

1 Thursday, 7 December 2023

2 [Open session]

3 [The accused entered the courtroom]

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

5 PRESIDING JUDGE SMITH: The Court Officer can please call the
6 case.

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

11 PRESIDING JUDGE SMITH: Not yet.

12 MR. KEHOE: [Microphone not activated]

13 PRESIDING JUDGE SMITH: The Thaci and Krasniqi request to add
14 items to the presentation queue will be admitted or will be allowed,
15 no objection have been being stated by the Prosecution. There are
16 two items for Krasniqi and one item for Thaci.

17 Go ahead, your item.

18 MR. KEHOE: Yes, Your Honour. Just one housekeeping. Taking
19 the suggestion of Judge Gaynor to correct that newspaper article, we
20 have, in fact, corrected that, Judge, and added it and uploaded it as
21 DHT02782 to DHT02782. And just for reference, this is a translation
22 of the *Kurir*, K-u-r-i-r, article that Your Honour referenced
23 yesterday, and we would offer that into evidence with the corrected
24 copy.

25 And apologies for the mistake and spelling.

1 PRESIDING JUDGE SMITH: Thank you, Mr. Kehoe.

2 Before I invite the witness in, the Panel will address some
3 other housekeeping matters related to the applications for leave to
4 appeal that are currently pending.

5 First, I refer to the joint Defence application for leave to
6 appeal the Panel's decision F01963 on the admission of documents
7 shown to Prosecution Witness W04769.

8 The Panel is mindful of the upcoming period of Court recess and
9 notes that, under the rules, the briefing schedule would overlap with
10 the recess and could constitute a serious inconvenience for counsel
11 on both sides.

12 Thus, subject to any objections, the Panel is minded to extend
13 the briefing schedule *proprio motu*. The Panel proposes to set the
14 deadline for the SPO's response until 9 January 2024, which would
15 make the reply due on the following Tuesday, 16 January.

16 So this was our idea. If there's any objections, I would like
17 to hear about them now.

18 Any objection from the Prosecution?

19 MS. MAYER: No, Your Honour.

20 PRESIDING JUDGE SMITH: All right.

21 Any of the Defence?

22 MR. KEHOE: No, Your Honour.

23 MR. ROBERTS: No objection, Your Honour.

24 MR. ELLIS: No objection, Your Honour.

25 PRESIDING JUDGE SMITH: All right. Thank you very much.

1 So that will be the subject of our first oral order. Under
2 Rule 9(5) (a) of the Rules, the Panel extends the deadline for any
3 response to F01892 to Tuesday, 9 January 2024, and orders that any
4 reply be filed on Tuesday, 16 January 2024.

5 The Defence is to notify the Panel no later than 11 January 2024
6 whether it will file a reply.

7 This concludes the Panel's oral order.

8 Next, the Panel has before it applications of the Defence for
9 Messrs. Krasniqi, Veseli, and Selimi for leave to appeal the Panel's
10 decision F01917 on the admission of the statements of the accused.

11 The Panel wishes to inform the parties that irrespective of the
12 upcoming recess, the Panel intends to maintain the briefing schedule
13 under Rule 76 and 77 of the rules, and the Panel will issue its
14 decision in compliance with Rule 77(3).

15 The Panel would also like to hear briefly from Mr. Kehoe and the
16 other Defence counsel about their updated cross-examine estimates for
17 the current witness as it might impact our schedule and might require
18 this particular witness to return next week.

19 MR. KEHOE: I would say, Your Honour, I would try to move
20 through quickly, but it's going to be most of the day.

21 PRESIDING JUDGE SMITH: Most of today?

22 MR. KEHOE: Yes.

23 PRESIDING JUDGE SMITH: Yes, okay.

24 MS. O'REILLY: Your Honour, looking at what I have right now, it
25 is about 30 or 40 minutes.

1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 MS. O'REILLY: 30 or 40, yeah.

3 MR. ROBERTS: I'm still at between an hour and an hour and a
4 half, Your Honour, but that may depend or be reduced further
5 depending on Mr. Kehoe's cross-examination.

6 PRESIDING JUDGE SMITH: Yes, understood.

7 Mr. Ellis.

8 MR. ELLIS: Your Honour, the time estimate hasn't changed. It
9 may come down from an hour and a half to an hour, but I think we're
10 already looking at beyond the five hours --

11 PRESIDING JUDGE SMITH: Yes.

12 MR. ELLIS: -- today.

13 PRESIDING JUDGE SMITH: We are. Okay. Thank you very much.

14 So, Madam Court Officer, please bring the witness -- oh. I'm
15 sorry.

16 MR. EMMERSON: Your Honour, just before the witness is brought
17 in, a matter was raised shortly after the luncheon adjournment
18 yesterday whilst I was out of court concerning the issue of contact
19 with family.

20 My intention is to provide the Court with an explanation in
21 writing, if that's acceptable, rather than to take up Court time
22 explaining the circumstances in which that came to pass.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 You may bring the witness in now.

25 [The witness takes the stand]

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1 PRESIDING JUDGE SMITH: Good morning, Witness.

2 THE WITNESS: Good morning.

3 PRESIDING JUDGE SMITH: Can you hear okay?

4 THE WITNESS: Yes, sir.

5 PRESIDING JUDGE SMITH: All right. Today we will continue with
6 the cross-examination, beginning with the Thaci Defence.

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

9 Mr. Kehoe, you have the floor.

10 MR. KEHOE: Thank you, Your Honour.

11 WITNESS: SANDRA MITCHELL [Resumed]

12 Cross-examination by Mr. Kehoe: [Continued]

13 Q. Good morning, Ms. Mitchell. And I'll try to move through this
14 as quickly as possible and certainly not repeat what I did before.

15 We left off yesterday on the Serb authorities arming civilians,
16 and I'd like to show you a document.

17 MR. KEHOE: This is DHT -- begins on DHT07525 to DHT07537.

18 Q. And I'll just show you the front page. It's an expert report
19 from the Slobodan Milosevic matter that you testified in, but if I
20 can just show you the front page. And just to orient you,
21 Ms. Mitchell, I don't expect you to have read this report, so -- but
22 this is a report from the Office of the Prosecutor military analyst
23 at the ICTY, Philip R. Coe in the Milosevic matter that you testified
24 to.

25 MR. KEHOE: And if I can turn first to DHT07536. And if we can

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1 just scroll down to that paragraph 25.

2 Q. And in this, this is an order from the Serb Federal Ministry of
3 Defence, May 1998, and it notes that:

4 "It has been observed that, because of the increasing number of
5 attacks by the Albanian terrorists on the legal organs of government
6 and on Serbs, Montenegrins, and citizens of other nationalities loyal
7 to the Republic of Serbia and ... /Federal Republic of Yugoslavia/,
8 the inhabitants of some municipalities are organising themselves for
9 the purpose of defence. In this connection, I hereby

10 "Order

11 "1. Chiefs of departments and heads ... shall immediately
12 establish contacts with municipal leaders and ensure that lists are
13 compiled for the purpose of arming the population which will be
14 carried out by the Federal Ministry of Defence through its
15 organisational units throughout the territory."

16 And then they talk about who they're not going to give weapons
17 to. And they're not going to give weapons to people in the army and
18 the MUP, but this talks about the purpose of arming the population.

19 MR. KEHOE: And if we can turn two pages back to DHT07532. And
20 if we can just scroll down to the paragraph in the middle beginning
21 with "With a view ..." and this has to do with surveillance posts in
22 civilian houses.

23 Q. This is likewise an order from the Serb Ministry of Defence:

24 "With a view to integrating communications in municipal
25 observations" --

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1 MS. MAYER: Objection, Your Honour. I believe we discussed at
2 length in my questioning not reading whole passages to the witness as
3 they are questioned.

4 PRESIDING JUDGE SMITH: Is there a question?

5 MR. KEHOE: There is a question. I'm just trying to give her
6 the opportunity to read it if she wants to.

7 PRESIDING JUDGE SMITH: Doesn't she have it in front of her?

8 MR. KEHOE: Yes, she does.

9 PRESIDING JUDGE SMITH: Well, she can read it.

10 MR. KEHOE: That's fine. I mean I -- the path of least
11 resistance, Judge. If she wants to read it, that's fine.

12 PRESIDING JUDGE SMITH: I think probably the simplest way is to
13 have her go ahead and take a moment to read it.

14 MR. KEHOE:

15 Q. Ms. Mitchell, I was reading it, but if you could just take a
16 look at that and tell me when we can scroll down. Tell me when
17 you've finished the bottom of that page, and we can go to the next
18 page.

19 A. Next page, please.

20 PRESIDING JUDGE SMITH: Go to the next page now, please.

21 MR. KEHOE:

22 Q. And just tell me when you've finished that first paragraph at
23 the top.

24 A. I've finished, sir.

25 Q. Okay. So this is an order, as you can see, for setting up radio

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1 stations in civilian houses. So we have these orders coming from the
2 Ministry of Defence arming civilians -- the Serb Ministry of Defence,
3 I should say, arming civilians and putting radio stations in
4 individual civilian houses. Did you know anything about that at the
5 time?

6 A. No, this is the first time I'm seeing this.

7 Q. So let us shift gears if we can and move away from, you know,
8 Serbs blaming Kosovo Albanians for crimes, and I just wanted to talk
9 to you a little bit about your conversations, testimony, if you will,
10 with the SPO concerning some of the zone commanders that you met,
11 et cetera.

12 And, ma'am, again, I appreciate this has been a long time ago,
13 so I understand some of those difficulties that time brings with it.

14 So we were talking a little bit about the KLA, and I think you
15 had previously -- well, you had written in -- let's just read it.

16 MR. KEHOE: Let's go to SPOE00198 [sic] to SPOE00198366 at page
17 151 and 152. And this should be at the bottom of the page going to
18 the next page. 151. My apologies. I misspoke, Your Honour. It's
19 151 not 158.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 MR. KEHOE: No, but they have -- we're on 251, so we just need
22 it changed.

23 Q. So talking at the bottom of the page here, this says:

24 "Placing the UCK's organisation into a standard military format
25 can be misleading. 'Companies' in some cases were larger in number

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1 than a 'brigade'."

2 So that's pretty unusual for any type of army to have a company
3 that is larger than a brigade, is it not, Ms. Mitchell, to your
4 knowledge?

5 A. I don't know.

6 Q. Okay. That's fair enough. Fair enough. So:

7 "UCK sub-units tended to be organised around a collection of
8 villages of varying size and disposition. The size and shape of a
9 unit was not fixed and boundaries between such units were often
10 fluid."

11 Is that a basic overview as to how you and the folks at OSCE, or
12 the KVM for that matter, viewed the KLA at the time?

13 A. Could you go back to it?

14 Q. Sure.

15 A. I'm sorry, it moved while I was reading it.

16 Q. Sure. I'm sorry. My apologies for that.

17 MR. KEHOE: Can we just flip back to the bottom of the page.

18 Q. And, again, Ms. Mitchell, any time that happens and you need
19 some more time, just let me know.

20 A. Thank you, sir.

21 PRESIDING JUDGE SMITH: One other thing, you used the term "at
22 that time." Please state what time you're talking about.

23 MR. KEHOE:

24 Q. The time when KVM came in in the fall of 1998.

25 A. Yes.

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1 Q. And that carried through during your stay in Kosovo from late
2 October into your leaving in March, wasn't it?

3 A. The description here?

4 Q. Yes.

5 A. More or less, yes.

6 Q. So --

7 MR. KEHOE: Your Honour, at this time I'll offer this excerpt
8 into evidence.

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 MS. MAYER: No objection.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 SPOE00198 to 00198366, just pages 51 and 52 --

13 MR. KEHOE: Just that excerpt. Just consistent with what we've
14 been doing, Judge, just the --

15 PRESIDING JUDGE SMITH: Page 151 and 152.

16 MR. KEHOE: Yes, Your Honour.

17 PRESIDING JUDGE SMITH: All right. Is admitted.

18 THE COURT OFFICER: Your Honours, those pages will be added to
19 P743.1.

20 MR. KEHOE:

21 Q. And when your folks were interacting with them, you received
22 reports that the KLA was always short of weapons and that they were
23 having difficulty getting weapons coming from Albania as the war
24 proceeded. That's right, too, isn't it?

25 A. Yes, sir.

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1 Q. And when you were -- you were in the field and your folks are in
2 the field, most of the meetings were with -- well, your meetings with
3 were local-level commanders, weren't they?

4 A. Yes.

5 Q. Okay. I understand what you were doing. I appreciate that.
6 And let me read some of your testimony in the Milutinovic case.

7 MR. KEHOE: This, for counsel, is Milutinovic IT-05-87,
8 transcript 755 to 738, and we're looking at 615, lines 6 to 16.

9 Q. And the question that was asked of you at the time was:

10 "Okay. And in addition -- in addition to the KLA, weren't there
11 in fact other armed Serbian -- Kosovo Albanian factions operating in
12 various areas of Kosovo Metohija?

13 "A. If I may, the KLA was not unified in a centrally
14 coordinated way. It had different zone commanders, and so it
15 [tended] to look different in different parts ... I don't know at
16 times, you know, who was part of the KLA and in a particular village.
17 Only, you know, that natural ... defence groups would form and then
18 they called themselves the KLA. It was difficult to know."

19 So based on your experience, Ms. Mitchell, you had testified
20 that the KLA was not unified in a centrally coordinated way. That's
21 accurate, isn't it?

22 A. Yes, sir.

23 Q. And you had the general -- you talked a little bit about zone
24 commanders in your SPO testimony, and the zone commanders were
25 basically limited in their geographical area, weren't they?

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1 A. Yes, that's my understanding.

2 Q. And, you know, the -- and that the zone commanders, of course,
3 were in charge and operated things in their area; right?

4 A. That's my understanding, yes.

5 Q. Now just to correct something, and this just may be -- it's not
6 a criticism. I understand you're not a military person. But you had
7 told the SPO that the KLA had ranks. I just want to read you some
8 testimony of a -- this is just one of several of -- of a deputy zone
9 commander in the Pashtrik zone who said that during the war -- this
10 is -- let me give you the quote. This is the testimony of -- and
11 this is not confidential. It's Sadik Halitjaha, page, you know,
12 10404, line 3 of his testimony on 4 December 2023, and he said that:

13 "During the war, the Kosovo Liberation Army had no ranks."

14 Were you aware that there were no ranks in the KLA?

15 A. No.

16 Q. Okay. Now, the structure that you had -- that you were dealing
17 with in the KLA, you dealt with -- it was -- it was not centrally
18 coordinated. But if you wanted to get something done, you went to
19 the zone commanders; right?

20 A. Yes.

21 Q. And that was very different from the Serb structure, wasn't it,
22 where it was very much a vertical chain of command, wasn't it?

23 A. Yes, you could see the Serb structure.

24 Q. The Serb structure was very vertical and it would be fair to say
25 that the KLA structure was horizontal from zone to zone; is that

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1 right?

2 A. Yes.

3 Q. I mean, the -- I think you testified that the -- that the zone
4 commanders got together and had meetings and democratically voted for
5 things and how to do things; right?

6 A. Yes, sir.

7 Q. And the person that you were dealing with for the most part in
8 this was someone by the name of Ramush Haradinaj; right?

9 A. That was the name that came up the most. Yes, sir.

10 Q. And you had told the SPO in your discussions with them in
11 1 December - and this is in paragraph 31, counsel, of your proofing
12 note - that the primary operational zone commander on the ground
13 appeared to be Ramush Haradinaj; is that right?

14 A. That was my impression, yes.

15 Q. Okay. So this is for the entire time that you are in -- and I'm
16 talking about pre-evacuation; okay?

17 A. Correct.

18 Q. From October through your evacuation in 22 March or something
19 like that; right?

20 A. Yes.

21 Q. But he was the guy from --

22 MR. KEHOE: I'm sorry, counsel. Please.

23 MS. MAYER: I just wanted, if you could read the last line, just
24 because --

25 MR. KEHOE: You can do that on redirect.

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1 MS. MAYER: -- there is something right after the primary
2 operational commander.

3 MR. KEHOE: You -- you can do that on redirect. I mean, I'm
4 just crossing --

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 MS. MAYER: Understood, Judge.

7 MR. KEHOE:

8 Q. And he was the person that you had spoken to on numerous times;
9 right? Approximately, just how many?

10 A. I never -- sir, I don't recall speaking to him privately. There
11 were meetings and he was at the meetings, yes.

12 Q. And I'm not suggesting that these were private meetings,
13 Ms. Mitchell. I'm just talking about meetings that you were at.

14 A. Yes, sir.

15 Q. That he was the person that you -- people spoke to, and he's the
16 guy you said appeared to be in charge. And you said I think also,
17 again in paragraph 31, that he was the person who could stop the
18 shooting on the ground.

19 A. Correct.

20 PRESIDING JUDGE SMITH: Mr. Kehoe, two things. Please try to
21 pause just a bit before you ask the next question. And, number 2, if
22 you have a comment during an objection, don't throw it across the
23 aisle. It's supposed to come to the Bench.

24 MR. KEHOE: And, Your Honour, respectfully, I apologise for
25 that.

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1 PRESIDING JUDGE SMITH: Thank you.

2 MR. KEHOE: I stand corrected and I won't do it again.

3 Q. So there was a period of time. And I want to go back to your
4 discussions with the SPO about the period of time in the pre-NATO
5 bombing.

6 MR. KEHOE: And if I can just put the -- that's the SPO
7 statement 076826-076820, paragraph 45. If I can put that on the
8 screen.

9 Q. I just want to give you a chance to read it, Ms. Mitchell. It's
10 a lot easier than me just rambling through it, if you will.

11 MR. KEHOE: Paragraph 45. Thank you. I think it's towards the
12 bottom.

13 Q. Just starting at the beginning of that -- if you can take a look
14 at paragraph 45 at the top. It says:

15 "Within the KLA, there was not a chief of staff running things
16 centrally in the period before the NATO bombing. During this period,
17 all of the zone commanders would meet ... with one another for zone
18 commander meetings, which would take place in different locations to
19 protect the safety of those in attendance. Instead of being directed
20 from above through a centralised command, as the Serb military was,
21 my understanding was that these zone commander meetings were run more
22 like a democracy, with equal votes for each ... commander."

23 That's accurate, that assessment is accurate based on your
24 observations and experience, is it not?

25 A. Correct.

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1 Q. So let us turn with this idea of a difference between a vertical
2 and a horizontal structure, and let me show you DHT01465 to DHT01467.
3 And this is a letter from the State Department, US State Department
4 to Senator McConnell in the US Senate of May 4th, 1999. And you can
5 take a quick look. And I want to focus your attention on the third
6 paragraph.

7 Just looking at this document, have you seen this document
8 before?

9 A. No, sir, I have not.

10 Q. Okay. Just go to the -- and this is a letter, again, of 4 May
11 1999. And at that stage, the US State Department writes:

12 "Moreover, as there is no political structure in Kosovo or
13 effective command and control of the KLA, it would take many months,
14 if not years, to organise them to use and maintain any military
15 assistance the United States would provide."

16 So with regard to an effective vertical command and control,
17 that didn't exist in Kosovo within the KLA when you were there?

18 A. I don't agree with this statement.

19 Q. You don't agree?

20 A. No.

21 Q. Okay. That's fine. But at this point is -- with regard to the
22 vertical and horizontal chain of command, you would agree with me
23 that the Serbs were vertical, whereas the KLA was, in fact,
24 horizontal?

25 A. Not quite so simple, but ...

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1 Q. But what -- going back to what you said, though, of course, that
2 there was no central -- as you noted previously, that there was no
3 central command within the KLA.

4 A. They had a General Staff. I'm not sure if we're using the same
5 language or not.

6 Q. And I'm just talking to you about what you testified in
7 Milutinovic, that it was not unified in a central coordinated way,
8 that it was not like the Serbs, that you had to go to the local
9 commanders, and ...

10 A. Yes.

11 Q. That's right?

12 A. Yes.

13 Q. Okay. So the coordination is -- again, was on the horizontal
14 level.

15 A. Yes.

16 Q. So at the end of the day when you are talking about this, and,
17 again, I'm talking about your period of time prior to the evacuation,
18 you have a KLA structure with zone commanders being the power centre
19 and the person who you are dealing with is Ramush Haradinaj, for the
20 most part, or your organisation.

21 A. In that particular zone which happened to be where there was an
22 awful lot of activity.

23 Q. And what zone was that?

24 A. I think it was the Rahovec area.

25 Q. And in that particular area, he was the person who was --

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1 A. Yes.

2 Q. -- could stop the shooting on the ground? Okay. So -- but as
3 we move through here, we're again talking about something that from
4 your experience is controlled, basically, by the zone commanders.

5 A. Yes.

6 Q. Now let me talk with you, if I could, a little bit about
7 detention facilities. And I noted you did discuss with us the
8 detention facility that you, in fact, visited where -- in the zone
9 with Commander Remi; is that right?

10 A. Yes, sir.

11 Q. And I know that you noted some possible other ones, but that's
12 the one you were talking about; right?

13 A. I believe so, yes.

14 Q. And these were -- these detention centres, from your experience,
15 were just in houses; right?

16 A. Yes.

17 Q. And they had small amounts of people there?

18 A. Yes.

19 MR. KEHOE: I'm trying to take my pause, Judge. I just got the
20 appropriate note from my colleagues.

21 Ms. Mitchell is doing a great job. I'm not doing so hot, but,
22 you know.

23 Q. And just by way of background, Ms. Mitchell, obviously visiting
24 these locations by someone who was at the higher, upper echelon or
25 running essentially the human rights organisation along with your

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1 second, your assistant, Susanne Ringgaard, these were significant
2 meetings in your mind, were they not?

3 A. Yes, sir.

4 Q. And, obviously, when you were going in, and prior to talking to
5 these detainees, there was preparation with the local commander
6 before such a meeting would take place; right?

7 A. Yes, sir.

8 Q. And you had certain rules and requirements that you wanted to
9 abide by, and they wanted to, for instance, come into the meetings
10 and you refused; right?

11 A. Yes, sir.

12 Q. And the meeting I'm talking about in particular is the meeting
13 on February 18th.

14 MR. KEHOE: And in Exhibit P116 -- and we don't need to put this
15 up. I can just do it.

16 Q. That the military police chief wanted to come in to the
17 meetings, but you did not want him in the meetings, and he was not in
18 the meetings, was he?

19 A. No, sir.

20 Q. But given the seriousness of these meetings, I mean, obviously,
21 you and Ms. Ringgaard -- and I won't speak for Ms. Ringgaard. I'll
22 just speak for you, please. I mean, you had some responsibility to
23 get this right to ensure accurate reporting; right?

24 A. Yes, sir.

25 Q. And when I say "get it right," to document exactly what was

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1 seen, what you observed, what you heard; right?

2 A. Yes, sir.

3 Q. And that's important. And I'm not just talking for you. I'm
4 talking about for anybody that's in the human rights arena to do
5 this, to get it right, because as a human rights observer, when
6 you're getting in and taking information, potentially people's lives
7 could be on the line; right?

8 A. Yes, sir.

9 Q. I mean, if someone is hurt and seriously injured, I think you
10 told the SPO, of course, you would report that, and you would try to
11 get that person some medical aid or something that that person might
12 need in order to help themselves; right?

13 A. Yes, sir.

14 Q. So what you saw, what you heard, what you did during those
15 meetings was -- it was -- and how you documented that was important
16 not only for the safety of those people but so that your -- the
17 people within KVM could understand what was going on; right?

18 A. Yes, sir.

19 Q. So let me just talk about this meeting on 18 February. I don't
20 want to repeat everything that you said on direct, but I do believe
21 the zone commander was Commander Remi; right?

22 A. Yes.

23 Q. Okay. And you, in fact, wrote a report on this.

24 MR. KEHOE: And if I can just put that up. And we looked at it
25 before, so it's not going to be anything new. It's 1D00007. It's

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1 just 1D7.

2 Q. And this is the report of the eight individuals that you saw;
3 right?

4 A. Yes, sir.

5 Q. And you documented things like, for the first individual, that
6 he had an ICRC visit? You see that?

7 A. Yes.

8 Q. And that the second one I believe received some medical
9 attention?

10 MR. KEHOE: If we can scroll up to the second one, please.

11 THE WITNESS: Yes.

12 MR. KEHOE:

13 Q. And I believe the third and the fourth -- excuse me, the third
14 and the fifth -- excuse me, third, sixth, seventh, eighth, they
15 had -- their family knew where they were?

16 A. Yes.

17 Q. And the array of these people - and you're welcome to look at
18 the entire document - I mean, some are detained for collaboration,
19 some are detained for murder. Attempted murder, that's number 5.
20 Some are detained for theft. Is that right?

21 A. Yes, sir.

22 Q. Okay. But you testified in -- and this was two days, that these
23 witnesses, these detainees that you saw were -- were very -- and this
24 is on -- this is the temporary transcript page 72 of 5 December.
25 That they were very submissive, line 5, page 72, "very submissive,

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1 perhaps afraid." Is that assessment located anywhere in this report?

2 A. No, I don't believe so.

3 Q. And you note on that same page that you advised that they had
4 been coached or told how to behave. That's line 15. Is that on
5 there? Is that in this report at all?

6 A. No.

7 Q. So it is -- you had previously told that -- the SPO -- this is
8 in your witness statement to the SPO of 26, that they appeared
9 nervous and appeared to be operating from a script. The items that
10 these people are nervous or testifying from a script is not in there
11 either, is it?

12 A. No.

13 Q. So what we have is an assessment of information concerning these
14 particular detainees which are not included in your report that you
15 sent up the chain of command in the OSCE; right?

16 A. Yes.

17 Q. Okay. And, in fact -- sorry for the no pause there. And, in
18 fact, when a witness is nervous, I mean, the OSCE traditionally would
19 include that in their witness assessment, wouldn't they?

20 A. Maybe.

21 Q. Well, let me show you a document.

22 MR. KEHOE: This is U007-9607 to U007-966, and this will be at
23 page 79658. Did I say that correctly? I've been corrected that I
24 left a line off there. It should be U007-9607 to U007-9661, and this
25 is at 79658.

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1 And if we can turn to -- if we could show the witness the first
2 page.

3 Q. To orient you, Ms. Mitchell, that would be --

4 MR. KEHOE: I think if we could go to page 1 before we go to
5 page 79658. This is a report going to Andrew Cayley, and I believe
6 it's coming from Ms. Ringgaard, concerning interviews. And if we
7 could just go to 79658. Down at the bottom of the page in the *nota*
8 *bene*.

9 Q. And this is coming from Aurelie Merle, Aurelie, and this is the
10 2nd -- excuse me, 22nd or 23rd February, I can't read that exactly,
11 1999. But I'm interested in the first line. It says:

12 "The victim seemed to be scared during the interview, did not
13 give ... details about his Arrest and insisted all the times ... he
14 [had not been] mistreated."

15 Here is an incidence, of course, where the OSCE properly
16 documented that this particular person was scared. That was the
17 proper thing to do; right?

18 A. Yes, that's a good report.

19 Q. Okay. But none of the descriptions concerning the detainees
20 that you interviewed did you mention that any were scared or that any
21 had been coached or that any were submissive; right?

22 A. Yes.

23 Q. And, of course, notwithstanding the SPO's question about
24 wearing, you know, heavy clothing because it was cold, I mean, you
25 didn't see any of these people injured, did you?

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 A. No, sir.

2 Q. Okay. And, of course, if there had been injuries, you would
3 have documented that?

4 A. Yes.

5 Q. Now, with regard to this item, for instance, number 2, for
6 instance.

7 MR. KEHOE: If we can go back to 1D7, Exhibit 1D7.

8 Q. And just, for instance, just go to number 2 there. This
9 individual was charged with -- number 2 in the -- yeah, that's --
10 Jashari, Hetem Jashari. I mean, this is an individual that's charged
11 with, you know, collaboration; right?

12 A. Yes.

13 Q. And according to what you told the SPO, there were quite a few
14 people that were charged with collaboration; right?

15 A. Yes.

16 Q. And, in fact, let me -- with regard to your second in command,
17 Susanne Ringgaard Pedersen, she testified in the Limaj case.

18 MR. KEHOE: And this is at Limaj IT-03-66, or better still,
19 DHT03494 to 03540. I'm sorry, 03540. I stand corrected. I stand
20 corrected. On 40, it's on line 10 to 13. I'm sorry, could you move
21 to page 3156 in this document.

22 Q. My apologies, Ms. Mitchell. I'm just trying to get this
23 straight.

24 So the question was asked:

25 "Was the issue of collaborators one that had come up before in

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 your work in Kosovo?"

2 The answer:

3 "It didn't come up directly in my work but the issue of
4 collaboration was something that was discussed in the KVM because it
5 was quite preventively, that there were people who would often for
6 money collaborate with the other side."

7 Now, during the period of time when people were accused of
8 collaboration, there was collaboration, wasn't there, and they were
9 doing it for money?

10 A. Yes.

11 Q. So in the theatre of operations, we had false flag operations
12 from the Serbs. They were arming civilians and then they were paying
13 off collaborators for information; right?

14 A. Yes.

15 Q. So -- and before we get into the rest of that, we also had a
16 situation where you had -- and let me backtrack and withdraw that.
17 You had a situation where -- on several occasions, I take it, where
18 KVM was travelling to meet the KLA and that you were -- you were
19 followed by Serb authorities, and shooting arose when they -- when
20 they followed you and the KLA showed up?

21 A. That's correct.

22 Q. And do you know how many times that happened?

23 A. It was a few times before measures were put in place to try to
24 mitigate that.

25 Q. Understood. And I understand it became a dangerous situation

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1 for KVM, that the Serbs, in addition to the arming civilians, and
2 false flag operations, and collaborators, they were trying to
3 intercede and interfere in your relationship with the KLA or put both
4 you and the KLA in jeopardy by following you at meetings; right?

5 A. That's right.

6 Q. And continuing on with Ms. Ringgaard. Now, this is the same
7 transcript. And if I could read for you, this would be at page 3536,
8 line 19 to 22.

9 MR. KEHOE: Is that 3536? I see it. Yeah.

10 Q. So at line 19, Ms. Ringgaard is asked:

11 "Did you become aware during your time there of allegations
12 being made that the MUP officers were offering inducements to
13 Albanians in return for information regarding the KLA? You're
14 nodding."

15 And the answer is:

16 "Absolutely, yes."

17 Was her answer.

18 That's accurate. That was your experience as well, wasn't it?

19 A. Yes.

20 Q. Now, with regard to collaborators, you were aware that oftentimes
21 people were described as collaborators and that was, in fact -- well,
22 let me withdraw that a second and just orient you with Ms. Ringgaard
23 if we can. If we stay with Ms. Ringgaard.

24 MR. KEHOE: And that would be page -- same IT number, page 3532,
25 line -- at the line 18 to 22.

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1 Q. And it says:

2 "Ms. Ringgaard, thanks for your patience. Now, you've testified
3 that KVM received information on abductions by the KLA, including
4 so-called collaborators. Based on the information that you received
5 and that KVM received, were you ever able to determine whether this
6 was the work of, say, rogue elements, to use a phrase, or was there a
7 broader policy at work ...?

8 "The information that we had mainly through our liaison officers
9 to the KLA was that they were aware that they were rogue elements and
10 that they ... sometimes found it difficult to control all instances
11 of personal revenge and cases like that."

12 So at the time, Ms. Mitchell, the KVM was aware that individuals
13 were using the tag as collaborators or similar type of appellation
14 for personal revenge reasons, weren't they?

15 A. Yes.

16 Q. And in this Court, the Court has heard numerous evidence, items
17 of witnesses, that they were done -- that many abductions were done
18 for personal revenge matters that had nothing to do with being
19 collaborators. It just was something -- a personal revenge, a
20 personal grief, a personal spat, that someone was using the KLA to --
21 used the KLA to vindicate their position and take revenge from
22 somebody -- on somebody; isn't that right?

23 A. Yes.

24 Q. Now, just a couple of things. Now, it's not your testimony --
25 and I'll read one item of a former KLA member. We have several. But

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1 this is just a transcript page without identifying the person because
2 it was in closed session.

3 MR. KEHOE: And I don't know what the proper procedure is. I'm
4 not going to identify the person. Just what the person said.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 MR. KEHOE: Okay. And this is via transcript 23 --

7 PRESIDING JUDGE SMITH: I'm sorry. I should say on the record
8 go ahead.

9 MR. KEHOE: That's right, okay. I heard you, Judge. Thanks.

10 Transcript T230613, this is 13 June 2023, page -- this is at
11 4766, line 21 to 23.

12 Q. This SPO witness was asked:

13 "So because it was a volunteer army, if somebody didn't support
14 the war effort, that didn't make them suspicious either, did it?

15 "It did not."

16 So was it your experience simply because you didn't support the
17 war you were a collaborator?

18 A. No, I don't think I could agree with that as a blanket
19 statement.

20 Q. Do you have a particular individual who told you that if, in
21 fact, he didn't support the war he was deemed to be a collaborator?
22 Do you recall?

23 A. No.

24 Q. Okay. Now, also you talked about the LDK. And this same
25 witness who testified in 13 June, and this would be page 466 -- 4765,

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1 519. He was asked that:

2 "For instance, you didn't understand collaborators to be
3 individuals who were LDK members, did you?"

4 And the answer was:

5 "No."

6 So merely because you were a member of the LDK, it did not make
7 you a collaborator, did it? Yes?

8 A. That's a question for me?

9 Q. That's a question for you.

10 A. Okay.

11 Q. I'm sorry, maybe I ...

12 A. It's difficult to answer because it depends who's saying it. I
13 had heard people that said that, but then others may not have that
14 opinion.

15 Q. Well, I mean, you do recognise that most of the KLA members were
16 LDK members; right?

17 A. No.

18 Q. Most --

19 A. No.

20 Q. Oh, you didn't know that?

21 A. No.

22 Q. Well, based on your experience in there, you didn't learn the
23 fact that most of the foot soldiers, the army were LDK members? You
24 didn't learn that?

25 A. Nope.

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1 Q. So you have no knowledge as to -- so you have no knowledge as to
2 whether or not being an LDK member deemed you to be a collaborator,
3 do you?

4 A. Well, based on the information that I received - -- again, are
5 we talking before the war or after the war?

6 Q. During the war.

7 A. During the war --

8 Q. During the period of time when KVM was there from October
9 through -- you know, through March, during that period of time,
10 merely because you were a member of the LDK didn't -- and you were in
11 the KLA didn't mean you were a collaborator; right?

12 A. Again, sir, I couldn't agree to that blanket statement. We had
13 heard repeatedly that the -- or, excuse me, the LDK had let the
14 Kosovars down, that they did not resist strong enough, and,
15 therefore, that they were not aligned.

16 Q. Well, let me read you the testimony of Rustem Mustafa. That's
17 Remi's name, Commander Remi's name. Not that I would expect you to
18 know that. I don't. And this is at his transcript on 14 July 2023,
19 page 5724, line 22, to 5725, line 5.

20 "Q. Were people detained based on the fact that they were
21 members of the LDK?

22 "A. No.

23 "Q. Do you have an opinion about the theory the LDK -- that the
24 LDK was being" --

25 Well, it should say:

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 "... was being detained because they were being political
2 opponents?

3 "A. The LDK supported the liberation ... [of] my region."

4 Do you have anything to dispute that the LDK was supporting
5 liberation in the Llap region?

6 A. I don't know the basis for that. No.

7 Q. Okay. And, again, this is the testimony of --

8 A. Sure.

9 Q. -- the individual that you met with prior to your detention
10 meeting. And then he goes on to say that the answer -- that the LDK
11 -- excuse me.

12 "The KLA did not detain LDK people."

13 Do you have any reason to dispute in the Llap zone the KLA was
14 not detaining LDK people?

15 A. I'd have to really go back to the documents to verify that. My
16 recollection is that the LDK was under pressure across Kosovo.

17 Q. Understood. But --

18 PRESIDING JUDGE SMITH: We need to take about a ten-minute
19 break --

20 MR. KEHOE: Yes, Your Honour.

21 PRESIDING JUDGE SMITH: -- at this point. So then you'll be
22 back on.

23 MR. KEHOE: Yes, sir. That's a good time, Judge. I'm about to
24 shift topics, so that's good.

25 PRESIDING JUDGE SMITH: Okay. If you would please escort the

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 witness out of the courtroom.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: So we're adjourned until 10.10.

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

5 --- On resuming at 10.14 a.m.

6 PRESIDING JUDGE SMITH: Madam Court Officer, please bring in the
7 witness.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: All right, Mr. Kehoe. You may continue.

10 MR. KEHOE: Thank you, Your Honour.

11 Q. And, Ms. Mitchell, so just to finish this particular area.

12 There are a myriad of personal reasons why people could have been
13 arrested and detained that had -- just were -- had nothing to do with
14 the KLA and were just on a personal level; isn't that right?

15 A. Detained by whom?

16 Q. If they were detained by people, they were detained by somebody
17 with the KLA with a personal motive to call somebody a collaborator,
18 paint them with that description, there was -- there was a lot of
19 that going on, wasn't there?

20 A. Yes.

21 Q. And, by the way, collaborators and -- when you interviewed
22 people, and we -- and you understood that there were, in fact,
23 collaborators. I mean, you never expected in your discussions to a
24 collaborator to admit to you that he was a collaborator, did you?

25 A. It was a surprise.

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1 Q. Yeah. Did that ever happen --

2 A. Yes.

3 Q. -- to your recollection?

4 A. Yes.

5 Q. Let us shift -- I'm going to shift gears here, just to give you
6 a note, and I want to talk about, you know, the refugee crisis, and I
7 was to talk about it as it bears on the KLA and what happened in the
8 KLA. So that's the backdrop to all of this and so we understand the
9 direction we're going.

10 If my questions are ever confusing on this score, please let me
11 know.

12 But -- and we're talking about a period of time prior to the
13 February Rambouillet conferences and -- just to orient you. But in
14 February -- in January and February, the VJ and the MUP were engaged
15 in winter exercises and, from your analysis, were ramping up for
16 military activities, weren't they?

17 A. Yes.

18 Q. And they -- through the latter part of February, they were doing
19 exercises in a variety of different locations in addition to
20 Mitrovica, but in many different places around Kosovo, giving
21 everybody the impression that they were getting ready to attack;
22 right?

23 A. Yes, I remember specifically from the south and the north.

24 Q. And during that period of time, during these winter exercises,
25 as they commenced -- and let me just read you one point just to

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 orient you just a little bit. I know there's quite a bit in "As
2 Seen, As Told," but just one comment.

3 MR. KEHOE: And this would be SPOE00198098 to 00198366, and the
4 page I'm interested in is 198106.

5 Q. And as we bring this up, these military activities that were
6 planned in January went from January into February and into March
7 prior to your departure from Kosovo; right?

8 A. Yes.

9 Q. And if we can just look on the screen to the comment to -- at
10 the top, please, starting with the "Other key events in this
11 regard ..."

12 "Other key events in this regard in the period before 20 March
13 were the killings of Kosovo Albanians by police at Rogovo and
14 Rakovina later in January, the launch of Yugoslav Army 'winter
15 exercises' involving the shelling of villages and the forced
16 expulsion of villagers in Vucitrn/Vushtrri municipality in February
17 and March, a military and police offensive in Kacanik in February, in
18 which a tactic of burning and destroying civilian homes to clear the
19 area of the UCK was employed, and a violent police crack -down in an
20 Albanian quarter of Pristina/Prishtina in early March after the
21 killing of two police officers. Alongside the killings in Racak,
22 these events reveal patterns of grave abuses by Yugoslav and Serbian
23 forces against the civilian population. Such patterns of abuse recur
24 after 20 March in the descriptions given by refugees."

25 So looking at this, this tactic by the Serb authorities, be they

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1 by the MUP or by the VJ, were an attempt to clear areas of the KLA;
2 isn't that right?

3 A. Yes.

4 MR. KEHOE: Your Honour, we'll offer this item into evidence.

5 MS. MAYER: No objection.

6 MR. KEHOE:

7 Q. And continuing on --

8 MR. KEHOE: Oh, I'm sorry, Judge.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 SPOE00198098 to 00198366 at page 19 -- you just want the page?

11 MR. KEHOE: Just those pages. Yes, Your Honour. Just that.

12 PRESIDING JUDGE SMITH: Page 198106 will be admitted.

13 THE COURT OFFICER: And, Your Honours, like with the rest, this
14 page will be added to Exhibit P743.1.

15 MR. KEHOE: And if I can -- may I proceed, Judge?

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 MR. KEHOE: Then if I can turn our attention to SPOE00198367 to
18 1983 -- 198834 at page 198780. And I think we're looking at page
19 198780. And if we go to the top of the page, it's the top paragraph.
20 If we can blow up that top paragraph for Ms. Mitchell.

21 Q. So, actually, starting in the first sentence after the period:

22 "As armed engagements between Yugoslav/Serbian forces and the
23 UCK continued in the area of the 'exercises', it became clear that
24 these 'exercises'," in quotes, "had a strategic aim: for the VJ to
25 secure the main road and rail routes between the Kosovska Mitrovica

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1 and Pristina by pushing the UCK back into their strongholds in the
2 Cicavica mountains. The 'exercises' affected villages along the
3 approximately 15-km stretch of road and railway to the north-west and
4 south of the Vucitrn town; VJ forces initially deployed in Vaganice
5 area of Kosovska Mitrovica at the north end of this stretch, and in
6 Novolan and Bukosh in roughly the centre of the stretch. The VJ
7 extended its activities into areas south of the Vucitrn on
8 approximately 10 March, towards Mihaliq and Dervare along the main
9 road, and in the mountains at Strofc."

10 So if we look at what VJ and the MUP are trying to do, they are
11 trying to solidify their control on a main transportation route
12 between Mitrovica and Prishtine; right?

13 A. Correct.

14 Q. Okay. And that is vital for their military concerns because
15 that is, of course, the -- Mitrovica being the closest big city
16 before you get into Serbia; right?

17 A. Yes.

18 Q. And their attack was -- their attack was in addition to removing
19 civilians from this road and in their villages was also, according to
20 what you write, was to drive the KLA up into the Cicavica mountains
21 so they wouldn't pose as a threat to the VJ or the MUP while they're
22 securing this road; right?

23 A. Yes, sir.

24 Q. Okay. So there's a very specific tactical, operational and --
25 excuse me, a strategic tactical -- a strategic operational and

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1 tactical purpose for these winter exercises as part of their overall
2 plan to defeat the KLA; right?

3 A. Yes.

4 Q. And when this was going on --

5 MR. KEHOE: Let us turn again to volume 2, "As Seen, As
6 Heard" [sic]. And this would -- volume 1 of "As Seen, As Heard," and
7 if we can turn to SPOE198792.

8 THE INTERPRETER: Interpreter's note: The speakers are kindly
9 reminded to make pauses between question and answer. Thank you.

10 MR. KEHOE: Thank you again. I apologise.

11 While we're waiting, Judge, if I can just move into evidence the
12 past two -- I believe I didn't put the past two items into evidence.
13 The one at 198106 and the one at 198780.

14 MS. MAYER: Your Honour, I believe 106 is already in. But as to
15 780, no objection. I would just ask that's the first passage that
16 also includes footnotes, so I would -- or end notes, so I would ask
17 that the end notes be included as well as references.

18 MR. KEHOE: And just for the record, Judge, I agree with counsel
19 that any time there's a footnote, that the footnote should be
20 included.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 SPOE00198367 to 0019834 at page 198780 plus the notes is
23 admitted.

24 THE COURT OFFICER: Your Honours, that will be added to
25 Exhibit P743.3. And if I could get the ERN for the end notes page.

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1 PRESIDING JUDGE SMITH: The other one's already admitted.

2 MR. KEHOE: May I proceed, Your Honour?

3 PRESIDING JUDGE SMITH: The other one is already admitted.

4 MR. KEHOE: Oh, it is? That's fine, Judge. I've kind of lost
5 track of these numbers.

6 Q. So just looking at these winter exercises, and we're beginning
7 with that -- the third full paragraph, "Many people affected ...",
8 Ms. Mitchell.

9 "Many people affected by what was happening in the area of the
10 'winter exercises' fled across the river, and the area to the east of
11 the river became crowded with IDPs."

12 That's IDPs, internally displaced people; right?

13 A. That's correct, yes.

14 Q. "However, from approximately 20 March this area was also
15 shelled. Expulsion from the villages in the area occurred in
16 mid-April: on 15 April Kosovo Albanian residents of Prilluzhe and
17 nearby villages were ordered to leave ..."

18 We don't have to read the rest of that.

19 So during this period of time, ma'am, the -- while these attacks
20 were going on and the exercises, the Kosovo Albanian population was
21 forced to leave their villages, killed and driven out of their
22 villages, weren't they?

23 A. Yes.

24 Q. And, obviously, during the ramp-up time, and I can certainly
25 understand the motivation certainly as we -- the Rambouillet

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1 conference broke down, that's when KVM decided that they had to go --
2 leave the area; right?

3 A. Yes, sir.

4 Q. But during this period of time, the VJ was targeting individuals
5 with KLA connections, weren't they?

6 A. Yes, sir.

7 MR. KEHOE: And if we can turn to the same volume 1 at
8 SPOE00198172. Middle paragraph. "There was a pattern ..." Just
9 scroll up.

10 Q. So we're talking about -- under the "Killing by Serbian forces
11 of civilians with UCK connections," it notes that:

12 "There was a pattern of targeting people who had or were
13 perceived to have UCK connections. Whereas prior to 20 March this
14 might have led to arrest (see Chapter 9, Arbitrary arrest and
15 detention) ..."

16 This is referring to the chapter in the book.

17 "... after that date the intentions of the Yugoslav and [Serb
18 army] were ... likely to be [more] murderous."

19 MR. KEHOE: And while we're on that page, if we could just move
20 down, I believe it's the same -- no, it's not the same page. If we
21 could move to SPOE00198272.

22 Q. In the interest of time, Ms. Mitchell, I'm just going to go
23 through a couple of these. And you're welcome to go back to them and
24 just -- we'll ask for your comment on them in toto.

25 MR. KEHOE: It's at the bottom of that page, "Killings."

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1 Q. It notes that:

2 "Very many statements speak of executions of young men,
3 sometimes because they came from locations that were well-known UCK
4 strongholds, at other times because they had the ... family names as
5 known UCK fighters. In most cases, however, they seem to have been
6 killed simply because they were male and young enough to join the
7 UCK."

8 MR. KEHOE: And if we can go to one last one before we're there.
9 This would be at page 198167.

10 Q. It's that middle paragraph beginning with "Further
11 escalation ..." "Further escalation after 24 March ..."

12 24 March 1999 being when the NATO bombing commenced; is that
13 right?

14 A. That's -- yes, sir.

15 Q. "Summary and arbitrary killing became a generalised phenomenon
16 throughout Kosovo with the beginning of the NATO air campaign against
17 the FRY on the night of 24-25 March."

18 So, Ms. Mitchell, what we have here, what KVM has documented is
19 that the VJ or the MUP continue to or are targeting people who are
20 affiliated with the UCK in strongholds that -- thought to be from the
21 UCK or related to the UCK, and as opposed to just taking them into
22 custody, they're murdering them; isn't that right?

23 A. Yes.

24 MR. KEHOE: Your Honour, we'll offer those three items into
25 evidence. I believe it was just three.

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1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 MR. KEHOE: Were there more than three?

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 You have 198792, 198172, 198272, and 198167.

5 MR. KEHOE: Your Honour, if we could offer them all, please.

6 MS. MAYER: No objection. Just if counsel can provide the end
7 notes to the Court so they can be included.

8 PRESIDING JUDGE SMITH: As to each one of those, the notes will
9 be provided by counsel and are included in the admission.

10 THE COURT OFFICER: Your Honours, page SPOE00198792 will be
11 added to Exhibit P743.3.

12 And then from SPOE00198098 to 00198366, the pages SPOE198172,
13 198272, and 198167, they will be added to Exhibit P743.1.

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. KEHOE:

16 Q. And just moving ahead, during this period of time, in addition
17 to the killings, there were destruction of communal buildings by the
18 Serbs. There were reported rapes by the Serbs. Destruction of
19 villages by the Serbs. Isn't that right? During this period of
20 time.

21 A. Yes, sir.

22 Q. And what you also observed, not only when you left, but also
23 when you were in the refugee camps, were that hundreds of thousands
24 of Kosovo Albanians either were forced out or fled in the wake of
25 this armed destruction by the VJ and MUP forces and paramilitaries as

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1 well; right?

2 A. Yes, sir.

3 Q. And when we have that -- with those refugees and people were
4 leaving, that included soldiers who had been in the KLA as well,
5 didn't it? They went with their families.

6 A. Yes.

7 Q. And what we have during this period of time, and this is -- this
8 is a -- let me just refer to your report.

9 MR. KEHOE: This would be, again, volume 1, SPOE198243. 198243
10 in volume 1. Just at the top of that page.

11 Q. So --

12 PRESIDING JUDGE SMITH: Mr. Kehoe, you're going to have to
13 explain the relevance of this particular material you're presenting
14 because it doesn't have anything to do with the charges or the
15 accused in this case.

16 MR. KEHOE: I could do it outside the presence of the witness or
17 I could do it with --

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. KEHOE: Your Honour, what was going on here was as a result
20 of these attacks, they were attacking the KLA areas, the KLA was
21 decimated. All of these people left. The KLA -- the KLA's --

22 PRESIDING JUDGE SMITH: [Microphone not activated]

23 MR. KEHOE: Well, it has the effect of completely decimating the
24 KLA forces in the area. They're talking about --

25 PRESIDING JUDGE SMITH: And the relevance of that is?

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1 MR. KEHOE: Well, the relevance of that is then they leave and
2 those KLA soldiers then come back after June, and, of course,
3 there -- these people who were in the KLA uniforms and then coming
4 back, what all this does is contextualise what goes on with the
5 post-war violence.

6 PRESIDING JUDGE SMITH: You know, we've warned several times
7 about just empty phrases that deal with things that the Serbs did.
8 We're not arguing whether they did or not, but they aren't relevant
9 to this. And to the extent that it has some immediate effect, those
10 soldiers could have come back for a lot of reasons. It didn't have
11 to be because of a certain alleged atrocity. They came back because
12 they were ready to come back, so let's get off that and move on.

13 MR. KEHOE: And I will move along on this topic, Judge. It is
14 just, if I could just touch on this, and I will move to --

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Let's try to veer our -- the questions into relevant material --

17 MR. KEHOE: Understood.

18 PRESIDING JUDGE SMITH: -- that this witness can testify to.

19 MR. KEHOE: Understood.

20 Q. And just to -- taking the Judge's instructions. Obviously, over
21 800.000 refugees left and approximately 90 per cent of the population
22 -- Kosovo Albanian population was displaced.

23 A. Yes.

24 Q. Okay. So when you had the -- the bombing ended, that's when I
25 think that you talked about that -- well, when the bombing ended and

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1 the peace agreement came, you had many, many, many Serbs leaving with
2 the army and the MUP, didn't they?

3 A. Yes, sir.

4 Q. And you had approximately, what -- of these 800,000 people, you
5 testified to the SPO that all of these people didn't wait to come
6 back. They just came back; right?

7 A. Yes, spontaneously.

8 Q. Spontaneously. And that included the KLA soldiers that you had
9 been speaking to in these refugees camps; right?

10 A. I don't recall speaking to KLA soldiers in the camps.

11 Q. You, in fact, learned that there were KLA soldiers --

12 A. Yes, sir.

13 Q. -- that fled with their families?

14 A. In some camps, yes.

15 Q. And then they came back to - I think you talked about this
16 previously - their homes burned, their possessions stolen, and family
17 members killed; right?

18 A. Yes.

19 Q. And as that learning curve took place, obviously the rage within
20 these people coming back, understandably, grew, didn't it?

21 MS. MAYER: Objection as to basis or foundation.

22 PRESIDING JUDGE SMITH: I'm sorry. [Microphone not activated].

23 MS. MAYER: I believe the question is: And there was building
24 rage in these people that returned.

25 So I was objecting as to the foundation or the basis of her

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1 knowledge of that.

2 PRESIDING JUDGE SMITH: Yeah, I don't know. You might want to
3 ask her --

4 MR. KEHOE: Sure.

5 PRESIDING JUDGE SMITH: -- if she knows about the rage.

6 MR. KEHOE: Sure.

7 Q. I mean, you came back in June, Ms. Mitchell, and you understood,
8 based on KVM's investigation, that as people saw what had happened to
9 their homes and their loved ones and their villages, rage within
10 these people grew; isn't that right?

11 A. That's correct.

12 Q. Okay. And, as a matter of fact, you, in fact, called your
13 second volume of this revenge and retaliation; right?

14 A. That was -- yes.

15 Q. That was the general terminology for that.

16 A. Okay.

17 Q. Right? And people were coming back and, obviously, that there
18 was score settling that you had spoken about?

19 A. Yes.

20 Q. And if we can move through this relatively quickly. You note in
21 your -- this is in the executive summary of volume 2.

22 MR. KEHOE: This is at volume 2 at SITF00001529-00001871, and
23 I'm interested in page 1539. This is the executive summary of this
24 document, so just to ...

25 And I'm looking at the second paragraph, the findings. And if

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1 we can just blow up that "One discernible leitmotif ..."

2 Q. It says:

3 "One discernible leitmotif emerges from this report."

4 Again, this is volume 2, Ms. Mitchell.

5 "Revenge. Throughout the regions the desire for revenge has
6 created a climate in which the vast majority of human rights
7 violations have taken place. Through the assailant's eyes, the
8 victims had either participated, or were believed to have
9 participated, in the large-scale human rights abuses described in
10 *Kosovo/Kosova: As Seen, As Told*; or they were believed to have
11 actively or tacitly collaborated with the Yugoslav and Serbian
12 security forces. Within this climate of vindictiveness a third
13 category of victims emerged: those individuals or groups who were
14 persecuted simply because they had not been seen to suffer before.

15 "While the desire for revenge is only human, the act of revenge
16 itself is not acceptable and must be recorded and addressed. The
17 effects on the Kosovo Albanian population of accumulated
18 discrimination and humiliation over the past decade is documented and
19 cannot be doubted. Neither can it be doubted that the ethnic
20 cleansing during the war had a deeply traumatic impact on the Kosovo
21 Albanian community, leaving virtually no family untouched. Given
22 this stark [background] to the post-war setting, only a strong law
23 enforcement system can prevent the climate of vindictiveness that
24 perpetuates violence. The absence of such a robust response has
25 contributed to lawlessness that has perceived post-war Kosovo/Kosova,

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1 leaving violence unchecked."

2 Do you still stand by this, Ms. Mitchell, this particular aspect
3 of the executive summary?

4 A. Yes, I do.

5 MR. KEHOE: Your Honour, at this time I'll offer this item into
6 evidence.

7 MS. MAYER: No objection.

8 PRESIDING JUDGE SMITH: SITF00001529 to 00001871 at page 1539 is
9 admitted.

10 MR. KEHOE: With all due respect to counsel, I don't believe
11 this one has any footnotes on it, so -- I don't believe.

12 PRESIDING JUDGE SMITH: It doesn't appear to.

13 MR. KEHOE: To the extent that it does, I mean, we will include
14 those as well. I just don't have -- it -- I've just been informed by
15 *[REDACTED] Pursuant to In-Court Redaction Order F1988RED.* it does not.

16 THE COURT OFFICER: Your Honours, that page will be added to
17 Exhibit P743.2.

18 MR. KEHOE: And if we can turn to --

19 PRESIDING JUDGE SMITH: Thank you, *[REDACTED] Pursuant to In-*
Court Redaction Order F1988RED.

20 You can go ahead.

21 MR. KEHOE: I'm sorry, Judge.

22 If we can turn to same volume, 1529 to 1827, page 1681. And it
23 will be the third from the top. Just the third -- actually, it's the
24 second bullet point:

25 Q. "In Zheger, Gjilan municipality, the LDK leader admitted that

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1 the current lawlessness was motivated by revenge. He said that the
2 Albanian population had started to burn and loot Serbian houses when
3 they returned to the area and saw the state of their own homes."

4 So when you were in Gjilan, you were, in fact, in contact with
5 LDK leaders who confirmed that this was being done for revenge
6 purposes; correct?

7 A. Yes.

8 Q. Now with regard to this entire situation, Ms. Mitchell, let
9 me -- and I'm talking about the return of the refugees and the
10 post-war violence that you had spoken about in volume 2. If I can
11 show you a video.

12 MR. KEHOE: And this is DHT01468 to -- that's the -- to 468.

13 This is Ken Bacon, the United States Department of Defence
14 spokesperson. And date of course is 5 June 1999. It's ready to go.

15 [Video-clip played]

16 "The fact of the matter is that I don't think that Kosovo is
17 going to be a very happy place for Serbs when NATO comes in, and
18 the -- and the -- I don't think Serbs want to stay there. I think
19 they want to return to Serbia. We don't know how big the Serb
20 minority is there. It could -- it's probably about 100.000, could be
21 a little more than that. But as Kosovar Albanians flow back in, our
22 assumption is that many Serbs will probably return to Serbia.

23 "It's sounds like you're encouraging the Serbs who now live in
24 Kosovo then to leave.

25 "I'm not encouraging them at all. I'm just stating what we

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1 anticipate the facts will be."

2 MR. KEHOE:

3 Q. So if I may, Ms. Mitchell, given this flow of refugees back, it
4 was predictable to you as a professional that this type of violence
5 was going to take place, wasn't it?

6 A. No.

7 Q. Well, I mean, this is an individual that -- it was going to be a
8 difficult place for Serbs to live; isn't that right?

9 A. Yes, that's correct.

10 MR. KEHOE: Your Honour, at this time we'll offer this item into
11 evidence.

12 MS. MAYER: I'm not sure of the relevance, but no objection.
13 She said she doesn't agree.

14 MR. KEHOE: Your Honour, it's got the -- it has got the proper
15 verification, authenticate --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 DHT01468 to 01468 is admitted.

18 MR. KEHOE: So --

19 THE COURT OFFICER: Your Honours, that will be assigned
20 Exhibit 1D76.

21 MR. KEHOE:

22 Q. Without getting into specifics, Ms. Mitchell, you understood
23 that it could be a difficult time for the Serb minority that was
24 remaining in Kosovo; isn't that right?

25 A. Yes.

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1 Q. So you had these refugees coming back. And you also had people
2 coming back who were criminals too, didn't you?

3 A. Yes.

4 MR. KEHOE: And let me turn to volume 2. And this is at page
5 SITF1581. And this is 1581, volume 2. Excuse me, 1581. Right.
6 Volume 2. At the top of the page.

7 Q. And this is in the Gjilan area where the KVM had an office.

8 "Organised criminal elements were maybe involved in these
9 disappearances ... only one case has reportedly involved a ransom
10 demand. This example may suggest that opportunist criminals, [or]
11 discovering that people were missing, decided to demand
12 [unsuccessfully] a ransom, or that original perpetrators decided to
13 cash in further."

14 MR. KEHOE: And on that same score, if we could move to page
15 1588. At the bottom of that page, please. "Organised crime."

16 Q. And this is again in Gjilan area:

17 "Organised crime has traditionally been strong in the Gjilan
18 area. It is believed that the absence of any police and judicial
19 system and the presence of international organisations has
20 contributed to an environment in which there has been an increase in
21 the activity of organised crime."

22 Now, in addition to you having these refugees coming back and
23 seeing the devastation, you document in your volume 2 that there was
24 an organised crime element that was causing significant problems in
25 these areas as well; right?

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1 A. Yes.

2 MR. KEHOE: Your Honour, we'll offer those two quotes into
3 evidence.

4 MS. MAYER: I believe the first excerpt is already in evidence
5 as 743.2. No objection to the second page.

6 PRESIDING JUDGE SMITH: SITF1588 then will be admitted.

7 THE COURT OFFICER: And, Your Honours, that will also be added
8 to P743.2.

9 MR. KEHOE: Again, just moving just one last excerpt. It would
10 be volume 2, SITF1598. And this is talking about the Gjakove area.

11 Q. And I'm looking at where it is on the page. It is on the page
12 right before the "Right to Life ..."

13 Do you see that paragraph there, Ms. Mitchell? It says:

14 "Ordinary criminality and organised crime were also widespread
15 in the municipality. In late September, for example, counterfeit
16 Dinar currency began to circulate and car theft increased.
17 Complicating factors in the fight against crime were the different
18 criminal gangs believed by KFOR and UNMIK ... to be active in the
19 municipality. The long international border with Albania makes
20 movement easy and detection difficult."

21 Those were, in fact, complicating factors in trying to quell or
22 tamp down this criminal activity, wasn't it?

23 A. Yes.

24 MR. KEHOE: Your Honour, at this time I'll offer this item into
25 evidence.

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1 MS. MAYER: No objection.

2 MR. KEHOE: And to the extent there are footnotes there --

3 PRESIDING JUDGE SMITH: SITF15898 is admitted.

4 MR. KEHOE: And, Your Honour, to the extent there are footnotes,
5 include those as well.

6 PRESIDING JUDGE SMITH: Plus notes.

7 THE COURT OFFICER: Your Honours, that will be added to P743.2.

8 MR. KEHOE:

9 Q. And you noted, Ms. Mitchell, in your OSCE yearbook --

10 MR. KEHOE: And this would be DHT02840 to 02856, and the page
11 I'm interested in is DHT02852. Just trying to locate the specific
12 portion of the page so we can move through it quickly. It's at the
13 bottom of the page, just starting at "... only a strong law
14 enforcement ..."

15 Q. Do you see that? It's in the middle of the sentence about four
16 lines from the bottom. Do you see that, Ms. Mitchell?

17 A. Yes, I do.

18 Q. Okay. And it just reads as only a -- with this backdrop, you
19 note that:

20 "... only a strong law enforcement and judicial system could
21 have restrained the climate of vindictiveness that perpetuates
22 violence."

23 "Given this stark backdrop to the post-war setting, only a
24 strong law enforcement and judicial system could have restrained the
25 climate of vindictiveness that perpetuates violence."

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1 Now, that's, in fact, what you wrote in the OSCE 2000 yearbook;
2 correct?

3 A. I must admit, I don't remember submitting this to the yearbook.

4 Q. Okay.

5 A. But nevertheless, I would agree with the statement.

6 Q. If I could just make a submission as the officer of the Court,
7 it's the OSCE yearbook from the article that you wrote.

8 A. Yeah.

9 Q. And I'm not trying -- there's no trick here. This is the
10 article --

11 A. Yeah.

12 Q. -- that you wrote.

13 MR. KEHOE: In any event, Judge, we just offer this into
14 evidence.

15 PRESIDING JUDGE SMITH: DHT02480 to 02856, specifically at page
16 DHT02852, is admitted together with any applicable notes.

17 MR. KEHOE: Your Honour, it's 11.00. I'm not sure what you want
18 me to do.

19 PRESIDING JUDGE SMITH: We'll take a break now.

20 MR. KEHOE: Okay.

21 THE COURT OFFICER: Your Honours, that specific page will
22 receive Exhibit 1D77.

23 PRESIDING JUDGE SMITH: Thank you very much.

24 Madam Court Officer, you may escort the witness.

25 Witness, we'll have a half-hour break at this time.

1 [The witness stands down]

2 MR. KEHOE: Your Honour, if I can just bring up one housekeeping
3 matter just briefly.

4 I know as remarkable as this seems, and I may be -- and anybody
5 can correct me if I'm wrong, but it appears that UN Security Council
6 Resolution 1244 has not been introduced into evidence yet. We've
7 searched these matters. As I stood in front of the Court earlier
8 this week, I thought it had. It had not. So I would have to put
9 that in at some point and just -- without taking much time, just put
10 it in.

11 PRESIDING JUDGE SMITH: Somebody come up with the document and
12 we'll --

13 MR. KEHOE: Excuse me?

14 PRESIDING JUDGE SMITH: Somebody come up with the document and
15 we'll --

16 MR. KEHOE: Oh, we have the document.

17 PRESIDING JUDGE SMITH: Okay. All right.

18 MR. KEHOE: We have the document.

19 PRESIDING JUDGE SMITH: All right. We'll deal with it.

20 We're adjourned until 11.30.

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

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

23 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
24 in.

25 MR. KEHOE: Before -- just one question.

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1 PRESIDING JUDGE SMITH: Oh, never mind. Just --

2 MR. KEHOE: Judge, just as a brief housekeeping matter. With
3 regard to the last Exhibit, 1D77. I had a suggestion from Ms. Mayer
4 to put this in context by just adding the front page of the OSCE
5 yearbook. So given that somebody at some point is going to look at
6 it, they know where it came from, I think the suggestion by Ms. Mayer
7 is well taken.

8 So if we could add that page to the document, if we can.

9 PRESIDING JUDGE SMITH: I think -- you can do that? All right.
10 It will be added and she'll give you a number for it.

11 MR. KEHOE: And I thank my colleague for suggesting that. I
12 think it was -- it was well taken.

13 THE COURT OFFICER: Yes, Your Honour. So the page DHT02840,
14 which is the cover page, together with DHT02852 will be Exhibit 1D77.

15 PRESIDING JUDGE SMITH: Thank you.

16 Now, Madam Usher, you may bring the witness in.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: So, Witness, we continue with
19 Mr. Kehoe's cross-examination of you.

20 Go ahead.

21 MR. KEHOE: Thank you, Your Honour.

22 Q. I hope you got a cup of coffee or something, Ms. Mitchell. But
23 just leaving off, I mean, we were talking about that you said in the
24 -- you needed strong law enforcement and a judicial system because
25 there were no laws, no courts, no police, nor municipal structures,

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1 or civil society. And enter UN Security Council Resolution 1244.

2 MR. KEHOE: If we could put that on the screen. That will be
3 03616804 to 3616811.

4 Q. And, trust me, we're not going to get through the whole thing.

5 So now, Ms. Mitchell, I know you know UN Security Council
6 Resolution 1244. But in more pedestrian terms, this vested all legal
7 authority in Kosovo with the UN, did it not?

8 A. Yes.

9 MR. KEHOE: Your Honour, at this time I'll offer UN Security
10 Council 1244 into evidence.

11 MS. MAYER: No objection.

12 PRESIDING JUDGE SMITH: [Microphone not activated] ... 6811, the
13 1244 Resolution is admitted.

14 MR. KEHOE: And if we can just turn --

15 PRESIDING JUDGE SMITH: Just a second.

16 THE COURT OFFICER: Your Honours, that will be assigned
17 Exhibit 1D78, and I note it's classified as confidential in
18 Legal Workflow.

19 MR. KEHOE: It's classified as?

20 THE COURT OFFICER: Confidential at the moment.

21 MR. KEHOE: It doesn't need that classification.

22 PRESIDING JUDGE SMITH: It's reclassified as public.

23 MR. KEHOE: Yes, Your Honour. A UN Security Council Resolution.
24 I don't know if I did that or somebody else did that, Judge, but
25 whatever. No.

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1 PRESIDING JUDGE SMITH: Somebody.

2 MR. KEHOE: And if I can just turn to the UNMIK Regulation
3 1999/1, that will be 026028 to 030, and I'm interested in section
4 1.1.

5 Q. And just 1.1 there. It notes -- well, you can read that:

6 "All legislative and executive authority with respect to Kosovo,
7 including the administration of the judiciary, is vested in UNMIK and
8 is exercised by the Special Representative of the Secretary-General."

9 Again, Ms. Mitchell, that's augmenting the fact and making clear
10 that with regard to the administration of all legislative and
11 executive authority, it is with the Special Representative?

12 A. Yes.

13 MR. KEHOE: Your Honour, at this time I'll offer that into
14 evidence.

15 MS. MAYER: No objection.

16 PRESIDING JUDGE SMITH: 026028 to 026030 at section 1.1 is
17 admitted.

18 THE COURT OFFICER: Your Honours, that will be assigned 1D79.
19 And I note also it's classified as confidential.

20 MR. KEHOE: It's public, Judge. I don't think we need that
21 classified as confidential.

22 PRESIDING JUDGE SMITH: Any objection to reclassifying this as
23 public?

24 MS. MAYER: No objection.

25 PRESIDING JUDGE SMITH: The document will be reclassified as

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1 public.

2 MR. KEHOE: If I may, Judge, we are moving that whole document
3 in, not just what we read.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MR. KEHOE: Okay, if I may, Judge, if we can just put that whole
6 document in, which -- from 026028 to 026030.

7 MS. MAYER: No objection as to the whole document.

8 PRESIDING JUDGE SMITH: All right. So delete the section 1.1.
9 The entire document will be admitted.

10 MR. KEHOE: My apologies for that confusion.

11 PRESIDING JUDGE SMITH: That's all right.

12 MR. KEHOE: May I proceed, Judge?

13 PRESIDING JUDGE SMITH: Yes.

14 MR. KEHOE: All right.

15 PRESIDING JUDGE SMITH: Go ahead.

16 MR. KEHOE:

17 Q. So the first Special Representative that came in, I believe you
18 mentioned him in your testimony, was Sergio de Mello; is that right?

19 A. Yes.

20 Q. And let me show you another document.

21 MR. KEHOE: That is SITF00265435 to 00265443, and I'm interested
22 in pages 265440 to 41. And if we can just show Ms. Mitchell the
23 first page before we go to the page at issue, if we could.

24 Q. Just trying to orient you with this document. To the extent
25 that I don't do that, please let me know and I will do that. This is

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1 a 19 June task force meeting, to you.

2 MR. KEHOE: And if we can go to 4041, SITF0026544041. And it's
3 number 4 -- excuse me, I'm not -- it's further down. I'm sorry. Is
4 this 440? If we can scroll that down to about 20 June. Keep going.
5 Keep going. There it is. The bottom. Can we just scroll up a
6 little bit from the number 3 there.

7 Q. And this is notes from meeting:

8 "At 1210 I had a meeting with Mr. Strohmeier ..."

9 You know Hans Strohmeier, you know Mr. Strohmeier; right?

10 A. Yes, I do.

11 Q. Okay.

12 "... regarding the District Court of Pristina and drafting of a
13 proposal for a constitution. I handed over the ... draft proposal
14 from the Venice Commission with my remarks.

15 "He handed over a public announcement from SRSG
16 Mr. Sergio Vieira de Mello, in which among other things," and quoting
17 Mr. de Mello:

18 "'In accordance with Security Council Resolution 1244 of 10 June
19 1999, I shall perform the executive functions of government during
20 the transitional period until new legitimate authorities are
21 established to which these functions can be transferred. In this
22 capacity, I will, within the next days, appoint international interim
23 administrators at the district and municipal levels, start the
24 deployment of an international civilian police force, and take the
25 necessary steps to re-establish a multi-ethnic and democratic

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1 judicial system in Kosovo."

2 Now, with regard to the statement by Ambassador de Mello, that
3 was the intention of UNMIK and the -- well, the UN forces when they
4 came in, wasn't it?

5 A. Yes.

6 Q. And, of course, and we'll talk about this in a bit, that didn't
7 happen very quickly, did it?

8 A. No, it did not.

9 MR. KEHOE: Your Honour, at this time I'd just offer this
10 document into evidence, just this portion of the document. And we
11 can do the front page --

12 PRESIDING JUDGE SMITH: Just those two pages?

13 MR. KEHOE: We can do these two pages. And if we can do the
14 front page too so we have some reference to it.

15 MS. MAYER: No objection.

16 PRESIDING JUDGE SMITH: 00265435 to 00265443 at pages 265440 and
17 265441 plus the cover page are admitted.

18 THE COURT OFFICER: Your Honours, those pages will be assigned
19 Exhibit 1D80. And, Your Honours, that's also classified
20 confidential.

21 MR. KEHOE: It's -- no, it doesn't need to be confidential,
22 Judge.

23 MS. MAYER: Your Honour, I'd just ask the Court for anything
24 that's an SPO document, I believe this is an SPO ERN that -- so it
25 was provided, because it came from SITF. The documents we

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1 introduced, we did a check to make sure that under the R107
2 provisions, that there were no restrictions on it. So we would just
3 ask the Court that we can check to any of those items before we agree
4 to a reclassification to make sure that we're in compliance with any
5 caveats that were given when we received these documents.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MS. MAYER: I assume so by the ERN, but I would just like the
8 opportunity to check that to ensure that we're doing everything
9 properly.

10 PRESIDING JUDGE SMITH: Okay. You can report back. Be sure and
11 do that and we'll make the decision at that time.

12 Go ahead.

13 MR. KEHOE:

14 Q. Now, Ms. Mitchell, obviously the entire civil administration and
15 police force took a significant period of time to ramp up and become
16 effective, didn't it?

17 A. Yes.

18 MR. KEHOE: And if we can look at Exhibit 1D36. And this is a
19 document from volume 2, but it's already in evidence.

20 Q. If I could show it to you, I'm sure you're familiar with it.
21 This is a document in your volume that shows the ramp up of the
22 police force. This is accurate, is it not?

23 MR. KEHOE: If you could scroll up a bit.

24 THE WITNESS: Yes.

25 MR. KEHOE: Yeah, if you could just make it one big page. Can

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1 we just make that one page? Yeah. Yeah, there we go.

2 Q. This in volume 2 is an accurate depiction of the ramp up as of
3 October 30, 1999; right?

4 A. Yes, sir.

5 Q. And when we're looking at the early part, the June, July, and
6 into August, there is virtually no police -- no UNMIK police
7 deployment at all; right?

8 A. That's correct, yeah.

9 Q. And to the extent that the arrests were being made, they were
10 being made by KFOR; isn't that right?

11 A. Yes.

12 Q. And their abilities to arrest, detain -- as a matter of fact,
13 they refused to do it, didn't they?

14 A. Yes, they were very resistant.

15 Q. And as a result of their refusal to do it, there was virtually
16 no law enforcement on the ground because KFOR, prior to the UNMIK
17 civil police, just weren't going to engage in law enforcement; right?

18 A. Yes.

19 Q. And even when the police did come in September, it was a very,
20 very meager force, wasn't it?

21 A. Yes.

22 Q. And if I can just have you take look at --

23 MR. KEHOE: And, again, counsel, this may be another document,
24 it's an SITF document. SITF00172879 to 00172884. And I'm interested
25 in page 172882. This is an UNMIK memo for 16 September. Again,

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1 counsel -- I think counsel has got security concerns under Rule --
2 not Rule 70 but ... this is an UNMIK memo. This is an UNMIK memo.
3 And if we go to SITF172882.

4 Q. I don't know if you can read that, but it's at the top of the
5 page. Can you read that, Ms. Mitchell?

6 A. Yes.

7 Q. I know it's tough.

8 A. Yup, I can.

9 Q. Okay. So this is as of 16 September 1999:

10 "The current authorised strength of UNMIK civilian police is
11 1,800 which yields a ratio of one police officer per 909 citizens ...
12 Typical European ratios of police to citizens, in countries that
13 provide standard democratic police [forces], are one per 400-700. A
14 ratio per one per 909 is fundamentally inadequate for the maintenance
15 of law and order, even under benign circumstances. UNMIK Police will
16 face immense difficulty in attempting to provide credible and
17 effective policing for Kosovo with significantly fewer police
18 officers than are provided even in stable countries."

19 Now, that was in fact the case in September. They didn't even
20 have a police force that was near to what you would have in a more
21 stable country, did they?

22 A. That's right.

23 MR. KEHOE: Your Honour, at this time I'll offer this item into
24 evidence, subject to counsel reviewing.

25 MS. MAYER: No objection to this document being public. And as

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1 to 1D80, the previous document, no objection to its reclassification
2 as being public.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 1D80 is reclassified as public.

5 And then SITF00172879 to 00172884, you just want the single
6 page?

7 MR. KEHOE: Just the single page, Judge.

8 PRESIDING JUDGE SMITH: At page 172882 is admitted and
9 reclassified as public.

10 MR. KEHOE: If I may, Judge, if we can --

11 PRESIDING JUDGE SMITH: Just a second.

12 MR. KEHOE: -- add to that the front --

13 PRESIDING JUDGE SMITH: Oh, go ahead.

14 MR. KEHOE: If I can add to that the front page so you have a
15 reference as to where it comes from.

16 PRESIDING JUDGE SMITH: Okay. And the cover page.

17 MR. KEHOE: Yup.

18 THE COURT OFFICER: Your Honour, so the cover page with
19 SITF00172879 and the page shown, 00172882, will be Exhibit 1D81, and
20 it will be public.

21 MR. KEHOE: And --

22 PRESIDING JUDGE SMITH: Thank you.

23 Go ahead.

24 MR. KEHOE:

25 Q. And as you noted in your comments with the SPO in -- this is,

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1 again, on paragraph 61 of your prep note. You know, you said:

2 "... the lack of judicial process led" --

3 "... the lack of judicial process led to KFOR not making arrests
4 that should have been made ..."

5 That's accurate, isn't it?

6 A. Yes.

7 Q. Now, in addition to the problem with no police, there were also
8 a -- you received reports of lack of judges to actually judge cases,
9 didn't you?

10 A. Yes.

11 Q. And let me show you a report from Mitrovice that your
12 organisation -- covering 28, 29 -- excuse me, 27, 28 June.

13 MR. KEHOE: SITF00385179 to 00385180. And I'm interested in
14 page 38510. Just can we go to that front page just so -- if I can,
15 just to let the witness get an idea of what we're talking about here.

16 Q. Okay?

17 A. Mm-hmm.

18 Q. So this is coming from Mitrovice in June. If we can just go to
19 that page. As we're doing that, just to ask you, Mitrovice was
20 covered by French KFOR?

21 A. Yes.

22 Q. It's the second bullet. It's the second bullet from the top:

23 "The French KFOR defended themselves saying that they do not
24 have judges and lawyers in their brigade. Therefore KFOR in
25 Mitrovice can imprison criminal elements and provocateurs only for

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1 garde-a-vue for 24 hours. (It shows not a very good military
2 planning that this problem is not discussed and solved after so much
3 preparation ... since Rambouillet!!!)"

4 Again, that was pretty much the situation. They didn't have
5 judges, they didn't have ability to keep these people, and it was
6 pretty clear to you folks at KVM there wasn't much prior planning for
7 this, was there?

8 A. I think that's accurate.

9 MR. KEHOE: Your Honour, at this time I'll offer this item into
10 evidence, just this page and the cover page, I believe.

11 Oh, it's a two-page document, Judge. My apologies. It's a
12 two-page document, the whole document.

13 PRESIDING JUDGE SMITH: I only have one page listed.

14 MR. KEHOE: I'm sorry, Judge?

15 PRESIDING JUDGE SMITH: Oh, I see. SITF --

16 MR. KEHOE: Yes.

17 PRESIDING JUDGE SMITH: -- 00385179 to 00385180 is admitted with
18 the cover page.

19 THE COURT OFFICER: Your Honours, that will be assigned 1D82.
20 And if we can clarify the classification.

21 MR. KEHOE: And classification can be open.

22 PRESIDING JUDGE SMITH: All right. No objection from the
23 Prosecution. Classification will be changed to public.

24 MS. MAYER: No objection.

25 MR. KEHOE:

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1 Q. Now, just as an aside, on the police force. I mean, obviously,
2 as time went on, there was an attempt to stand up the Kosovo police
3 service, was there not?

4 A. Yes.

5 Q. And you do know that President Thaci was instrumental in helping
6 to stand up the Kosovo police service; isn't that true?

7 A. Yes.

8 Q. So in addition to no police, you also had, obviously, delays in
9 civil administration. Just rudimentary civil administration in the
10 various areas because UNMIK wasn't answering that, were they?

11 A. That's right.

12 Q. So the general -- the basic personal services that UNMIK was
13 supposed to be providing, they simply weren't; right?

14 A. That's right.

15 Q. And to compound the issue on the law enforcement side, there was
16 an issue as to what law was going to apply, wasn't there?

17 A. Yes, there was.

18 Q. And a proposal was put forth by Mr. Strohmeyer which put forth
19 something that was called the master regulation, which said that the
20 laws of the Milosevic regime were going to be used; right?

21 A. I think there was some caveats to it, but, yes.

22 Q. Okay. And the fact that the Milosevic law was going to be used,
23 even with the caveats, judges were refusing to implement what they
24 believed to be the Milosevic law; right?

25 A. Yes.

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1 Q. So we had no police, no -- no police. KFOR is refusing to make
2 an arrest. There are no judges because the judges are quitting or
3 refusing to use what they perceived to be the Milosevic law. And
4 this was all going on at the same time; right?

5 A. Yes. If I may though, counsel, with the exception that some
6 KFOR units were making arrests, but they were certainly in the
7 minority.

8 Q. Understood. And any time there's a caveat or something to my
9 question, please let me know. Thank you. And with the risk of
10 repeating myself, many of these judges, when faced with implementing
11 what they perceived to be a Milosevic law, either refused to apply it
12 or quit; is that right?

13 A. Yes.

14 Q. And, obviously, to compound the matter in Mitrovica, you had
15 Serbs who were under arrest, that they were on a hunger strike
16 because they didn't know whether or not they were going to use the
17 Milosevic law or some other newly implemented law, weren't they?

18 A. Yes, I do remember that.

19 Q. I mean, this was all pretty chaotic. Wasn't it?

20 A. Yes.

21 Q. So let me shift gears and try to cover a few matters. And I
22 just want to turn our attention to my client, if you will. And,
23 again, this is going to be -- jump around a little bit, so bear with
24 me.

25 So in your conversations with the SPO, you noted - and this is

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1 in the proofing note on paragraph 41 - that your meetings with
2 President Thaci were all after the OSCE re-entered Kosovo in June
3 1999; is that accurate?

4 A. I believe so, yeah.

5 Q. Okay. So there was no meetings with you and Mr. Thaci or
6 Mr. Walker prior to your re-entry in June 1999, were there?

7 A. You know, there may have been one.

8 Q. And where would that have been, ma'am?

9 A. I think it was outside maybe -- I'm not really sure, to be
10 honest. And I just remember a discussion about the withdrawal and
11 that was the only thing that was being discussed.

12 Q. And I put to you that Ambassador Walker says that there was no
13 such meeting.

14 A. Okay.

15 Q. And you accept that if he is --

16 A. Yeah, I mean, it's very blurry.

17 Q. And you know Mike Phillips as well, don't you?

18 A. I do.

19 Q. And Mike Phillips was Walker's aide-de-camp?

20 A. Yeah.

21 Q. And he likewise said there was no meeting with President Thaci.
22 You accept that?

23 A. Yes.

24 Q. Okay. Now, I think just in regard to Mr. Thaci in the KLA, I
25 think you told the SPO you don't know what his role in the KLA --

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1 prior to Rambouillet, you have no idea what his role was prior to
2 Rambouillet; right?

3 A. That's right.

4 Q. And in the meetings that you had with President Thaci, I think
5 you also told us -- and I am talking about post June 1999, your
6 re-entry back. You were in meetings with other people like
7 Ambassador Everts or I think Mr. O'Neill or somebody like that. It
8 wasn't you alone. It was these other people. Is that right?

9 A. That's right.

10 Q. Okay. And you had told the SPO in your statement at page 11
11 that Thaci did not appear to have any operational control in the KLA;
12 is that right?

13 A. At which point in time, sorry?

14 Q. I'm talking about -- and I'm talking about -- and that's a fair
15 question because, you know, we're talking about up until Rambouillet.
16 You say during this time Hashim Thaci did not appear to have an
17 operational control.

18 A. That's right.

19 Q. Okay. Now, you mentioned that --

20 PRESIDING JUDGE SMITH: Excuse me, there's a error on - what
21 would that be? - line 11 of 67:7. It says "June 1991 re-entry" not
22 1999 re-entry.

23 MR. KEHOE: Thank you, Judge, I didn't -- obviously didn't see
24 that. And that's in line 11?

25 PRESIDING JUDGE SMITH: 12, I'm sorry.

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1 MR. KEHOE: My apologies. If I said 1991, that was my mistake.

2 It should be 1999. I'm sorry. Thank you.

3 Q. Now you mentioned -- you mentioned some discussions with

4 Mr. Thaci around Recak. Do you recall saying that?

5 A. I do.

6 Q. Okay. Let me put to you that both Mike Phillips and Ambassador

7 Walker say that there were no discussions with Thaci concerning Recak

8 at all. Do you accept that?

9 A. I do. My memory may not be as good. Yeah.

10 Q. I mean, did you know that at the time of Recak, that Mr. Thaci

11 was out of the country?

12 A. No, I --

13 Q. No idea?

14 A. -- don't know -- no idea where he was.

15 Q. Okay. So if I showed you a visa showing him in Slovenia at that

16 time, you don't know anything about that at all?

17 A. No.

18 THE INTERPRETER: Interpreter's note: The speakers are kindly

19 reminded to make pauses between question and answer. Thank you.

20 MR. KEHOE: And I will plead guilty to that.

21 Q. Not you, Ms. Mitchell. That's me.

22 So you had mentioned that -- in your prior testimony, obviously,

23 that, you know, meetings with zone commanders where zone commanders

24 got together and discussed things democratically and made a decision.

25 Is that right?

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1 A. That was my understanding, yes.

2 Q. And you have no understanding that Hashim Thaci participated in
3 those zone commander meetings at all, do you?

4 A. No.

5 Q. And just to focus ourselves. Did you know that from the time
6 you came -- well, actually, mid-November 1998 until March 1999, that
7 Hashim Thaci wasn't even in Kosovo. Were you aware of that?

8 A. I'm not really remembering it. Maybe, yeah.

9 Q. Okay. That he was not there?

10 A. That he was not there. I -- I really don't remember following
11 anybody's movements, you know.

12 Q. That's fair enough, Ms. Mitchell. I know this is a long time
13 ago. And with regard to even Rambouillet -- prior to that. Prior to
14 Rambouillet. The person that you folks had been talking to was
15 Adem Demaci; right?

16 A. Yes.

17 MR. KEHOE: And if we can turn to your prep note. This is at
18 paragraph 38, counsel.

19 Q. It says, you know, that -- this is after -- prior to
20 Rambouillet:

21 "Prior to this, Adem Demaci appeared to be the KLA spokesperson
22 and it seemed that diplomats would go to him ..."

23 That was your impression at the time; right?

24 MS. MAYER: Objection as to mischaracterisation. Counsel
25 stopped midway through that sentence.

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1 MR. KEHOE: Well, Your Honour, I'll read the rest of the thing.

2 But again this was --

3 PRESIDING JUDGE SMITH: Just a second.

4 MR. KEHOE: I asked her if this was her impression.

5 PRESIDING JUDGE SMITH: Just a second.

6 Overruled. You can answer that.

7 MR. KEHOE:

8 Q. So we have a situation during this period of time where your
9 impression was that Adem Demaci was the spokesperson --

10 PRESIDING JUDGE SMITH: Well, she didn't -- excuse me, she
11 didn't answer your question yet.

12 MR. KEHOE: I thought she had, Judge. But let me re-ask that
13 question.

14 Q. So you said:

15 "Prior to this, Adem Demaci appeared to be the KLA spokesperson
16 and it seemed that diplomats would go to him ..."

17 And that was your impression at the time, that he was the person
18 that the internationals went to, Mr. Demaci?

19 A. Yes.

20 Q. And so we have the internationals talking to Demaci while at the
21 same time the person that you believe is coordinating military
22 activity on the ground is Mr. Haradinaj; right?

23 A. I don't know that he was coordinating all of the activity on the
24 ground. He was certainly a go-to person for KVM.

25 Q. And I think you said that he was the go-to person that could get

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1 the shooting to stop; is that right?

2 A. That's right.

3 Q. Now, as we move into -- and if you're unaware of this, please
4 let me know. We'll just move ahead quickly in the interest of time.
5 As we move ahead, that through the Rambouillet, were you aware that
6 when the agreement that -- in Rambouillet was initially brought to
7 bear, that Mr. Thaci had to go get the permission of the zone
8 commanders in order to sign on to the Rambouillet agreement?

9 A. No.

10 Q. Okay. Were you aware that when he was in Rambouillet, that the
11 commander-in-chief of -- or the overall commander of the KLA was
12 removed by the zone commanders? And this would have been February
13 1999. Are you aware of that?

14 A. No.

15 Q. Okay. So staying with Rambouillet, though. You were aware that
16 when the Rambouillet discussions were coming up, there was some
17 discussion proposed by the internationals that there should be some
18 government in the wings to try to come in and get things in Kosovo
19 running. You're aware of that, weren't you?

20 A. I must admit, I don't remember the details of the Rambouillet
21 Agreement.

22 Q. No, if I show you something, might it refresh your recollection,
23 though?

24 A. If it was in the agreement, I sure don't dispute it.

25 Q. No, this is a power-sharing arrangement.

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1 MR. KEHOE: And let me show you 1D69.

2 Q. Now, this is an agreement from 23 February 1999 at Rambouillet.
3 It says:

4 "The Delegation of Kosovo at the Conference of Rambouillet,
5 following the consultation with the political and military groups:
6 The Kosovo Liberation Army, Democratic League of Kosovo, United
7 Democratic Movement ... [and] its two independent members, on the
8 23rd of February 1999

9 "Has Decided

10 "1. To form a provisional government ...

11 "2. The Government [has] a mandate to govern [from] the first
12 free elections are held in Kosovo.

13 "3. The mandate to form the Government, by mutual agreement,
14 was given [by] ... representative of the KLA," this is Mr. Thaci.

15 And:

16 "The three political groups will have an equal representation in
17 Government, adding to this number the mandate holder and the other
18 potential members -- independent members."

19 Excuse me.

20 So were you aware that this agreement was in effect for the
21 provisional government prior to the re-entry of -- or prior to the
22 end of the war in June and the take-over by the UN?

23 A. I am aware that there was an agreement for a provisional
24 government, and honestly, I never delved into it more than that
25 knowledge.

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1 Q. Okay. But you knew that -- that when this agreement was -- this
2 is February --

3 A. Mm-hmm.

4 Q. -- of 1999. To your knowledge, there's no discussion of UNMIK
5 or KFOR or anyone else at that juncture; right?

6 A. That's right.

7 Q. Okay. So -- and, of course, Mr. Rugova signs this as well. And
8 when the war ended post 10 June or days to that effect - I believe
9 you came at either the 12th or the 13th or something like that - the
10 groups and the various parties in -- throughout the Kosovo area began
11 to work together, didn't they? And I'm talking about the KLA, the
12 LDK, other groups, in various places throughout the country.

13 A. In various places, yes.

14 Q. Okay. Well, let's just look at those.

15 MR. KEHOE: Let's go to SITF0000159-00181, page 1592. I think I
16 read it wrong. I've just been told I read it wrong, which is not the
17 first time. It's SITF00001529 to 00001871, and I'm interested in
18 page 1597. Just go to the bottom of that page, please.

19 Q. Ms. Mitchell, just so you know, this is volume 2 of "As Seen, As
20 Told." I'm sure you recognise it. There it is at the bottom of the
21 page. It's Gjakove:

22 "Of all the self-styled authorities in Kosovo, none was more
23 developed than in Gjakove. The self-styled administrator was in
24 place ... 16th June and by 20th June the self-styled administration
25 was functioning in cooperation with the Albanian ... Democratic Party

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 (PPsh) and two members of the local Democratic League ... (LDK)."

2 So in a place where you folks had an office, in Gjakove, there
3 was, from your reporting, a cooperative arrangement between what
4 could be PGoK parties, the National Democratic Party and the LDK.
5 Right?

6 A. Yes.

7 Q. They appeared to be working together; right?

8 A. Yes.

9 MR. KEHOE: Your Honour, at this time I'll offer this excerpt
10 into evidence.

11 MS. MAYER: I believe this is already in evidence as P743.2.

12 MR. KEHOE: Thank you. Thank you for the correction. I'm not
13 sure exactly what's in or what's out at this point, Judge. But I
14 appreciate that.

15 PRESIDING JUDGE SMITH: Go ahead.

16 MR. KEHOE: And if we can go to SITF1529-871 to page 1646.
17 Second paragraph that after two -- or towards the -- if we can scroll
18 up just a little bit. There we go.

19 And this one has footnotes to it, Judge, but the footnotes are
20 at the bottom of the page.

21 Q. In any event:

22 "In the southern municipalities, soon after K-Day, self-styled
23 authorities were in place that included LDK involvement in Vushtrri
24 and Skenderaj."

25 So, again, this is another area where PGoK or LDK entities are

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1 cooperating with LDK -- excuse me, KLA entities are cooperating with
2 LDK entities and involving them in the government; right?

3 A. Yes.

4 Q. Let us turn our attention --

5 MR. KEHOE: Can we introduce that item -- that clip into
6 evidence?

7 MS. MAYER: No objection.

8 PRESIDING JUDGE SMITH: SITF1529-871 at page 1646 is admitted
9 with footnotes.

10 THE COURT OFFICER: And, Your Honours, that page will be added
11 to P743.2.

12 MR. KEHOE: If I could then go to DHT016 -- excuse me, 1264 to
13 DHT0128. And this would be at -- this is a report from the
14 International Crisis Group.

15 PRESIDING JUDGE SMITH: I'm sorry, are you saying you -- this is
16 DHT1264?

17 MR. KEHOE: DHT01264 --

18 PRESIDING JUDGE SMITH: Okay. That's --

19 MR. KEHOE: -- to DHT01283.

20 PRESIDING JUDGE SMITH: Yeah, you started out on the wrong one.

21 MR. KEHOE: And that's at page 11 in this document.

22 Q. Now, this is not your report, Ms. Mitchell, but it is a --
23 waiting for -- it is an ICG, International Crisis Group, report. And
24 I'm just looking for where it is on that page.

25 MR. KEHOE: Page 11. We can scroll up a little bit on that.

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1 Here it is. It's towards the bottom, before the "Personnel Changes."

2 Q. Now, to the extent that there was some disagreement, I put to
3 you, Ms. Mitchell, that LDK people continued to work together. And
4 this is in Gjilan. If you see in that paragraph:

5 "Again, the mayor of Gjilan claims to have united local
6 political forces in his town hall. More usually qualified people
7 across the political spectrum are invited to occupy functions in the
8 local authority on a personal basis. Thus, for example, although the
9 LDK does not recognise the legitimacy of the town halls, many people
10 who still profess allegiance to the LDK are serving in the
11 administrations."

12 So is that part of your understanding to the extent that there
13 was any disagreement, people with LDK allegiances worked with the
14 administration in any event? Do you recall that?

15 A. Yes. I'm just reading the ICG language.

16 Q. Sure.

17 A. Yes.

18 Q. Let us turn our attention to Mitrovice.

19 MR. KEHOE: And if we can go to SITF00385175. And we're
20 interested in page 177.

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

22 MR. KEHOE: It is SITF00385175 to 5178, but I'm interested in
23 page 5177. I'm just looking for the -- there it is. It's the
24 first -- after the bullet points, it's that first paragraph there.
25 There you go. Right in the middle of the page.

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1 THE COURT OFFICER: For the record, that's 1D35.

2 MR. KEHOE: It's 1D35, that page?

3 THE COURT OFFICER: [Microphone not activated]

4 MR. KEHOE: Okay. We'll just read this. It's in 1D35. Thank
5 you.

6 Q. And it notes that:

7 "LDK said that they respect and cooperate with the designated
8 interim civil administrator for Mitrovica (designated by KLA). He is
9 considered as the right person for this job. Reserves were raised
10 concerning the self-proclamation of the interim government 'from
11 Albania'. LDK is participating on the regional level in meetings
12 with KLA and LBD to discuss and plan for Mitrovica."

13 So it would be fair to say in this area in Mitrovica, by this
14 entry, we have LDK, LBD, and KLA all working together; is that right?

15 A. Yes, during that reporting period.

16 Q. Right.

17 MR. KEHOE: And let us turn to SITF001529 to 1871. And I'm
18 interested in page 1571. And I'm interested in going to the bottom
19 of the page on civil administration.

20 Q. Now, this is an entry that talks about guidelines put in by the
21 LBD. And this, again, is in Gjilan, in an area where you have an
22 office. And it notes that:

23 "The self-styled civil administration was put in place quickly
24 throughout the region according to guidelines produced centrally by
25 the LBD. By late July, self-styled civil administrations were

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1 established in Gjilan, Novo Berde, Viti, and Kamenice."

2 Excuse me. I'm sure I just killed that pronunciation.

3 So this is quite different. And we have LBD was setting the
4 agenda or setting the guidelines in this area, weren't they?

5 A. The structure, yes.

6 Q. And let me turn lastly to a -- actually, two more.

7 MR. KEHOE: This is SITF000115288-1871 [sic], and I'm interested
8 in page 1571. I'm sorry, I think it's 72. My apologies. And this
9 should be at the top of the page. The second full -- the second full
10 paragraph, "At the end of October ..."

11 Q. So:

12 "At the end of October," and this was 1999, "in Gnjilane,
13 following a long process of negotiation, it was reported that the UN
14 was close to endorsing the self-styled Administration in Gjilan.
15 Agreement had been reached that two Kosovo Serbs should have places
16 in the Administration."

17 So we have situations where the KLA is working with the LDK. We
18 have situations where LBD is setting up the guidelines, and we have a
19 situation in Gjilan where they're bringing Serbs into the
20 administration; is that accurate?

21 A. I think the first two parts of your question were. The third,
22 the agreement to bring the Serbs in, I think would have been because
23 of the UN involvement.

24 Q. And, in fact, the UN was in fact -- the Serbs were, in fact,
25 brought in as part of this agreement?

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1 A. Yes.

2 Q. So everybody that was in the agreement, be it LDK, you know,
3 KLA, whatever, they agreed to bring two Serbs in?

4 A. Yes. Yup.

5 MR. KEHOE: And, lastly, we talked to SITF00265435, and I'm
6 interested in page 265436. And this is 19 June. And it is 436, if
7 we could. There it is. That's it. We can -- open that up.

8 Q. The local government structure, and this is talking about
9 Prishtine.

10 "There appears to be an Interim Executive Council ... which is
11 the same governmental structure, which existed in Kosovo before the
12 conflict. The IEC is comprised of Serbs, Albanians, Turks and Romas
13 and is headed by Zoran Andjelkovic ... The task of the IEC is to
14 regulate and conduct public administration ... various sectors until
15 an Interim Provisional Authority ... can be appointed by the United
16 Nations."

17 So with regard to this, very early on, there is an attempt by
18 everybody in Prishtine to begin to work together, you know, in this
19 IEC, didn't they?

20 A. Well, not everyone. But the people involved in this, yes.

21 Q. Well, when we're talking about the IEC and the Serbs, Albanians,
22 Turks, Romas, all these people, that -- one of the individuals who
23 was supporting these groups getting together to discuss how we're
24 going to move forward is Hashim Thaci, isn't it?

25 A. I don't know. I don't see him listed here.

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1 Q. Well, from your own personal knowledge when there was trying to
2 bring --

3 A. Oh.

4 Q. -- various groups --

5 A. Yes, yes, of course. Any efforts to form the government. Yup.

6 Q. And my apologies. My question wasn't clear. So we have
7 Mr. Thaci, he's trying to work with others to form the government.
8 And I believe that you came in, what was it, in October, November, to
9 talk to Mr. Thaci and Mr. Ceku about the findings of volume 2; is
10 that right?

11 A. Yeah. I'm really not sure of the exact date, but yes.

12 Q. Well, you're getting ready for publication?

13 A. Yes.

14 Q. Okay. So we're talking about coming to see him towards -- if
15 you published in December, it would be shortly before that.

16 A. Yes.

17 Q. And when you did that, did you, in fact, go to see, for
18 instance, President Rugova or Prime Minister Bukoshi or other
19 elements in the government and tell them what your findings were?

20 A. I myself did not. I think others had similar responsibilities
21 to do the briefings.

22 Q. And who else was briefed?

23 A. Well, the SRSG's office would have had some talking points as I
24 recall, so they may have included it. Craig Jenness and others that
25 were dealing more with the political parties and maybe somebody from

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1 democratisation --

2 Q. Outside the UN structure or outside what would be international
3 structure, who else in the -- the Kosovo Albanian or -- or the
4 Albanian group was briefed on what you were talking about?

5 A. I don't --

6 Q. What your report --

7 A. I'm sorry. I don't --

8 Q. Okay.

9 A. I don't know.

10 Q. Now, it would suffice to say at this point, once 1244 goes,
11 the -- neither the Provisional Government of Kosovo nor Hashim Thaci
12 have any legal authority to investigate and punish crimes, do they?

13 A. That's right.

14 Q. And are you aware of their attempts to try to investigate these
15 matters and being told no by the UN? Were you aware of that?

16 A. No.

17 Q. Let me show you a document that was sent to the OSCE.

18 MR. KEHOE: And this would be SITF00248172.

19 Q. And, Ms. Mitchell, this is a document that's dated, we see,
20 from -- came from OSCE as part of the discovery process, dated
21 5.7.1999. And if you can just take a look at this. It's a decision
22 to form the commission for the investigation of war crimes and
23 missing persons. If you can just take a look at that and tell me
24 when you want to scroll up.

25 A. Yes, please.

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1 MR. KEHOE: If we can scroll up, please.

2 THE WITNESS: Thank you.

3 MR. KEHOE: If we can scroll up a little more. And if we could
4 go to the next page.

5 THE WITNESS: Thank you.

6 MR. KEHOE:

7 Q. So this document, obviously, it's got an OSCE stamp, and the
8 document is a commission to investigate war crimes which is as a
9 designation of Hashim Thaci, and you agree with me it doesn't say
10 just investigate Serb war crimes or Kosovo Albanian war crimes. It's
11 just war crimes generally; right?

12 A. Yes.

13 Q. And do you recall seeing this document?

14 A. I don't, but it's highly likely I did see it.

15 MR. KEHOE: Okay. Your Honour, at this time I'll offer this
16 document into evidence.

17 MS. MAYER: No objection.

18 PRESIDING JUDGE SMITH: SITF00248172 is admitted and will be
19 assigned a number.

20 THE COURT OFFICER: Your Honours, that will be Exhibit 1D83.
21 And I note it's classified as confidential.

22 MS. MAYER: No objection to it being reclassified as public.

23 PRESIDING JUDGE SMITH: The document is reclassified as public,
24 the exhibit.

25 MR. KEHOE: And let me show you SITF00289186.

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1 Q. Now, this is a document dated 4 December 1999 from Martin
2 Kutzner to Mr. Idrizi, president of the commission on war crimes
3 investigations and missing persons. And it notes:

4 "Further to your request [on] 18.11.1999 concerning the
5 exhumation of the mass grave in Dragodan, I would like to inform you
6 that your commission is not responsible for conducting any
7 exhumations in the above-mentioned area as ICTY and UNMIK Police are
8 the only competent authorities conducting investigations of war
9 crimes according to UN Security Council 1244."

10 So, Ms. Mitchell, were you aware that, in fact, the provisional
11 government was attempting to investigate war crimes but, of course,
12 in this instance, we have the UNMIK telling them that: You can't
13 because the investigations are the only ones authorised by
14 Resolution 1244?

15 A. Yes.

16 MR. KEHOE: Your Honour, at this time I'll offer this document
17 into evidence.

18 MS. MAYER: No objection. And no objection to the
19 reclassification.

20 PRESIDING JUDGE SMITH: SITF00289186 is admitted and
21 reclassified as public exhibit.

22 You may go ahead -- oh, she has to give a number to it. I'm
23 sorry.

24 MR. KEHOE: Judge, you're telling me to go and I'm ...

25 THE COURT OFFICER: Your Honours, that will be assigned as

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1 Exhibit 1D84 and will be reclassified as public.

2 MR. KEHOE:

3 Q. So it would be fair to say, Ms. Mitchell, so given 1244, the
4 provisional government and Mr. Thaci have no legal authority to
5 investigate and punish crimes, and to the extent that they attempted
6 to investigate crimes through -- for anybody, UNMIK told them they
7 couldn't do it pursuant to 1244. That's about the sum and substance
8 of it, isn't it?

9 A. Yes.

10 Q. Let me shift gears here a bit, if I can. And I know you've
11 spoken extensively about the, you know, post-war situation in
12 volume 2 and what exactly was transpiring when -- or the chaos
13 transpiring when the people came back from refugees at the end of --
14 being refugees at the end of the war.

15 And we note, for an example, that you had -- that you had listed
16 in your report that people were doing this with KLA uniforms; right?

17 A. Yes.

18 Q. And do you know that the agreement to demilitarise the KLA was
19 signed by Mr. Thaci 21st June with the complete demilitarisation of
20 the KLA by 21st September 1999; right?

21 A. Yes.

22 Q. So after 21 September 1999, there was no -- the entire KLA was
23 supposed to be gone; isn't that right?

24 A. Yes.

25 Q. Okay. And -- well, I know this was a -- it must have been very

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1 difficult time, and I'm not belittling it at all, you coming to your
2 apartment and seeing two uniformed people in your house, in your
3 apartment. That took place after the KLA was demobilised. It was
4 after 21 September 1999; right?

5 A. I think it was, yeah.

6 Q. And let me say this, that you have soldiers being demilitarised,
7 that they still have uniforms, but we also, you know, talked about --
8 you talked about imposters, if you will. You do know that uniforms,
9 KLA uniforms were readily available in Albania for anybody that
10 wanted them for a very cheap price, weren't they?

11 A. Yes.

12 Q. And let me just read to you --

13 MR. KEHOE: This would be DHT01 -- 01475 to 476. This is a
14 report for UN High Commissioner for Human Rights, 27 September 1999.
15 And the paragraph I'm looking for is paragraph 102. And this would
16 be paragraph 102.

17 Q. It notes that:

18 "The KLA reportedly has been threatening employees of
19 international organisations who are seen intervening on behalf of
20 minorities, accusing them of collaboration. Some victims of ethnic
21 violence have reported that their assailants included men in KLA
22 uniforms, although it is possible that much of the violence is simply
23 the work of criminal elements masquerading in uniforms of the KLA.
24 Open borders have in fact allowed the large-scale arrival of criminal
25 elements, particularly [Albanians]. It has also been noted that KLA

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

4 Now, was it, in fact, your assessment of the situation at the
5 time that Albanians - not Kosovo Albanians, Albanians proper - were,
6 in fact, buying or coming across the border with KLA uniforms and
7 they had no relationship to the KLA at all?

8 A. Yes, we received that information.

9 MR. KEHOE: Your Honour, at this time we'll offer this
10 particular paragraph into evidence.

11 MS. MAYER: No objection.

12 PRESIDING JUDGE SMITH: DHT01-01475 at paragraph 102 is
13 admitted.

14 THE COURT OFFICER: Your Honours, that will be Exhibit 1D85.

15 MR. KEHOE:

16 Q. And, in fact, Ms. Mitchell, Ms. Mitchell, there's testimony in
17 this from OTP witnesses, and this would be with persons that have a
18 identity concealed, that would be 12 October 2023, page 8844, lines
19 17 to 24. This former KLA soldier said:

20 "At that point in time," we're talking about the summer of 1999.

21 "At that point in time, anyone could have bought a uniform for
22 about a few Deutschmarks, and so on and so forth. Within a couple of
23 days or so, the situation was totally chaotic and out of control.
24 There were people who had never been KLA members who wore KLA
25 uniforms."

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1 Is that consistent with your finding that there were people that
2 were there in the area wearing KLA uniforms that had never been in
3 the KLA?

4 MS. MAYER: Objection as to vagueness. What area are we talking
5 about?

6 MR. KEHOE: Actually, this area --

7 PRESIDING JUDGE SMITH: Sustained.

8 MR. KEHOE: Thank you very much. This is Prizren. He's talking
9 about Prizren at the time. Without identifying the individual.

10 THE WITNESS: I think we received those reports consistently,
11 yes.

12 MR. KEHOE:

13 Q. So you have a -- part of this, you had people coming back in KLA
14 uniforms that were Albanians that had bought the uniform, there were
15 people who were wearing the uniform that had never fought for the
16 KLA, and to the extent that you had KLA soldiers, you had KLA
17 soldiers certainly after the draw down that were no longer in the KLA
18 that still had weapons and uniforms; right?

19 A. Yes.

20 Q. And plus on top of all that, you had a criminal element as well?

21 A. Yes.

22 Q. Yeah, obviously compounding the situation of no judges, no
23 courts, no police, in the midst of all this, among the revenge,
24 et cetera. Again, this was chaos, wasn't it?

25 A. Yes.

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1 Q. Now, throughout all this - and I think you touched on this with
2 the Prosecutor - Mr. Thaci was out there attempting to condemn
3 violence, wasn't he?

4 A. At times, yes.

5 Q. Well, let's go through that. So -- and not only was he
6 attempting to condemn violence, but he was also asking for
7 stabilisation within Kosovo and for the Kosovo Serbs to stay, wasn't
8 he?

9 A. Yes.

10 Q. And he was doing that over a significant period of time where he
11 was asking for reconciliation, asking for the Kosovo Albanians to
12 come back, and asking for the violence to cease, wasn't he?

13 A. Yes.

14 Q. And you would agree -- do you know Ambassador Covey, do you not?
15 Jock Covey?

16 A. Ah, the head of the EU?

17 Q. Yes, he was working with Ambassador Kouchner?

18 A. The name is familiar. I'm having difficulty --

19 Q. That's fine.

20 A. -- placing him.

21 Q. You do recognise, Ms. Mitchell, that when President Thaci was
22 asking for reconciliation, no violence, a multi-ethnic society, and
23 for the Kosovo Albanians to leave, he was putting himself at physical
24 risk for those Kosovo Albanians who just wanted to throw the Serbs
25 out or the Roma out? You do realise that?

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1 A. Yes.

2 Q. And he did it anyway, didn't he?

3 A. Yes.

4 Q. Let's just look at some of this, and I want to show you a
5 couple --

6 MR. KEHOE: This is DHT01299, and this is a brief video.

7 THE COURT OFFICER: Your Honour, I note the video is not
8 classified in Legal Workflow, so before we play it in public session,
9 can we [Overlapping speakers] ...

10 MR. KEHOE: I'm sorry?

11 THE COURT OFFICER: The video is not classified at all in Legal
12 Workflow, and if we can confirm whether it's public or confidential.

13 MR. KEHOE: It can be public. Sure. Yeah, it's public. Sure.
14 Absolutely, yes. I'm sorry.

15 PRESIDING JUDGE SMITH: What is it?

16 MR. KEHOE: It's just a video of a particular speech but it's --

17 PRESIDING JUDGE SMITH: By?

18 MR. KEHOE: By Mr. Thaci.

19 PRESIDING JUDGE SMITH: Oh. Go ahead.

20 MR. KEHOE:

21 Q. Now just to orient yourself, this is 17 June 1999.

22 [Video-clip played]

23 THE INTERPRETER: [Voiceover] "Because we consider that these
24 people can give a contribution to the future of Kosovo. We did not
25 wage war to cleanse Kosovo. We waged a war so that we all live in

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 freedom and are equal."

2 MR. KEHOE:

3 Q. And this is the message that he was saying over a significant
4 period of time, wasn't he?

5 A. I don't know. I mean, I didn't read the Albanian news. Just
6 excerpts that we received. But I do believe that these messages were
7 made, yes.

8 MR. KEHOE: Your Honour, at this time I'll offer this video into
9 evidence. And it can be public along with the rest of them.

10 MS. MAYER: No objection.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 DHT01299 is admitted.

13 THE COURT OFFICER: Your Honours, that will be assigned
14 Exhibit 1D86.

15 MR. KEHOE: Your Honour, and just for clarification, all of
16 these videos can be public. They don't have to be classified as
17 confidential.

18 PRESIDING JUDGE SMITH: To the extent this is not classified, it
19 will be classified as public.

20 MR. KEHOE: Let me turn our attention to DHT -- this is a
21 statement of 2 July 1999. DHT01300. We can take a look at that.
22 This is 2 July 1991 -- excuse me, 1999. My apologies. I don't know
23 why I keep doing that. If we can play this.

24 [Video-clip played]

25 "Today I believe is the first time that Albanian and Serb

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1 leaders of Kosovo meet and talk to one another, establish a dialogue
2 on the most pressing issue of the moment, which is the safety,
3 security, the right to life, the right to property of all inhabitants
4 of this province.

5 "Can you just sit, please.

6 "Well done.

7 "I miss it.

8 "[Interpretation] We appeal to all citizens of Kosovo, be it of
9 civilian or military status, to withhold from such activities. Those
10 responsible for such activities will be brought to justice. We also
11 insist that all the missing people are handed over to the UNMIK
12 representatives. We support the joint efforts currently made by
13 activists of Albanian or Serbs so that together with UNMIK and other
14 international organisations to implement these requests. The road to
15 reconciliation will be long and difficult. It is true that there is
16 an innate hatred amongst people in Kosovo. We need to work together.
17 As first steps, we have agreed today to immediately establish a line
18 of communication between us, UNMIK, and KFOR, and holding of joint
19 meetings like this one today, send out joint messages reconciliation
20 from TVs and radios, create a joint crisis force in the region,
21 together with UNMIK and KFOR, which would be able to address urgent
22 problems anywhere, including historic and religious sites, and
23 organise an early meeting between religious and spiritual leaders
24 calling for tolerance.

25 "Persons suspected of war crimes and crimes against humanity

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1 shall be brought to justice. We support the role of international
2 war crimes tribunal. Peace can only be built on justice, not
3 revenge."

4 MR. KEHOE: Now before we move on, can we just move back to the
5 two-minute point, please, and stop it.

6 Q. And as we're doing that, Ms. Mitchell, the first person that was
7 talking was Sergio de Mello; correct?

8 A. Yes.

9 Q. I probably should have introduced him at the beginning. If we
10 can stop right there. Now, without looking at the bottom, this TVSH
11 that's up in the right-hand corner, that's an Albanian media source,
12 isn't it?

13 A. I don't know. I take your word for it.

14 Q. Okay. So President Thaci is giving this speech along with, you
15 know, Sergio de Mello and the Serb father that -- that is -- take my
16 word for it, he's giving this not only to the international
17 community, he's giving it to the Albanian community as well.

18 MS. MAYER: Objection as to counsel providing evidence, "take my
19 word for it." I think the witness said she doesn't know.

20 PRESIDING JUDGE SMITH: Sustained.

21 MR. KEHOE:

22 Q. Do you have any doubt that this went out to the local Albania
23 media as well?

24 MS. MAYER: Again, objection. She's already said she doesn't
25 know.

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1 PRESIDING JUDGE SMITH: She can answer that question. Go ahead.
2 Overruled.

3 If you know, ma'am.

4 THE WITNESS: I didn't know. I assume it did. Yeah. I've no
5 reason not to believe it didn't. I just don't remember it.

6 MR. KEHOE:

7 Q. Fair enough. You can only tell us what you know.

8 A. I don't dispute it.

9 Q. Okay.

10 MR. KEHOE: Your Honour, at this time we'll offer this video
11 into evidence.

12 MS. MAYER: No objection.

13 PRESIDING JUDGE SMITH: DHT01300 is admitted and is public.

14 THE COURT OFFICER: Your Honours, that will be Exhibit 1D87.

15 MR. KEHOE: Let me put up 020571 to 020572. This is a Reuters
16 article, and I'm interested in 020571. This is a Reuters article and
17 talking about Mr. Thaci. If we can scroll that down a little bit.
18 And at the middle of the page, it says "provisional government," can
19 we blow that up a little bit. Thank you.

20 Q. This is 6 July 1999. It says:

21 "'The provisional government of Kosovo - and I personally -
22 distance ourselves from those acts ...'"

23 They're talking about attacks. If you look at the paragraph
24 before:

25 "Thaqi insisted the KLA was not responsible for attacks on

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1 Serbs, who have been targeted by ethnic Albanians seeking revenge for
2 Serb violence against them.

3 "The provisional government of Kosovo - and I personally -
4 distance ourselves from those acts,' he told a news conference. 'We
5 will not allow anarchy to rule in Kosovo.'"

6 Now that is consistent with what Thaci was saying during these
7 very turbulent times in early July 1999; correct?

8 A. Yeah.

9 MR. KEHOE: Your Honour, at this time I'll offer this document
10 into evidence.

11 MS. MAYER: No objection.

12 PRESIDING JUDGE SMITH: DHT020571 to 020572 at page 020571 is
13 admitted.

14 THE COURT OFFICER: Your Honours, that page will be assigned
15 Exhibit 1D88.

16 MR. KEHOE: That article is 6 July. If we can move then to
17 DHT01459.

18 PRESIDING JUDGE SMITH: Could you repeat the number again?

19 MR. KEHOE: I'm sorry, Judge. It's DHT01459. It's a video.
20 And this is 6 July 1999 in Prishtine. If we could play this as well.

21 [Video-clip played]

22 THE INTERPRETER: [Voiceover] "It is true that recently,
23 especially following the end of the war, and the last few days, we
24 have seen a not very good, decent, or responsible situation by
25 certain individuals or groups who have been involved in breaking into

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1 apartments, into -- also abusing the symbols of Kosovo Liberation
2 Army, in lootings, burglaries, burnings, destructions, also in
3 desecrating monuments and busts of Serbs. This is a concerning and
4 worrying phenomenon for us. Kosovo Provisional Government and myself
5 personally distance ourselves from such responsible acts."

6 MR. KEHOE:

7 Q. Now, again, Ms. Mitchell, did you see this conference at the
8 time?

9 A. Not at the time, no.

10 Q. But, again, it's Thaci, the same day, 6 July, condemning
11 violence against Serbs and others; right?

12 A. Yes.

13 MR. KEHOE: Your Honour, at this time I'll offer this into
14 evidence.

15 MS. MAYER: No objection.

16 PRESIDING JUDGE SMITH: DHT01459 is admitted and is public.

17 THE COURT OFFICER: Your Honours, that will be assigned
18 Exhibit 1D89.

19 MR. KEHOE: Your Honour, I notice the time. The little piece
20 that I have here is going to be a little bit longer. It may be
21 better for Ms. Mitchell just to take it all at once. It's talking
22 about the Stari Gracko situation. There's a little bit of a story to
23 that.

24 PRESIDING JUDGE SMITH: [Microphone not activated]

25 MR. KEHOE: No, I'm just saying that maybe we just break now and

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1 just --

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 MR. KEHOE: Yeah, and this --

4 PRESIDING JUDGE SMITH: We will break for lunch now, Witness.
5 It will be an hour and a half. We'll be back here at 2.30 for the
6 final session of the day.

7 Madam, you may take the witness out.

8 [The witness stands down]

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

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

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

12 PRESIDING JUDGE SMITH: The Panel will address the document
13 marked for identification, 1D000074-ET.

14 The Thaci Defence has rendered a corrected version of the
15 English translation, and the Panel orders that the correct version of
16 the translation be admitted.

17 Do you have that translation?

18 MR. KEHOE: Yes, we uploaded it in the queue. Yes.

19 PRESIDING JUDGE SMITH: I'm sorry?

20 MR. KEHOE: It's been uploaded in the queue, the correct
21 translation.

22 PRESIDING JUDGE SMITH: Unless there's some objection, which
23 there appears to be none --

24 MS. MAYER: No objection, Your Honour.

25 PRESIDING JUDGE SMITH: -- 1D000074-ET is admitted.

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1 Thank you.

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

3 MR. ROBERTS: Your Honour, just very briefly, I can update the
4 Panel that -- sorry, just to update the Panel and to inform the
5 Prosecution as well. Due to the topics that Mr. Kehoe has covered,
6 it's quite likely that my estimate will be drastically reduced and
7 may be nothing. So we'll just wait and see for the last half hour,
8 but just to keep you updated.

9 PRESIDING JUDGE SMITH: Mr. Ellis, I think your position is
10 somewhat the same?

11 [The witness takes the stand]

12 MR. ELLIS: Yes. Yes, I won't be dwelling on topics that have
13 been thoroughly covered. I think somewhere between 20 minutes, half
14 an hour.

15 PRESIDING JUDGE SMITH: Okay. And you're still with 40 minutes,
16 do you think, thereabouts?

17 MS. O'REILLY: Thereabouts. Possibly a lot less.

18 PRESIDING JUDGE SMITH: Okay. Thank you.

19 [Microphone not activated].

20 We continue with Mr. Kehoe's questions for you.

21 Go ahead.

22 MR. KEHOE: Thank you, Your Honour.

23 Q. Good afternoon, Ms. Mitchell. Hopefully I won't have to take
24 too much more of your time. So thank you for your consideration so
25 far.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 MR. KEHOE:

2 Q. Again, Ms. Mitchell, this is President Thaci condemning this
3 crime, and he is the voice in the Kosovan Albanian community
4 outwardly condemning this crime and this murder of 14 Serbs in July
5 1999; right?

6 A. Yes.

7 MR. KEHOE: Your Honour, at this time I'd offer this into
8 evidence.

9 MS. MAYER: No objection.

10 PRESIDING JUDGE SMITH: DHT00906, Albanian and English, is
11 admitted.

12 MR. KEHOE:

13 Q. And can we turn our attention to --

14 THE COURT OFFICER: Your Honours --

15 MR. KEHOE: I'm sorry. I'm sorry.

16 THE COURT OFFICER: Your Honours, that will be 1D90.

17 MR. KEHOE: My apologies.

18 PRESIDING JUDGE SMITH: And it can be reclassified as public?

19 MR. KEHOE: Yes, Your Honour.

20 PRESIDING JUDGE SMITH: Go ahead.

21 MR. KEHOE:

22 Q. We can turn our attention to a BBC monitoring report,
23 020644-020645, and the page we're interested in is 020644.

24 Now, Ms. Mitchell, this is the --

25 MR. KEHOE: Oh, I'm sorry. If you can just scroll it up a

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 little bit. Yeah.

2 Q. A BBC report picking up a wire service. And this has the source
3 is KosovaPress. And this is the statement again by Mr. Thaci
4 condemning the Gracka murders. And in this, they are sourcing this
5 with the KosovaPress agency. So KosovaPress was one of the local
6 Kosovo Albanian newspapers; correct?

7 A. Yes, it was.

8 MR. KEHOE: Your Honour, at this time I'll offer this document
9 into evidence.

10 THE COURT OFFICER: Your Honours, for the record, that's already
11 P527, public.

12 MR. KEHOE: P527? Thank you.

13 PRESIDING JUDGE SMITH: Thank you.

14 MR. KEHOE: It makes life a lot easier, Judge.

15 Q. Let me turn our attention to 018312. And this is a newspaper
16 article from *Shekulli*. And this is, again, comments by
17 General Jackson, but President Thaci condemning these murders. And
18 *Shekulli* is, in fact, another local media source, is it not?

19 A. Yes, it is.

20 MR. KEHOE: Your Honour, at this time I'll offer this document
21 into evidence.

22 MS. MAYER: No objection.

23 PRESIDING JUDGE SMITH: 018312 is admitted and is -- if it's
24 not, it's reclassified as public.

25 MR. KEHOE: Yes.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 PRESIDING JUDGE SMITH: Go ahead.

2 THE COURT OFFICER: Your Honours, this will be Exhibit 1D91.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. KEHOE: Let me turn our attention to yet another press
5 conference later on into October. And this will be DHT02796, dated
6 15 October 1999.

7 [Video-clip played]

8 THE INTERPRETER: [Voiceover] "The international community should
9 not repeat the mistakes made earlier in Bosnia-Herzegovina. This is
10 what Hashim Thaci, prime minister of the Provisional Government of
11 Kosovo, said after a few months of management of this Albanian
12 province by the international community.

13 "The situation in Kosovo can be" --

14 THE INTERPRETER: The interpreter apologises, but he does not
15 have a transcript of this video.

16 MR. KEHOE: We can put the transcript up, Judge. The transcript
17 is DHT02796. If we can just run it back.

18 [Video-clip played]

19 THE INTERPRETER: [Voiceover] "The international community should
20 not repeat in Kosovo the mistakes made before in Bosnia and
21 Herzegovina. This is what Hashim Thaci, the prime minister of the
22 Provisional Government of Kosovo, said today, who gave an interview
23 of the current situation after four months of management of the
24 Albanian province by the international community.

25 "The perspective of Kosovo can only be ensured by the important

1 political factors which are aware of the constant danger from Serbian
2 hegemony. Because we are all experiencing this danger. From Kosovo,
3 we have about 5.000 imprisoned people who are still held in Serbian
4 prisons. Kosovo still continues to be divided. The city of
5 Mitrovice continues to be divided. We have the city of Rahovec
6 barricaded. But what is happening in Mitrovice, unfortunately, is
7 being legitimised by factors who came in Kosovo to eliminate its
8 division. Even more visible are the action of some war deserters who
9 want to show their bravery towards helpless citizens. Those who
10 during the war did not raise against the members of the macabre Serb
11 regime actually endanger their fellow citizens. The war against the
12 Serbian regime will end successfully only when all active factors in
13 Kosovo declare war on primitivism, creating a clear political and
14 national consciousness. In Kosovo, the philosophy of forgiveness,
15 tolerance should dominant and not revenge.'

16 "The stability of Kosovo, has further stated Prime Minister
17 Thaci, depends on the scale and speed of reconstruction and vice
18 versa. But the reconstruction of Kosovo, he reiterated, cannot be
19 realised without the contribution of the international community.
20 The Provisional Government of Kosovo, continued Thaci, considers the
21 protection and affirmation of all ethnic groups in Kosovo as part of
22 a special Kosovar interest.

23 "If we will be at the same level for the responsibility we have
24 taken, he concluded, I hope that Kosovo in the future will be taken
25 as an example of successful transformation in south-east Europe."

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 MR. KEHOE:

2 Q. So, again, this is -- he started giving these speeches, and
3 we'll get to this, in June, and now it's in October. And you can --
4 during your period of time there, there was a continuous pattern of
5 finding of Mr. Thaci giving statements to quell violence for
6 reconciliation with all ethnic parties and for peaceful
7 reconciliation in the entire country, wasn't he?

8 A. Can you break that down a little bit? I'm sorry, I was
9 listening to what you said and didn't --

10 Q. That's no problem.

11 A. Didn't hear the question.

12 Q. We have a situation here of President Thaci talking about people
13 who are harming defenceless civilians, and he's calling out against
14 that as late as October. And this is something that he has been
15 calling out against going back to June and July and now this is
16 August, isn't it -- excuse me, October.

17 A. Yes.

18 MR. KEHOE: Your Honour, I'll offer this into evidence.

19 MS. MAYER: No objection.

20 PRESIDING JUDGE SMITH: DHT02796, video, and the transcript at
21 02796, the English transcript I should say, is admitted.

22 THE COURT OFFICER: Your Honours, this will be Exhibit 1D92, and
23 it's already classified as public.

24 MR. KEHOE: We turn our attention to 020477 to 79, and I'm
25 interested in page 020478. This is a BBC report, 21 June 1999.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 Q. And this is just a little bit different. This is calling for a
2 multi-ethnic Kosovo.

3 MR. KEHOE: Can you scroll down a little bit. I think this is
4 478. Are we on 478? Okay.

5 Q. Just bear with me, Ms. Mitchell. I'm just looking for this
6 particular quote.

7 MR. KEHOE: If we go to -- towards the bottom of that page, is
8 it -- 477, excuse me. And towards the bottom of that. Ah, yes.

9 Q. In that bottom paragraph -- and, again, this is 21 June 1999.
10 Mr. -- and Prime Minister Thaci says:

11 "Our goal is to have a multi-ethnic Kosovo. We do not want this
12 region to become purely Albanian."

13 And over this period of time, in addition to this, and we'll
14 look at some others, he was calling for a multi-ethnic Kosovo, wasn't
15 he?

16 A. Yes.

17 MR. KEHOE: Your Honour, we'll offer into evidence this
18 newspaper article.

19 MS. MAYER: No objection.

20 PRESIDING JUDGE SMITH: 024477 to 024479 at page 024477 is
21 admitted.

22 MR. KEHOE: Yes, we're going to put the whole thing in. Yes.
23 The whole article.

24 PRESIDING JUDGE SMITH: Oh. So 024477 to 79 then, the entire --

25 MR. KEHOE: Yes.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 PRESIDING JUDGE SMITH: It's just two pages -- three pages.

2 Three pages, yeah. It's admitted.

3 THE COURT OFFICER: Your Honours, just to place the correct ERN
4 number on the record. It's 020477 to 020479, and it will become
5 Exhibit 1D93, and it's already classified as public.

6 MR. KEHOE: If I can turn our attention to 055 -- three 5s.
7 055500 to 055502, and I'm looking at 550. And this is an article for
8 21 July 1999.

9 Q. And this is an article in a periodical that is known as taz.de.
10 And, among other things, it says in the Albanian as well, in
11 discussions with him, that he -- in the interview, he says he wanted
12 a multi-ethnic Kosovo.

13 MR. KEHOE: And let me get the particular quote involved. If we
14 just scroll down a little bit, under "What tasks should the
15 Transitional Council take on?"

16 Q. Do you see that, Ms. Mitchell?

17 A. Yes, I do.

18 Q. Okay. And he notes there:

19 "It should ensure care for refugees, enable them to return to
20 their ancestral places, promote their reintegration into civil
21 society, and it is - I reiterate - a multi-ethnic, multicultural
22 society."

23 MR. KEHOE: Now, I must confess - Judge Barthe, you know this
24 better than I - that this periodical is in German, in neither
25 Albanian nor anything else. So I think that's one of the few that we

Witness: Sandra Mitchell (Resumed) (Open Session)
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1 have, but it is in German.

2 Q. So, again, he again calls for the multi-ethnic, multicultural
3 society, consistent with what you said before that he'd been doing
4 during this period of time. Correct, Ms. Mitchell?

5 A. Yes.

6 MR. KEHOE: Your Honour, we'll move this item into evidence.

7 MS. MAYER: No objection.

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. KEHOE: No, it's --

10 PRESIDING JUDGE SMITH: 05535 to --

11 MR. KEHOE: Can I give that to you again, Judge?

12 PRESIDING JUDGE SMITH: Yeah, please, because you gave me three
13 numbers to start out with.

14 MR. KEHOE: I do that all the time, Judge. It's 055500 to
15 055502. I think I said three 5s there.

16 PRESIDING JUDGE SMITH: You did.

17 MR. KEHOE: That's what I said.

18 PRESIDING JUDGE SMITH: Is it two or three?

19 MR. KEHOE: No, it's three but there's no three in there. It's
20 055500.

21 PRESIDING JUDGE SMITH: 055500 to 055502 --

22 MR. KEHOE: Correct.

23 PRESIDING JUDGE SMITH: -- is admitted.

24 THE COURT OFFICER: Your Honour, this will become Exhibit 1D94,
25 and current classification is confidential.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 MR. KEHOE: And it need not be confidential, Judge. It's just a
2 [Overlapping speakers] ...

3 PRESIDING JUDGE SMITH: Any objection to public?

4 MS. MAYER: No objection to reclassifying. And just so the
5 record is clear, you're also admitting the English translation which
6 is -ET?

7 MR. KEHOE: Yes, yes.

8 PRESIDING JUDGE SMITH: All right. The note should be including
9 the English translation, and it is reclassified to public.

10 MR. KEHOE: Ms. Mitchell, let me show you a photograph which is
11 DHT00894, and I want -- it's in a series, but I think we're looking
12 at a series of 894 through DHT00898, and I'm interested in the
13 photograph of 898.

14 Q. And I show you this photograph, which is 21 July 1999, of
15 Mr. Thaci, Trajkovic, and, of course, you know Ambassador Kouchner,
16 and Mr. Thaci has a young Serb child. Have you seen this photograph
17 in the media?

18 A. No, I haven't.

19 Q. I mean, do you know this array of people at the time? You know
20 Kouchner, of course.

21 A. Yes.

22 Q. And Mr. Thaci. Did you know the other Serb leaders that are in
23 this photograph?

24 A. I'm not sure if that's Father Sava or not. Otherwise, no.

25 Q. I mean, if you don't recognise it --

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 A. No.

2 Q. -- then we can --

3 A. No, I'm afraid I don't.

4 Q. That's quite all right. I mean, I'll just show it to another
5 witness.

6 MR. KEHOE: Your Honour, the witness can't identify this. I'll
7 just move on to another witness -- another witness on this
8 photograph.

9 Let me turn our attention to a 2 August 1999 political
10 declaration, that's SITF00265677 to 678. And this is coming from
11 OSCE MIK. And if we go to number 4 in this item -- and by the way,
12 just can we scroll back up for the date.

13 Q. So you see the date of 2 August 1999, and it says: "Political
14 declaration of the interim government ..."

15 If we go down to 4, just take a look at that:

16 "The Interim Government ... expresses indignation at the killing
17 of civilians in Kosova independent of the nationality of the victims.
18 These crimes have become a hostage of the political clauses regarding
19 the fate of the KLA and the police of Kosova. In case they would
20 have free hands to operate, the IGK and the KLJA [sic] police would
21 act efficiently to prevent -- in the prevention of crimes in Kosova.
22 The Interim Government of Kosova calls again on the citizens of
23 Kosova to put aside the hostilities and turn to the reconstruction of
24 Kosova and to just and political solutions of political issues."

25 Now, again, this is yet another article where he's calling for

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 the end of hostilities, is he not?

2 A. Yes, he is.

3 Q. Okay.

4 MR. KEHOE: Let me go to the next item which is a tape, which is
5 DHT01301 is the video, and the transcript is 0301 -- it should be an
6 English transcript on this.

7 Q. Now, Robin Cook is the foreign minister, the UK foreign minister
8 at the time, was he not?

9 A. Yes. I believe he was. Yes.

10 [Video-clip played]

11 MR. KEHOE: Again, just if we stop it a second. This is London,
12 2 September 1999. We're good. Thank you.

13 [Video-clip played]

14 THE INTERPRETER: [Voiceover] "But we have an issue that is
15 causing us great concern, the fact that a lot of Serbians have left
16 Kosovo.

17 [In English] "But we have an issue that is causing us great
18 concern, the fact that a lot of Serbians have left Kosovo because we
19 are interested to establish in Kosovo a multi-ethnic society, equal
20 society for all citizens of Kosovo. And we do ask from all Serbians
21 who left Kosovo to return in Kosovo to help peace and democracy. We
22 concluded in the meeting of the Transitional Council yesterday that
23 the situation is improving every day, but I'm more than sure that we
24 are going to work in accordance with all the agreements that we have
25 already signed, and the process of the transformation and

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 demilitarisation of the KLA will be successful.

2 "Mr. Thaci, sir, can you give us a 100 per cent guarantee?

3 "We have been encouraged that so far the KLA has kept the
4 timetable and has actually surrendered weapons in advance of the
5 dates by which they had to be returned."

6 MR. KEHOE:

7 Q. Again, Ms. Mitchell, another example of Mr. Thaci calling for
8 the Serbs to come back to Kosovo to establish a multi-ethnic society;
9 right?

10 A. Yes.

11 MR. KEHOE: Your Honour, we'll offer this into evidence.

12 MS. MAYER: No objection to the video or the English transcript.

13 PRESIDING JUDGE SMITH: DHT01301 and the English translation are
14 admitted.

15 THE COURT OFFICER: Your Honours, this will be Exhibit 1D95, and
16 it's already classified as public.

17 PRESIDING JUDGE SMITH: Thank you.

18 MR. KEHOE: And let me turn your attention to another video
19 here, which is DHT01477 to DHT01477. And the English transcript
20 should be the same.

21 Q. Now, at the time that I'm talking about in the summer 1999,
22 Wesley Clark was the commander-in-chief of NATO. General Clark? Is
23 that right?

24 A. I believe so, yes.

25 Q. Yes.

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 A. SACEUR, I think.

2 Q. SACEUR, that's right.

3 A. SACEUR, yeah.

4 Q. Very good. Supreme Allied Commander Europe. That's very good.
5 This is 1 July 1999.

6 [Video-clip played]

7 "Margaret Warner has our interview with US Army General Wesley
8 Clark, the Supreme Allied Commander of NATO. She spoke to him
9 earlier this evening.

10 "Welcome, General.

11 "Thank you, Margaret.

12 "I want to talk to you first about the KFOR mission in Kosovo.
13 Secretary of State Albright said yesterday when she was up at the UN
14 the people of Kosovo are not safe. Is that true?

15 "Well, I think that this is a period of sorting out that's going
16 on. There are hundreds of thousands of people coming back. There
17 have been some terrible things done in that country. There are all
18 kinds of emotions running rampant. And there are Serbs still there,
19 some of whom who may have participated in that, others who are just
20 afraid they're going to be taken for guilty because of their
21 ethnicity. There are gypsies who are also being discriminated
22 against. And so there's some legitimate efforts to get property
23 back. There's some revenge taking, there's some score settling. One
24 doesn't really know, but it's a very difficult time. Our troops are
25 there. We're doing everything we can, but, of course, we're not

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 police.

2 "Do you think if Serbs continue to leave and they don't come
3 back, do you think that in any way undercuts the credibility of what
4 NATO went to war for, this multi-ethnic ideal, as you put it?

5 "Well, I think we have to temper the ideal with reality. And we
6 don't know how widespread Serb popular participation in the
7 atrocities really were. And so maybe a lot of these people helped
8 themselves to their neighbour's property, participated in some masked
9 banditry and worse mischief while the ethnic cleansing was going on.
10 We just don't know. And so some of the people that are leaving may
11 well consider themselves as real targets for international justice as
12 well as for Albanian revenge. So it's a little hard to generalise.
13 But, as I said, the ideal is we'd like to promote a multi-ethnic
14 society. And by the way, the KLA leadership has called for the same
15 thing.

16 "And do you think they're genuine?

17 "I think they are."

18 MR. KEHOE:

19 Q. So General Clark is echoing, is he not, the statements for a
20 multi-ethnic society that President Thaci has been talking about
21 during this period of time, isn't he?

22 A. Yes, he is.

23 MR. KEHOE: Your Honour, I'll offer this video into evidence.

24 MS. MAYER: Your Honour, the only concern I have is it looked
25 like there were two questions and answers, and it faded in the

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 middle, so I just don't know if that was from the web site, that was
2 the complete interview, or if it was spliced or cut and there was
3 stuff in the middle of what General Clark said that was cut out.
4 That's my only concern with it. But in terms of the substance, I
5 don't have an objection.

6 PRESIDING JUDGE SMITH: I don't know where you got it with
7 anything cut out of it.

8 MR. KEHOE: I think that there were items that had nothing to do
9 with this that, in fact, were cut. But I mean, we'll certainly let
10 counsel look at the whole thing. We'll just MFI it and they can look
11 at the whole thing.

12 PRESIDING JUDGE SMITH: We'll give it an MFI and then you can
13 take a look at it and report back tomorrow hopefully.

14 MS. MAYER: Are we sitting tomorrow, Your Honour?

15 PRESIDING JUDGE SMITH: Oh, that's right. This is Thursday. So
16 on Monday.

17 MR. KEHOE: Judge, could -- well, I'll do the best I can to get
18 retracking as to exactly where it is. But it shouldn't be that
19 difficult. We'll get it. I'm actually -- I'm thinking out loud is
20 what I was doing, but we'll get it.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MR. KEHOE:

23 Q. So, Ms. Mitchell, there were -- during this entire period of
24 time --

25 PRESIDING JUDGE SMITH: [Microphone not activated]

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 MR. KEHOE: Oh, I'm sorry.

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 THE COURT OFFICER: Your Honours, DHT01477 and English
4 transcript will receive MFI 1D96. And they are currently classified
5 as public.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MR. KEHOE: Sorry, my apologies.

8 Q. So during this entire period of time, there were various groups
9 that were -- various ethnic groups that were working together to try
10 to put a government together and they established something called a
11 Kosovo Transitional Council. Do you recall that?

12 A. Yes.

13 Q. And Mr. Thaci, in that, participated in this council with other
14 entities, Serb, President Rugova, and others; isn't that right?

15 A. I believe so, yes.

16 Q. And I believe it was, you know, Archbishop Artemije was one of
17 them and Momcilo Trajkovic was the other; right?

18 A. I -- I don't remember the specific --

19 Q. I understand.

20 A. -- names, I'm sorry --

21 Q. I understand.

22 A. -- counsel, but I have no reason not to believe that they were
23 involved.

24 Q. Understood. And that transitioned into the joint -- the
25 administrative -- excuse me, the Joint Interim Administrative

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 Structure as well. Do you remember that?

2 A. I don't remember that particular acronym, no.

3 Q. Okay. But you would -- you would say with me that during this
4 period of time, that Mr. Thaci, along with the other ethnic and
5 religious leaders, was involved in the Kosovo Transitional Council;
6 right?

7 A. Yes.

8 Q. Okay. And he was assisting in the establishment for the Kosovo
9 police force; right?

10 A. Yes.

11 Q. And he was also assisting with the Kosovo protection force;
12 right?

13 A. The -- is that the TMK?

14 Q. TMK.

15 A. Yes.

16 Q. And while he is doing this, they are drawing down the KLA with
17 an agreement signed June 21st with complete demobilisation by
18 September 21st; correct?

19 A. Yes.

20 Q. Okay. And all this is going on with -- trying to establish this
21 government and trying to get the Serbs back and trying to quell
22 violence, Thaci is involved. President Thaci is involved in all of
23 those steps, isn't he?

24 A. Yes.

25 Q. And we haven't talked to this too much, but we have talked about

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 Mitrovice. And Mitrovice was a pretty, to put it mildly, volatile
2 place, with Serbs on one side of the river and Albanians on the other
3 side of the river; right?

4 A. Yes.

5 Q. And it was -- and let me go to the video on Mitrovice.

6 MR. KEHOE: 26 June 1999. That's DHT01305, 1305. And, again,
7 this is 26 June 1999 in Mitrovice.

8 [Video-clip played]

9 THE INTERPRETER: [Voiceover] "I am glad we are meeting in
10 Mitrovice today for which we fought. We have come here today with
11 Mr. de Mello to talk to you and to talk to the Serbian side. We
12 crossed the bridge. We went to the hospital. We sent our people
13 there. The works have started. We are interested in regulating
14 everything in close cooperation with the international community, and
15 we are going to do so. As always, we are really interested in
16 solving every problem in a dignified way, with discipline, with
17 culture, as it suits us. We have even waged our war in a cultural
18 way. And so are we going back to premises and build lives with a
19 real civics culture, not only Albanian but a democratic and world
20 culture. We need to understand that Serbs too need to live in
21 Mitrovice, those who have not committed crimes, those who have not
22 killed people. We are not interested and we do not fuel the fires of
23 a mono-ethnic life. We need to understand that whoever wants to live
24 in Kosovo should live in Kosovo. Kosovo belongs to Kosovars and
25 they're going to live there."

Witness: Sandra Mitchell (Resumed) (Open Session)
Cross-examination by Mr. Kehoe (Continued)

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1 MR. KEHOE:

2 Q. So, again, Ms. Mitchell, we have Mr. Thaci in the midst of this
3 somewhat volatile situation in Mitrovica in June, late June 1999,
4 calling for a country where Serbs and Kosovars are living -- Kosovar
5 Albanians are living together, and that the Serbs are entitled to
6 live in Mitrovica as well; correct?

7 A. Yes.

8 MR. KEHOE: Your Honour, at this time I'll offer this item into
9 evidence -- this video into evidence.

10 MS. MAYER: No objection.

11 PRESIDING JUDGE SMITH: DHT01305, the June 26th video is
12 admitted.

13 THE COURT OFFICER: Your Honours, this will be Exhibit 1D97.
14 And if we can please receive a clarification regarding classification
15 as it's unclassified at the moment.

16 MR. KEHOE: It can be public.

17 PRESIDING JUDGE SMITH: The document is classified public.

18 MR. KEHOE: Your Honour, may I have just one second to consult
19 with my client. I'll be right back.

20 [Microphone not activated].

21 Q. We have seen a series of videos and articles involving
22 President Thaci and calling for stopping the violence, co-existence,
23 the building of a multi-ethnic society, work with the internationals
24 and with other ethnic groups. There was no other Kosovo Albanian
25 individual, such as President Rugova, out there doing what

1 President Thaci was doing at this very volatile time, was there?

2 A. I'm not -- I don't remember who else in the Albanian
3 leadership -- Kosovar Albanian --

4 Q. Well, let's talk about President Rugova.

5 A. Yeah.

6 Q. President Rugova, God rest his soul, he was in Italy, and he was
7 not among the Kosovo Albanian people calling for non-violent
8 co-existence with all ethnic parties, was he?

9 A. Not that I remember during that time period.

10 Q. Ms. Mitchell, thank you very much. You've been -- thank you
11 very much for your time.

12 MR. KEHOE: I have no further questions right now, Judge.

13 PRESIDING JUDGE SMITH: [Microphone not activated]

14 MS. O'REILLY: Yeah, if you'll just give me a moment to get
15 ready.

16 Okay. I've switched places to be at longer mic, so I'm hoping
17 this is going to be better, but just let me know if it's not, if
18 anyone can't hear me properly.

19 Cross-examination by Ms. O'Reilly:

20 Q. So good afternoon, Ms. Mitchell. I don't have long with you
21 today, you'll be glad to know. I just have three topics that I want
22 to cover with you.

23 MS. O'REILLY: And for the first one, if I could get a map up on
24 the screen. That's SPOE00208166. Okay. I think we can zoom in a
25 little bit. What I would like to begin with is to have Prishtine on

1 the north-east on the map.

2 Q. Right. So that's -- Witness, can you see Prishtine there on the
3 map? To the east, sort of in the middle of the screen now.

4 A. Yes.

5 Q. Yes. And that's where you were based, isn't it, during your
6 time in Kosovo? That's where you were staying in the evenings, at
7 least.

8 A. Yes.

9 Q. But during the days, you would go out and visit with local
10 commanders and your staff in the regional towns and things of that
11 nature; isn't that right?

12 A. Yes, whenever I could. Yeah.

13 Q. Okay. And when you were answering questions asked by the
14 Prosecutor, you were talking about having gone to the Prizren area to
15 meet with a local commander called Ramush Haradinaj. Do you remember
16 that?

17 A. Yes.

18 MS. O'REILLY: Now, if we could zoom out a bit so we could get
19 Prizren on the map, and that will be down south. Okay.

20 Q. You can see Prizren there?

21 A. Yes.

22 Q. You've located it on the map? Great. And we were trying to get
23 a timeframe for when you would have been down there. And you had
24 recalled that it may have been quite shortly after your deployment to
25 Kosovo because you were talking to him about the Serbs or people

1 that -- stuff that had gone down in that area, and today even you
2 mentioned incidents that had happened in Rahovec. Do you recall
3 that?

4 A. Yes, I do.

5 Q. And can you see Rahovec on that map?

6 A. Yes.

7 Q. And you had said that, okay, so it might have been shortly after
8 deployment, but then we talked further about narrowing it down, and
9 you said most likely conversations with Ramush would have happened
10 between right after the Recak massacre, which was in the middle of
11 February, and prior to your evacuation, which was in March 20th, I
12 believe. Do you recall saying that?

13 A. Yes, I think there were conversations prior to that as well.

14 Q. Okay. Okay. That's very helpful. Thank you. Now, can you
15 remember what Ramush was the commander of? Do you remember his title
16 at all?

17 A. I really don't, no. They were just referred to as zone
18 commanders.

19 Q. Zone commander. Do you remember which zone he was the commander
20 of?

21 A. No.

22 Q. Would it surprise you to learn that on the Prosecution's
23 evidence he was the zone commander of Dukagjin?

24 A. No.

25 Q. That's not something you can remember? Okay.

1 MS. O'REILLY: Well, if we could just move the map up a little
2 bit.

3 Q. The Prosecution's evidence is that the Dukagjin zone comprised
4 the towns of Peje, which you should be able to see there to the left.
5 Do you recall Peje?

6 A. Yes.

7 Q. And Decan, which is about halfway down that road leading to
8 Gjakove.

9 MS. O'REILLY: If we could just move the map up a little bit.

10 Q. And then Gjakove in the south. And then also, according to the
11 Prosecution's case, parts of Kline, which is to the east of Peje, and
12 parts of Istok, which is north.

13 So, Witness, is it still your recollection that you were talking
14 to Ramush Haradinaj, zone commander of Dukagjin zone, in Prizren?
15 Does this ...

16 A. He's the name that I remembered the most.

17 Q. Okay. Thank you, Witness.

18 MS. O'REILLY: So we can take that map down. And now I would
19 like to turn to "As Seen, As Told" volume 2. So the ERN for that is
20 SITF00001529, and I'd like to go to page ending in 1554.

21 Q. And what we're going to do, just for a minute or two, is just
22 revisit what you said about methodology.

23 MS. O'REILLY: So if we scroll down the page -- just one moment.
24 My apologies. If you could go back up to the first paragraph.

25 Q. So it's starting with "The report concentrates ..."

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1 "The report concentrates on information collected by the OSCE
2 most often through direct interviews with the victim, family members
3 [or] witnesses. Other information was used to provide verification
4 (or refutation) or background and context for the primary data. This
5 report does not therefore, address violations that are beyond the
6 reach of the OSCE Mission's investigative and reporting efforts.
7 This report documents well-founded allegations of human rights
8 violations. Further investigation into the allegations is required
9 to determine the exact nature of the crimes and/or human rights
10 violations committed, and their perpetrators. Such investigations
11 can only be conducted by those with legitimate local and
12 international mandates to investigate, arrest and prosecute those
13 responsible."

14 Now, that appears to me to be consistent with what you have been
15 telling us in your testimony these last few days. Would you agree?

16 A. Yes.

17 Q. Now, if I can take you to another page of volume 2.

18 MS. O'REILLY: And that is page SITF00001750. Could we go to --
19 can I just see the top of the page? We should be on 26 September.
20 Is that the page ending 1750? I can't quite see ... yeah, 1750. Did
21 I misspeak? Right. And if we can go to the fourth bullet under
22 26 September.

23 Q. And could you read that aloud for us, Witness?

24 A. I'm sorry? Where's the first bullet? I'm happy to.

25 Q. It's the one that starts "At 21:00 ..."

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1 A. "At 21:00 a Kosovo Albanian was shot and killed by another
2 Kosovo Albanian in front of the state-owned warehouse in the centre
3 of Pec/Peje."

4 Footnote 288.

5 Q. Right. Now, just before we go to the footnote, you had
6 clarified that a lot of the information in this annex didn't have
7 citations to back it up. Would it surprise you to know that less
8 than one-third of the allegations actually had any citation to back
9 it up?

10 A. No.

11 Q. Okay.

12 MS. O'REILLY: Can we go down to the footnote, please.

13 [Microphone not activated].

14 Apologies. Sitrep for the 27th and 28th September. So we were
15 actually able to locate this particular sitrep. So if we could bring
16 that up, please. That's at SITF00388674. Great. Now could we just
17 scroll down to the end of that first page.

18 Q. Okay. Now, Witness, you should be able to see the corresponding
19 entry for what we just read from the report, and I was wondering if
20 you could read that out for us, under "Killings."

21 A. "Kosovar Albanian, was killed by a shotgun by another Kosovar
22 Albanian, in front of the state-owned warehouse in centre of the
23 Pec/Peje downtown at 2100 hours on 26 September 1999. According to
24 the initial information it was because of a personal dispute. HRO,"
25 human rights officer, "will follow up the case."

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1 Q. And, Witness, did you notice that those last two sentences were
2 omitted from the annex of "As Seen, As Told"?

3 A. Yes.

4 Q. I don't suppose you can remember at this juncture why those
5 sentences were omitted?

6 A. No.

7 Q. And do you know if the human rights officer did follow up?

8 A. I don't know.

9 Q. Thank you, Witness. Can you see that it might be a bit
10 difficult for us to rely on your sources when there seems to be
11 information in those sources that's not making its way into the final
12 report?

13 MS. MAYER: Objection, it's argumentative.

14 PRESIDING JUDGE SMITH: Sustained.

15 MS. O'REILLY:

16 Q. I'll move on to my last point, and this has to do with something
17 that came up in your evidence on your first day, so on 5 December
18 2023, and it was when Ms. Mayer was asking you about meetings that
19 you and your staff had with local KLA. And it starts at page 10594.
20 And you were explaining - and I can read from the transcript - that
21 you could get access to them. It was actually quite easy. And you
22 said, at line 20:

23 "I think they were, you know, genuinely trying to help restart
24 and rebuild Kosovo. So there was a willingness on their part to meet
25 with the international community."

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1 And then the Prosecutor said:

2 "Understood. My question is more just about those conversations
3 you were having with the local commanders -- or I should your staff
4 was having with the local commanders when they would raise these
5 issues of men dressed in UCK -- with an UCK insignia taking people
6 and the response from local commanders. My question is was that
7 limited --"

8 And you said:

9 "Oh I'm sorry."

10 And the Prosecutor said:

11 "-- to one particular geographic zone or was that across Kosovo?"

12 "A. Thanks for repeating. It was across. It was across the
13 province. There was really no area that we didn't [see or] hear that
14 from.

15 "Q. So is it fair to say that that would be coordinated, that
16 it was similar across all of the zones, not limited to one particular
17 group of people or individual who gave you that explanation or that
18 response?"

19 And you said:

20 "Yes. And the patterns are well documented by OMiK in this
21 regard."

22 Now, Witness, is that still your evidence as you sit here now --

23 A. Yes.

24 Q. -- today? Okay. I'd like to take you back to your report,
25 volume 2. And if you just bear with me one moment.

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1 MS. O'REILLY: Could we go to the page ending in 1534. And this
2 is the forward of your report, which has been signed by Bernard
3 Kouchner who was then the SRSG. And if we can scroll down. Sorry,
4 go back up a little bit. [Microphone not activated].

5 Q. And I'm going to take you from -- I'm going to take it from the
6 fourth line down, and it reads:

7 "It is not fair to make comparisons with the situation before or
8 during the war. At that time, and for at least a decade, there was a
9 systematic policy of apartheid, a sub-human status, or at least a
10 sub-community status for Albanians in Kosovo/Kosova. This is no
11 longer the case today. Perhaps it may seem just as bad today for the
12 Serbs or Roma who live in fear, who cannot move about freely or have
13 to find a way to protect their children, but it is no longer a matter
14 of a policy. All the parties in Kosovo/Kosova, all leaders, Serbs
15 and Albanians, have stated their positions in favour of a
16 multi-ethnic society and co-existence among all communities. The
17 crimes we see are the acts of individuals. No political party has
18 claimed responsibility for them. Their representatives in the Kosovo
19 Transitional Council have condemned these abuses every time, and they
20 themselves have expressed their concern over these acts of
21 intolerance. We cannot exclude the possibility of double talk, but
22 we cannot presuppose it either."

23 Witness, do you agree with that still?

24 A. Well, Mr. Kouchner and I saw things differently at times. I
25 don't at all dispute what he said.

1 Q. Do you find it at all surprising that he, who had an overview of
2 the whole situation, had come to this very different view based on
3 the statements that he was having presumably with political leaders
4 that he was acting much closer with than you?

5 A. No.

6 Q. All right. Thank you. Those are my questions.

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

8 Mr. Roberts.

9 MR. ROBERTS: Nothing from me at this stage, Your Honour. Thank
10 you.

11 PRESIDING JUDGE SMITH: Thank you.

12 Mr. Ellis.

13 MR. ELLIS: Thank you, Your Honour. Just give me a moment.

14 Cross-examination by Mr. Ellis:

15 Q. Good afternoon, Witness. My name is Aidan Ellis and I'm
16 representing Mr. Jakup Krasniqi. Despite the time spent setting up,
17 I'm not actually going to be very long with you this afternoon. But
18 going last, I do need to jump around a little bit between some of the
19 topics, so I'll try and do that clearly.

20 The first is this. This morning Mr. Kehoe showed you a portion
21 of your ICTY testimony from July 2006.

22 MR. ELLIS: And if I could have that back on the screen. It was
23 IT-05-87-T, T555 to T638 at page 615.

24 MS. MAYER: I'd just note that it looks like the transcript was
25 frozen -- oh, no, it's moving again. Thank you.

1 MR. ELLIS: Yes, that's the one. Thank you.

2 Q. And your answer to a question you were looking at earlier today
3 was beginning at line 9. Mr. Kehoe already asked you about the
4 sentence:

5 "... the KLA was not unified in a centrally coordinated way."

6 And you also went on that:

7 "It had different zone commanders, and so it did tend to look
8 different in different parts of Kosovo."

9 And that's right, isn't it?

10 A. Yes.

11 Q. And further down the page on lines 23 and 24, you carried on
12 that:

13 "They could behave differently, depending on the zone
14 commanders."

15 That's right, isn't it?

16 A. Yes.

17 MR. ELLIS: And going back to that first passage at lines 6 to
18 12 again. Thank you. Sorry, lines 14, 15, and 16.

19 Q. You're aware at the time that natural village defence groups had
20 formed and then called themselves the KLA. And that's right again,
21 isn't it?

22 A. Yes.

23 Q. And at lines 11 and 12, you said it was difficult for you to
24 know at times who was part of the KLA -- or you don't know at times
25 who was part of the KLA, because these groups were forming and

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1 calling themselves the KLA; correct?

2 A. Correct.

3 MR. ELLIS: And if we could move forwards then in the transcript
4 to page 620.

5 Q. This is still from your testimony in that case in 2006, and you
6 were asked about whether the KLA were known to be at times dressed in
7 civilian clothing, and your response was:

8 "Yes."

9 And that would remain your position today; correct?

10 A. Yes.

11 Q. And it was then put to you that:

12 "And would it be ... true to say that the KVM staff concluded in
13 your report that the -- and I quote now: 'The vast majority of the
14 rank and file KLA members remained villagers with a weapon.'"

15 And you agreed with that. And that would remain your position
16 today?

17 A. Yes.

18 Q. And further down the page at lines 13 to 15, you were asked
19 about the basis of the structures that were emerging, and your view
20 at the time was:

21 "... yes, they were definitely village-oriented."

22 Correct?

23 A. Yes, sir.

24 MR. ELLIS: That can be taken down now. Thank you.

25 Q. I want now to ask you a couple of questions about the visits

1 that you say you made to KLA detention centres in the period prior to
2 March 1999, so before the evacuation. And you've given evidence over
3 the past couple of days about the visit in February 1999 that you
4 made with Ms. Ringgaard to Remi and Fati in Llapashtice. You recall
5 that evidence?

6 A. Yes.

7 Q. And it was put to you by the Prosecution that you had visited
8 detention centres on five or six times. And although your
9 recollection was foggy, you agreed it might have been that number, I
10 think?

11 A. Yeah, it's quite foggy. It was a few times.

12 Q. And you were shown a couple of documents regarding the visit to
13 Llapashtice in February 1999, and I think you confirmed that the
14 procedure was, yes, those documents would have been prepared either
15 that night or perhaps the following day as circumstances allow?

16 A. That's right.

17 Q. And that would be have been the procedure at the time, to write
18 up reports of visits to detention centres as soon as possible after
19 that?

20 A. Yes.

21 Q. But you weren't shown a documentary record to support any other
22 visits that you had to detention centres at that time, were you?

23 A. No, I was not.

24 Q. Can I take you, then, to a passage in "As Seen, As Told"
25 volume 1.

1 MR. ELLIS: And the reference for volume 1 is SPOE0019098, and
2 I'm looking at the page ending 198220, which I think may have been
3 admitted already if that assists. And if we could scroll down a
4 little, please.

5 Q. Yes. The paragraph that's currently at the bottom of your
6 screen, Ms. Mitchell, if I could invite you just to read that for a
7 moment. Now, that's referring, isn't it, to gaining access to eight
8 alleged detainees on one occasion in the text; correct?

9 A. That's correct.

10 Q. And the footnote or end note there is footnote 39, which I think
11 would take us to page -- the page ending 224 in the document. There
12 we have it. Helpfully obscured by the -- where it's been
13 photocopied. But it is that one, I think, referring to the record of
14 a meeting on 18 February with the zone commander and the military
15 police chief in Llapashtice.

16 So it --

17 A. Yes.

18 Q. It seems to be the case, doesn't it, that the only visit to a
19 KLA detention centre referred to in "As Seen, As Told" is this one
20 visit to Remi and Fati in Llapashtice. That's right, isn't it?

21 A. Yes.

22 Q. And if there had been more visits at that time, that would have
23 been reflected in "As Seen, As Told," wouldn't it?

24 A. If they had been documented and we had the documents, yes.

25 Q. And if there had been visits, they should have been documented,

1 shouldn't they?

2 A. They should have been documented, and the documents should have
3 left Kosovo, yes.

4 MR. ELLIS: Could we then go to Exhibit P3.

5 Q. Now, then this again is a document prepared by Susanne Ringgaard
6 relating to a meeting with the zone commander in Petrova on
7 23 February 1999. Are you able to recall, is that a visit that you
8 would have accompanied Ms. Ringgaard on?

9 A. I'm sorry. Could you just scan it up a little bit, please?

10 Q. Sorry, you want to see the bottom of the --

11 A. If you don't --

12 Q. Yes.

13 MR. ELLIS: Could we ...

14 THE WITNESS: Thank you.

15 MR. ELLIS:

16 Q. Do you recall if you were with Ms. Ringgaard on that occasion in
17 Petrova?

18 A. I do not.

19 Q. Very well. Very well. If I could invite your attention to the
20 second paragraph, the one that begins: "I informed the Zone
21 Commander ..."

22 It appeared to me that what Ms. Ringgaard's saying, though, is
23 she's trying to use the example of the one visit to Llapashtice to
24 persuade that zone commander to allow her to visit detainees. Is
25 that the right reading of it?

1 A. Yes, sir.

2 Q. And on that occasion, the zone commander in Petrova was not
3 allowing the visit. That's right, isn't it?

4 A. Yes.

5 Q. So, again, an example of the different zone commanders behaving
6 in different ways; correct?

7 A. Yes.

8 Q. But it isn't being put to the zone commander in Petrova that
9 there were multiple occasions when other people had allowed visits to
10 detention centres. It's only the one visit in Llapashtice that's
11 being referred to; correct?

12 A. Yes.

13 Q. And as for these other visits that you've mentioned, you can't
14 recall the location or the date or the personnel involved?

15 A. No, I really can't. No.

16 Q. I see. Couldn't it be the case that, given that "As Seen, As
17 Told" only refers to the one visit, that in fact there was only one
18 visit in that period?

19 A. There was only -- no, I do remember other visits. But,
20 unfortunately, they -- for whatever reasons, the documentation isn't
21 there.

22 Q. I see. Very well. Different topic.

23 MR. ELLIS: That can be taken down. Thank you.

24 Q. In your human rights reporting prior to March 1999, you weren't
25 getting very much in the way of cooperation from the Serbian

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1 authorities, were you?

2 A. It was very mixed, but overall no.

3 Q. And the documents you were getting from them were obviously
4 propaganda, weren't they?

5 A. Mostly, yes.

6 Q. Everything was pre-judged and there wasn't much in the way of
7 reliable evidence that you could use; correct?

8 A. Yes, in the files that we saw.

9 Q. Thank you. Now, you were asked a little, I think yesterday,
10 about false flag operations, as Mr. Kehoe termed them, where Serbian
11 forces would impersonate KLA fighters. Now I want to show you
12 something further on that topic.

13 MR. ELLIS: If we could show the video DJK00568. And there is a
14 transcript for that hopefully linked to it as DJK00568-TR-ET. The
15 video itself is in Serbian.

16 [Video-clip played]

17 THE INTERPRETER: [Voiceover] "Question: A member of the KLA
18 armed to his teeth, correct?

19 "Answer: That's right.

20 "Question: And you've changed the uniform frequently?

21 "Answer: Correct.

22 "Question: And when I say the change on uniform, is that only
23 when it was necessary?

24 "Answer: That's correct.

25 "Question: So you were a KLA fighter if you must?

1 "Answer: If necessary, that's right. Slavko Nikic, that's me,
2 people tried to present this picture to the public in some way as a
3 photo montage, so I offered them to go to the security institute, if
4 it proves to be a photo montage, I pay all costs, if they do not
5 prove it, they will pay me the damage caused, they didn't agree
6 because they knew that this was the uniform I wore at one point,
7 because I could easily finish what was then in the interest of the
8 state of Serbia and the defence of the Serbians."

9 MR. ELLIS:

10 Q. So on its face, that appears to be a Serbian, Slavko Nikic,
11 saying that he was wearing a KLA uniform in the photograph because he
12 could easily finish what was in the interest of the state of Serbia
13 and the defence of Serbians. That's what we just watched, isn't it?

14 A. Yes.

15 Q. And can I -- I want to show you one other document.

16 MR. ELLIS: That one can be down.

17 Your Honour, the other document is on the presentation queue of
18 Mr. Selimi. I think in the circumstances I need your permission to
19 show it to the witness, but I assume no prejudice is caused by it
20 being on their queue rather than mine.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MR. ELLIS: Thank you.

23 It's DRS0096.

24 Q. Now, you were asked some questions, I think yesterday, about the
25 Panda café incident by Mr. Kehoe. And this is an article from

1 September of this year. And if I take you to the first substantive
2 paragraph, the one in bold. What that is referring to, isn't it, is
3 relatives of the victims are making a request to the public
4 prosecutor's office for Serbian President Aleksandar Vucic to be
5 questioned as a witness in that case. Do you see that?

6 A. Yes.

7 Q. And if we could go down to the third paragraph, the reason they
8 were asking for him to be questioned, you can see there, is that
9 Vucic had made statements about the massacre on several occasions
10 when he alleged the crime was not committed by Albanians and that he
11 practically knows what happened in the café that fateful night.

12 You see that there in the article?

13 A. Yes, I do.

14 Q. This, of course, is information that's come out later, and it
15 wouldn't have been in your possession in December 1999 as you prepare
16 volumes for "As Seen, As Told"; correct?

17 A. Correct.

18 Q. And there isn't a mechanism, is there, for "As Seen, As Told" to
19 be updated as reports like these come to light?

20 A. That's -- yeah. I'm not with the OSCE anymore, but I don't
21 think so.

22 Q. No.

23 A. No.

24 Q. And at the time, the OSCE didn't have the resources or the
25 mandate to follow up on individual cases and confirm the identity of

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1 suspected perpetrators, did you?

2 A. No, we did not.

3 MR. ELLIS: Your Honour, I'd seek to tender those two exhibits,
4 the video and -- the video with the transcript and the newspaper
5 article.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Video DJK00568-TR-ET and its translation, DJK00568, is admitted.

8 And the -- I believe the newspaper article is DRS00096. Is that
9 correct, Mr. Ellis?

10 MR. ELLIS: It is. I think it goes on to the second page as
11 well, DRS00097, Your Honour.

12 PRESIDING JUDGE SMITH: So DRS00096 and 97 is admitted. They
13 can be classified as public unless somebody has an objection to that.

14 MR. ELLIS: Public is fine by us, Your Honour.

15 MS. MAYER: No objection to the documents or their
16 classification. I believe they both generated from the Defence teams
17 respectively.

18 PRESIDING JUDGE SMITH: Thank you.

19 THE COURT OFFICER: Your Honours, the video and its transcript
20 will become Exhibit 4D15.

21 And the article will be Exhibit 4D16.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. ELLIS: Thank you.

24 Q. And my final set of questions are about "As Seen, As Told"
25 volume 2.

1 PRESIDING JUDGE SMITH: And, Mr. Ellis, we can go over a little
2 bit as long as it's not excessive. So don't feel like you have to
3 rush.

4 MR. ELLIS: Thank you, Your Honour. It's not long, but it
5 probably will be longer than the four or so minutes remaining.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 THE INTERPRETER: Microphone, please.

8 PRESIDING JUDGE SMITH: [Microphone not activated] ... few extra
9 minutes, interpreters?

10 THE INTERPRETER: Yes, Your Honour.

11 PRESIDING JUDGE SMITH: Okay, thank you.

12 MR. ELLIS: It will be at most another five minutes beyond that,
13 Your Honour.

14 Q. It's right, isn't it, that part of the methodology of these
15 reports is that you don't give the names of victims, witnesses, and
16 alleged perpetrators as a rule?

17 A. As a rule, yes.

18 Q. And it would have been the human rights officers in the field
19 actually taking the original witness accounts that form the basis of
20 the report; correct?

21 A. Yes. It may have been other OSCE members, but yes.

22 Q. But in the main, it wouldn't have been you yourself?

23 A. No, that's right.

24 Q. And the procedure at that time was -- were they recording it on
25 a pro forma questionnaire or -- type document?

1 A. This is after the evacuation?

2 Q. I'm talking about volume 2.

3 A. Oh, my apologies. There was no -- there was templates, but
4 people didn't have portable computers, so sometimes they would write
5 notes and then complete the template or then put it in some sort of a
6 format.

7 Q. I see. So the procedure at the time would be the human rights
8 officer or whoever it was within the team would conduct the interview
9 through an interpreter in the field?

10 A. That's correct.

11 Q. There wouldn't have been members of the team fluent in Serbian
12 or Albanian at that time, would there?

13 A. I don't remember any.

14 Q. I see. And they would make handwritten notes then, you say, and
15 then later when they had the time they would transfer it on to the
16 template or the pro forma?

17 A. Yes.

18 Q. Yes. And then those original templates would then come in
19 somewhere centrally to be reviewed and processed to go into "As Seen,
20 As Told"?

21 A. Not necessarily, no. If I may explain?

22 Q. Yes, of course.

23 A. So the fields collected the information and then the regional
24 offices compiled the information and submitted their insert, and then
25 that would have been, you know, revised mostly by Alison Jolly.

1 Q. Okay. And --

2 A. And then we -- sometimes we would go back for -- with more
3 questions.

4 Q. Yes. But so the person who is working on the text of "As Seen,
5 As Told" is two steps removed from the person taking the original
6 statement. It's going from the statement taken to the field office
7 to Alison Jolly in the centre.

8 A. It's going to the regional centre who is then writing the
9 section on a particular region, and then it's coming to headquarters,
10 yes.

11 Q. I see. I see. And the effect is -- what you're doing is
12 documenting the allegations for historical record. It's not a
13 criminal investigation, is it?

14 A. That's correct.

15 Q. And, indeed, we've seen in the passage Ms. O'Reilly showed you
16 that what you were doing as OSCE is you're calling for others to take
17 on the criminal investigation at a later stage; correct?

18 A. Correct.

19 Q. And one of the issues you're encountering at the time was that
20 when you're asking for follow-up work, a number of the people
21 reporting the original allegations would by then have left Kosovo, so
22 you wouldn't be able to trace them for further follow-up questions.

23 A. That's correct.

24 MR. ELLIS: And if I could just go to one specific page which I
25 think you were shown by the Prosecution. The reference for "As Seen,

1 As Told" volume 2 is SITF00001529, and the page I was looking at was
2 the page ending 1675, which has already been admitted as
3 Exhibit P743.2.

4 Q. And you've been through this, I think, briefly with Ms. O'Reilly
5 as well. Some of these bullet points have footnotes and some do not;
6 correct?

7 A. Correct.

8 Q. Where there's no footnote, that's because there wasn't any
9 follow-up and there wasn't any file opened, at least on the part of
10 the OSCE; correct?

11 A. Correct.

12 Q. And where we do have a footnote, if we see a reference number to
13 a case file - and those are the references that had two initials and
14 then a number - that would be a reference to an OSCE case file;
15 correct? Sorry, perhaps if we look --

16 A. Yes.

17 Q. -- down the page, that would assist.

18 A. My -- I'm trying to pause. I'm not avoiding your answer.

19 Q. Ah, I had forgotten to do that, so you're doing better than me,
20 Witness. Yes, there we go. There's an example at the bottom of the
21 page. So GN/GN/0013/99, that would be a reference to an OSCE case
22 file, wouldn't it?

23 A. Yes, from Gjilan in that case.

24 Q. Yes. And we can tell it's from Gjilan because of the GN
25 designation.

1 A. That's right.

2 Q. But if one wanted to independently check what was on that file
3 or what the underlying reports were, you wouldn't be able to do that
4 from "As Seen, As Told" itself, would you? You'd have to actually
5 have the OSCE case file in front of you.

6 A. Yes.

7 Q. And those haven't been disclosed, have they, to the Kosovo
8 Specialist Chambers?

9 A. I don't know.

10 Q. Very well. I think that's all.

11 MR. ELLIS: Thank you, Your Honour. Thank you for allowing me a
12 little longer.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 Thank you, Mr. Ellis.

15 Witness, that concludes your testimony for today but not
16 overall. You're going to have to come back on Monday. Sorry about
17 that. Is that possible?

18 THE WITNESS: Yeah.

19 PRESIDING JUDGE SMITH: Okay. You can enjoy this lovely city
20 for a weekend.

21 THE WITNESS: Your Honour, may -- because I have travel --
22 extensive travel plans to return home, can I assume I'd conclude on
23 Monday?

24 PRESIDING JUDGE SMITH: Yes.

25 THE WITNESS: Thank you.

Witness: Sandra Mitchell (Resumed) (Open Session)
Procedural Matters

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1 PRESIDING JUDGE SMITH: We will see to it you do.

2 THE WITNESS: Thank you, sir.

3 PRESIDING JUDGE SMITH: All right. We are adjourned until
4 9.00 a.m. on Monday.

5 Madam, take ...

6 [The witness stands down]

7 --- Whereupon the hearing adjourned at 4.03 p.m.

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