraph is
2 on the screen.

3 Q. Now, in looking at that paragraph, it talks about meeting -- a
4 meeting that you had with Ambassador Everts and Mr. Thaci and also
5 someone else named Ceku. Can you tell us who that person was?

6 A. Agim Ceku was the commander of the uniformed UCK.

7 Q. And it puts the timeframe of this meeting, in the middle of that
8 paragraph, in about August 1999, where you were raising issues along
9 with another individual, Craig Jenness. Can you tell us who that is?

10 A. Craig Jenness is a Canadian diplomat who was the deputy for Daan
11 Everts at OMiK.

12 Q. And it describes at this meeting that you were raising these
13 human rights issues but that Mr. Everts was not. And specifically
14 this detail in here, that he was staring at a birdcage while these
15 issues were being discussed. Can you explain to the Panel your
16 recollection of that meeting?

17 A. He would have just joined the mission at that point or had not
18 been in country very long, so I would have carried most of the
19 substance of it.

20 Q. Understood. You also say at the beginning of that that he was
21 uncomfortable raising these issues.

22 A. Mm-hm. Mm-hm.

23 Q. Is that still your assessment of things?

24 A. Yeah, I mean, Daan Everts had a really impossible job being
25 responsible for, you know, rebuilding a police force through a police

1 school, elections, standing up -- helping to stand up a government,
2 and then the human rights issues. So he was part of the structure
3 that was very much trying to bring the Albanians back into a
4 functioning government and getting them to work together a lot.

5 The UCK was, at this point in time, certainly the more dominant
6 force on the ground, and raising issues about their behaviour, crimes
7 that they may have been committing, issues of disappearances, things
8 of this nature were really kind of uncomfortable, particularly when
9 you knew beforehand that the answer was going to be that, you know,
10 they really didn't know anything. So it was difficult for him, for
11 Ambassador Everts.

12 Q. And it says here also that there were about five or six
13 occasions. Is that still your recollection that this was not a
14 one-time conversation where you were there with Ambassador Everts and
15 Hashim Thaci and Agim Ceku?

16 A. I'm not sure that Mr. Ceku and Mr. Thaci would have been
17 together in every one of those meetings. That would have been a bit
18 unusual because they were the two senior -- the senior men at that
19 particular point in time. But, yes, I think I met with them a few
20 times with Ambassador Everts.

21 Q. And was the response generally the same on each occasion?

22 A. Yes, yes. Frustration at having these issues raised when there
23 were so many other things consuming their time. That these were
24 imposters. These were criminal gangs at play.

25 Q. And as it says here at the end, do you ever recall any follow-up

1 from Mr. Thaci or Mr. Ceku after you raised these issues?

2 MR. KEHOE: Excuse me, Your Honour. I mean, it would be helpful
3 if, of course, they read what was actually said from Thaci. It says:

4 "'Why would we do that to our own people?'"

5 That was left out.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MR. KEHOE: That's fine. Thank you.

8 PRESIDING JUDGE SMITH: You can certainly raise that on
9 cross-examination, but it's not part of this examination.

10 Go ahead, madam.

11 THE WITNESS: No, I certainly don't remember information being
12 providing that could close a case. No. I don't remember them
13 providing anything more than the rhetoric that, "This was not our
14 people."

15 MS. MAYER:

16 Q. I want to turn to this report that you keep mentioning. Did
17 there come a time at the end of 1999 where OMiK or OSCE issued a
18 report with findings and information that it had gathered over the
19 course of its time in Kosovo?

20 A. The OSCE in, I believe it was December 1999, issued two reports.
21 The first report covered the time period from October 1998 until the
22 mission's withdrawal, and that was one part of it. And then the
23 second part of that report covered the -- what was discovered and
24 reported back to OSCE from refugees. So those two time periods were
25 covered in volume 1.

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1 When we went back into Kosovo, never in a million years did I
2 think that we would be writing a second report. The second report
3 came about because of the deteriorating and worsening situation for
4 minorities. This being the Serbs and the Roma, Goranni, Muslims,
5 Slavs. And the reports were -- and that period, sorry, covered from,
6 I think, June until the demilitarisation of the UCK, which was
7 sometime in September, October maybe. I think it was extended to
8 October. So it covered that period of time. Both reports were
9 released simultaneously in several locations, Prishtine being one of
10 them.

11 Q. And prior to their release, is this the report that you were
12 talking about that you met with Ambassador Everts and Mr. Thaci to go
13 over what the findings or the information in the report would be?

14 A. Yes.

15 Q. Did that relate to a specific volume or specific part of the
16 volume as you've described it?

17 A. Well, I mean, we would have discussed both reports because both
18 reports included statements that were given to the OSCE about the
19 UCK, so they would have both been raised. But certainly the
20 intention -- the attention and the concern for the UCK was on the
21 second report.

22 Q. Can you tell the Panel what the name of the report is?

23 A. The first report is "As Seen, As Told" Part 1, and the second
24 report is "As Seen, As Told" Part 2.

25 Q. Are they also called volume 1 and volume 2?

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1 A. Yes, they are.

2 Q. Were you involved in compiling both volumes of those report?

3 A. Yes, I was -- the first volume of that report, all of that data
4 was sent to Warsaw, to the office that I used to work at, and some of
5 my team, human rights team was deployed to Warsaw to help draft that
6 report. I did the final signoff on each chapter, in the final edit
7 on each chapter of the first report. I wrote one or two sections of
8 the first report I think primarily detailing the methodology and the
9 way the information was collected.

10 The second report was drafted first by the five regional
11 offices, and they were not all native English speakers. So Alison
12 Jolly, who is an outstanding human rights practitioner and had been
13 in Gjilan, came and helped write -- rewrite and do most of the
14 rewriting on the second report. It was just a lot of non-English
15 writing skills and things, so it just needed to be tidied up a bit.
16 And then I did the final signoff on that report as well from the
17 Human Rights Division. And I drafted, I think, one or two chapters
18 in the second report, again focusing on kind of the methodology and
19 how the report was compiled.

20 Q. And can you tell the Panel briefly the methodology and how the
21 report was compiled, taking it one volume at a time?

22 A. Sure. The first volume covered two discrete time periods. So
23 one was the time period when we first started in October 1998 until
24 March, and those were the reports that we were getting from human
25 rights officers around Kosovo of what was happening. They certainly

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1 focused primarily on the Serbian occupation. Although, there was
2 documentation, as you've referenced, about UCK, primarily detention
3 facilities, arbitrary arrests, things of this nature.

4 That report -- we pulled all our information out when we left,
5 so it was based on the actual documents that we took out of Kosovo.
6 And then also it was -- the other part of that report was based on
7 1700, I think, or 2700 - I'd have to look at the report - refugee
8 statements that were given. That first report is laid out by human
9 rights violation, by communities specifically impacted, vulnerable
10 groups, minorities, women, et cetera, and then is a geographical
11 breakdown of what we were told by refugees village by village. And
12 that's the first report.

13 The methodology is the same in both. You're looking at
14 international human rights standards that bind all members of the
15 OSCE. These are all that you would expect, the UN documents, ICC PR,
16 et cetera, the European documents, as well as what there may have
17 been in local Yugoslav law.

18 The second -- is that okay on the first?

19 Q. Sure. If I have any follow-ups, I'll ask.

20 A. Okay. The second report was based on when we went back into
21 Kosovo and we deployed out, and all of the reporting we were getting
22 from the five regions. Obviously, I was much more involved in that.
23 I was living in Kosovo. I was there. I was on the ground. I was in
24 the regions. I was working hand in glove with the different human
25 rights officers. And that report is laid out geographically

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1 according to the five areas that OSCE worked in which aligned with
2 the multinational forces, because they all had different policies and
3 procedures, and the UN.

4 That report is laid out geographically. And then it has a few
5 annexes. One annex is basically a day-by-day accounting of the
6 reports that we took in. As I mentioned, there was no authority in
7 Kosovo when we went back. The OSCE believed that we were the only
8 ones really documenting this information, and so for historical
9 reasons we wanted to make sure it was put on paper somewhere. And
10 then there was an annex that focused on killings and arbitrary
11 detentions, which were the most egregious of the human rights
12 violations during that time period. As well as an annex on the
13 exhumations that I referenced earlier.

14 Same methodology. International instruments. Responsibilities.
15 Because the UCK was holding itself out to be a government, was
16 behaving like a government, was holding territory, although they were
17 not a member state per se as defined, they were held to the same
18 standards as was customary and is customary during now.

19 Q. So I just want to make sure we understand that the -- the basis,
20 the facts that are contained in this report, where did that
21 information come from? Where was it documented?

22 A. The second report?

23 Q. For both, taking them one at a time. Each volume.

24 A. The first volume was based on reporting done by OSCE members
25 inside Kosovo. Those documents were taken out when we evacuated as

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1 much as we could take them out. And it was also based on several
2 thousand statements taken in the refugee camps in Albania and
3 Macedonia. All of those documents were transferred to Poland, and
4 the report was drafted up there based on those documents and only on
5 those documents.

6 The second report was based on reports that we had inside Kosovo
7 that we were receiving from our human rights officers as well as
8 meetings that they may have been attending with the UN and KFOR.

9 Q. So is it fair to say, though, that the information, the basis
10 was from OSCE information that had -- it had gotten -- it had
11 in-taken as well as, for some of the stuff in volume 2, information
12 it had gotten from working with other international organisations
13 that were working in the space as well?

14 A. Yes. In volume 2, we had -- we had more time. We also had --
15 we were under a lot of pressure to -- and understandably so, and
16 rightfully so, to make sure that the allegations that were included,
17 particularly concerning the UCK because of their position that they
18 were not involved in any of these things, that they were really what
19 we referred to as well-founded allegations. And they are only
20 allegations.

21 Well-founded allegations means that they were triangulated as
22 much as we could triangulate them in the field. So report of a
23 missing person comes in to a human rights officer, they go to KFOR to
24 see if KFOR has that report. They may then go to ICRC. They may
25 then go to whoever the local authorities are. Often the church

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1 boards and different organisations would keep track of missing people
2 as well. Talk to the family, et cetera.

3 So there would be some triangulation. It's not just writing
4 down what someone told you and off it goes into a report. That was
5 not the case at all.

6 And on the second report, we were also able to send information
7 back out to the field to get them to verify it. So the annex that I
8 talked about that has a chronology of things that came in, that was
9 sent out -- back out to the field to verify all of this information
10 and to double-check dates and to be sure that those allegations were
11 as well founded as they could be.

12 MS. MAYER: Speaking of that, can we pull up P00006.

13 Q. And there's only an English version. So if you can take a look
14 at this, what's entitled "Interoffice Memorandum" from you to the
15 Gjilan human rights team in mid-September 1999. Can you tell us what
16 this is?

17 A. Yup. This looks like me sending out the chronology of events as
18 we've now compiled them as we start drafting some of the parts for
19 the second report for them to verify the information, as well as to
20 get some additional information in the first part on those specific
21 areas.

22 Q. And do you see that handwriting there where it says -- it has an
23 October date and it says "first draft." Is that your handwriting?

24 A. No, it is not my handwriting.

25 Q. Do you have an understanding of what "first draft" refers to?

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1 A. First draft would have been the first draft of the section for
2 Gjilan of the report.

3 Q. And when you say "the report," you mean "As Seen, As Told"
4 volume 2?

5 A. Correct.

6 Q. So this is the example that you were just telling us about of
7 you sending out information to the field for them to reverify it?

8 A. Yes.

9 MS. MAYER: We can take that down. And I'd ask to bring up
10 SITF00001529 to 00001871. And if we can just -- I realise that this
11 is page by page on the screen, and I'm not going to go through each
12 one.

13 Q. But if you can look at that table of contents. So if we can go
14 from the first page to the second page. And it lists those sections
15 that you were just telling us about and then as well those annexes
16 with the chronology, the human rights violations, and the grave sites
17 or exhumations that you mentioned.

18 So that's -- this is the outline of volume 2 as you've described
19 it; is that right?

20 A. Yes.

21 MS. MAYER: If we can pull up volume 1, which is in two parts.
22 SPOE00198098 to SPOE00198366 first. And if we can just similarly go
23 through the table of contents. So just, I think, onto the second
24 page of this. And I think for this one it goes onto the third page.
25 Yes.

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1 Q. So, again, understanding that you're just looking at the table
2 of contents, is this -- this is part 1 of volume 1; is that right?

3 A. This is -- this is volume 1.

4 Q. Okay. So this is the table of contents for all of volume 1?

5 A. That's correct.

6 MS. MAYER: And if we can bring back up -- I apologise. If we
7 can bring back up volume 2, which is SITF00001529 to SITF00001871.
8 And if we can go specifically to SITF00001571.

9 Q. On this page, in the paragraph just above the heading, that
10 heading C, if you can look at that paragraph. It describes:

11 "In sharp contrast to the period before the conflict, there was
12 a strong and highly visible UCK presence in the Gnjilane/Gjilan
13 area."

14 And I think you mentioned that earlier, that there had been a
15 marked difference between before you withdrew and then when you all
16 reentered in June 1999?

17 A. That's correct.

18 Q. And specifically here it talks about -- there's an example of
19 the takeover of different public buildings, and it includes "the
20 occupation of a former boarding school, known as the Internat, a
21 building said to be used as a UCK detention facility."

22 Do you recall having information at the time about the KLA using
23 the Internat or a boarding school dormitory as a detention facility?

24 A. Yes, Alison Jolly or Claudia Moser - I can't tell the specific
25 date - would have been -- oh, early October, okay. No. Either

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1 Alison Jolly or Claudia Moser would have been in Gjilan during this
2 time, both, you know, top-tier human rights professionals, and talked
3 about this. I do remember it, yes.

4 Q. I think you had mentioned Alison Jolly to us before. I think
5 this is the first time Ms. Moser's name has come up. During what
6 period was she there?

7 A. Claudia Moser was also a field coordinator and was deputy when
8 Susanne Ringgaard wasn't there. She was part of the KVM, so she had
9 been in Gjilan before the conflict, before the NATO campaign, as well
10 as after the NATO campaign. A Swiss national.

11 PRESIDING JUDGE SMITH: Madam Prosecutor, I'm not sure, but I
12 think there might be a little confusion. The SITF document that ends
13 in 1871. You've referred to it once as an outline and once as a
14 table of contents in your questioning. Which one is it? Or is it
15 both?

16 MS. MAYER: It's neither, Your Honour. I think what I was doing
17 was --

18 PRESIDING JUDGE SMITH: For volume 2, by the way.

19 MS. MAYER: Volume 2, the first few pages are a table of
20 contents.

21 PRESIDING JUDGE SMITH: Okay. You --

22 MS. MAYER: But the entire document is that volume. And so just
23 the first few --

24 PRESIDING JUDGE SMITH: Yeah, okay. In the record it says
25 "outline" in one place and then it says "table of contents."

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1 MS. MAYER: It is table of contents, the first few pages, as
2 titled exactly in the document, Your Honour.

3 PRESIDING JUDGE SMITH: And volume 1 is the SPOE documents?

4 MS. MAYER: That's correct.

5 PRESIDING JUDGE SMITH: And that's the same table of contents --

6 MS. MAYER: It is.

7 PRESIDING JUDGE SMITH: -- only for volume 1.

8 MS. MAYER: It is.

9 PRESIDING JUDGE SMITH: Okay. All right. Thank you.

10 MS. MAYER: Sorry for the confusion, Your Honour.

11 If we can move to SITF0001581 to 1582 as the specific page
12 within the document that's already up on the screen. Starting at the
13 bottom of page 1581.

14 Q. And if you can just look at that last paragraph where it's --
15 the title heading number 4 is "Physical Integrity." And in the
16 middle of that final paragraph, it says:

17 "Again, the trend was apparent immediately: on 19th June," which
18 is, I believe, at the beginning of when you all first came back into
19 country, "a Kosovo Serb male was ill-treated during an unlawful
20 detention ... by four or five alleged UCK members. The victim was
21 released on 22nd June with cuts on his face and broken teeth."

22 And then there's a footnote there. Can you tell us what that
23 footnote refers to?

24 A. This is the citation GN/GN/, that is the number of the file.
25 It's in the Gjilan region, in Gjilan town, file number 13, 1999. So

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1 that would have been the file that was opened and would have most
2 likely names contained in it and more detail.

3 Q. Okay. And then it continues on:

4 "Also on 19th June, five Kosovo Albanian civilians wearing green
5 camouflage uniforms with UCK insignia stopped a Kosovo Serb man in
6 the street in daylight ..."

7 And it continues to the top of the next page. And it says:

8 "... daylight hours and forced him to hand over money."

9 And, again, I'm not going to have you read each footnote. But
10 it goes on in the paragraph to detail another incident:

11 "On 28th June, an UCK insignia was placed on the shop of a
12 Kosovo Serb: the shop was also looted and the owner ill-treated by
13 perpetrators wearing UCK uniforms."

14 And then the last sentence of this paragraph:

15 "UCK involvement in June was much in evidence: every report of
16 ill-treatment from 19th June to 1st July alleged that the
17 perpetrators were UCK."

18 So in terms of that time period and those reports, those were
19 footnoted. So were those based on reports that you were getting of
20 information in the area and that you've described to us that you
21 triangulated before putting it into this report?

22 A. Yes, I believe those would have been that early time. I think
23 Claudia Moser went back in with me in the days following the end of
24 NATO. Immediately she went to Gjilan. She had been there before the
25 NATO campaign. A meticulous record keeper. So, yes, I have a very

1 high level of confidence that those documents, she prepared them, she
2 opened files, and she would have triangulated them.

3 That early period, it would have been not many people to
4 triangulate with. Certainly KFOR as well as whoever local
5 authorities, the local mayor, whoever the elders were in that
6 particular community would have been who she would have spoken to.

7 PRESIDING JUDGE SMITH: Madam Prosecutor, it's time for the day.
8 Witness, thank you for your attendance today. You will have to
9 be back again tomorrow. We will begin at 9.00. And thank you for
10 your attention to all of this.

11 The Court Usher will escort you out of the room.

12 Remember the solemn declaration that you took this morning, and
13 do not speak to anybody about the case.

14 THE WITNESS: Yes, sir.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: Do you have something?

17 MS. O'REILLY: Yes, Your Honour. Well, I had a question for --
18 to find out how long the Prosecutor expects to be.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 How much more time do you need?

21 MS. MAYER: I think I might, just with the documents, maybe
22 45 minutes or so. We just -- it's -- I'm really focused on the
23 documents now, so these two reports and then a few other documents.

24 PRESIDING JUDGE SMITH: Thank you.

25 MS. O'REILLY: And then, handily, I will be less time than I

1 expected, so maybe 45 minutes, myself, to an hour.

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 MR. KEHOE: I'm sorry, you have the distinct pleasure of
4 starting with me.

5 PRESIDING JUDGE SMITH: Okay. And then we'll go in the regular
6 order. All right.

7 And, Mr. Roberts?

8 MR. ROBERTS: No update from the hour and a half previously
9 advertised, but I will obviously take into consideration what happens
10 tomorrow.

11 PRESIDING JUDGE SMITH: And I didn't ask you, Mr. Kehoe, time.

12 MR. KEHOE: Lots. All of it.

13 PRESIDING JUDGE SMITH: Okay. All right. Thank you.

14 Mr. Ellis, Ms. Alagendra.

15 MR. ELLIS: Your Honour, we gave a range, I think, of either
16 between an hour and a half to two hours. I'm towards the bottom end
17 of that.

18 PRESIDING JUDGE SMITH: Okay. Thank you very much all.

19 So we are adjourned until tomorrow at 9.00 a.m.

20 --- Whereupon the hearing adjourned at 4.03 p.m.

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