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## Einsatzgruppen Case: Opening Statement for Defense - Dr. Leis for Klingelhofer

International Military Tribunal

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel for the Defendant Steimle.

DR. LUMMERT (ATTORNEY FOR THE DEFENDANT BLUME): Your Honor, I would like to be permitted to ask the Tribunal whether it would be possible for the Defendant Blume to be excused from the session tomorrow also, because I have to prepare his defense with him.

THE PRESIDENT: The Defendant Blume will be excused from attendance from court tomorrow in accordance with request by his counsel.

DR. LEIS (ATTORNEY FOR DEFENDANTS STEIMLE AND KLINGELHOEFER): Your Honors, I would like to inform you that I have received the opening statement for Steimle yesterday. Perhaps I can continue with the opening statement for Klingelhoefer.

May it please the Tribunal

I do not consider it to be the sole task of the Defense in this trial to establish the actual facts and to examine their connection with the individual defendant. The Defense will also have to examine factors not contained in the evidence of the Prosecution which are nevertheless of great, if not of decisive importance. There would be no difficulty in dealing with this case if one could assume from the beginning that everything contained in the action reports presented here, was done on the strength of the defendants' own decision. One can hardly deny that such an opinion would be incorrect. The question arises therefore, what was the cause for the defendants' cooperation in the Einsatzgruppen, the Sonderkommandos and the Einsatzkommandos. The answer to those questions will necessarily constitute a considerable part in the work of the Defense. It will become evident that the defendants were not the instigators, but the executive organs, subject to the inexorable law of a command, not issued by some individual, but deriving from the highest state authority. May I refer in this connection to the statements which I have made already in my opening speech for the defendant STEIMLE. The case of the defendant KLINGELHOEFER is to be judged from the same point of view. He was a member of an Einsatz-

gruppe without having the possibility to decide freely whether he ever wanted to become a member or whether he wanted to remain one. His own attitude with regard to this membership was of no importance, he had to fill out the place where he was told to stand.

This factor must constantly be kept in mind and one has to take it as a starting point when examining how he behaved in this situation into which he had been forced.

The prosecution called the Defendant KLINGELHOEFER, in chronological order, first a member of the Sonderkommando 7b, deputy chief of the Vorkommando Moskau, furthermore, leader of a smaller Vorkommando and finally member of the Gruppenstab of the Einsatzgruppe B. From about the middle of the year 1941 until December 1943 he was active in the Einsatz in the East. In the course of my argumentation I will first attempt to explain the actual positions held by the defendant within the Einsatzgruppe B, which Kommando he had led and which were his tasks in connection with that.

As far as the period of his activities with the Sonderkommando 7b is concerned, I shall explain that he was assigned to that Kommando on account of his command of the Russian language. The defendant was born in Moscow, the son of German parents, and spent the first fifteen years of his life in that city. This factor was the only reason, why, in 1935, he was taken into the SD. The description of his activities with the SD-sector Kassel will explain the nature of his activities for the period prior to his assignment to the Sonderkommando 7b. It will, however, also show the contents and goals of his field of activities, during the Einsatz Russia, and which in fact, did not change regardless of the positions he held. It does not seem to be surprising that a man who had a command of Russian and had gone to school in Russia, was especially suited for taking over the evaluation of the captured documents for the purposes of the intelligence service.

I shall further try to produce evidence that the Defendant was at no time charged with the independent command of the "Vorkommando Moskau",

It will be seen that for a short time only he was formally reported as the deputy commander of that Kommando. This was caused by the interval elapsing between the date, when the former head of the "Vorkommando Moscow" was recalled, namely Defendant SIX, and the date when his successor, SS-Obersturmbannfuhrer KOERTING arrived. The actual command over "Vorkommando Moscow" for this interval was taken over by the head of Einsatzgruppe B, NEBE, whose offices were located in the same building in Smolensk anyway. I shall produce evidence for the clarification of these organizational circumstances by submitting an affidavit by the Defendant, which was taken down by the interrogator of the Prosecution, Wartenberg, on 17 September 1947.

It will further be my task to show, which unit actually was under the independent command of the Defendant and which were his duties there. In the course of this it will become clear that the "Vorkommando Moscow" was dissolved about the end of September 1941 and that KLINGELHOEFER was entrusted with the command over a newly formed unit, the so-called "Vorkommando Gruppenstab". The latter was to secure archives for the purpose of the intelligence service in case Moscow was taken, following directly behind the advancing German troops. In order to realize this intention, the "Vorkommando Gruppenstab" was called to Shatsk, where the Army High Command for this sector of the front was stationed. The Kommando remained there inactive until its dissolution in December 1941, as it was out of the question to take Moscow.

The subsequent transfer of Defendant KLINGELHOEFER to the staff of Einsatzgruppe B did not effect any changes in the type and purpose of his field of activity. The Prosecution did not produce any action reports for this period which extends to the end of 1943. In the witness stand, the Defendant will, however, give account of his sphere of activities during that time. It will be seen, that although he was incorporated into the organization of Einsatzgruppe B, he was one of those people who had to apply himself to the requirement of the intelligence service on the strength of his special knowledge of the

conditions in Russia. It goes without saying that he was also serving as an interpreter during his entire term of duty in Russia. In spite of these facts, KLINGELHOEFER took part in two executions. The circumstances leading up to and the part he himself played in these events require detailed explanations by himself in the witness stand.

Apart from that, when submitting operational reports in evidence, Prosecution and Defense will have to screen them very carefully for their real probative value as far as it concerns the Defendant. For it is obvious that owing to the nature of these reports which covered a wide area and were a summary of a multitude of individual reports, errors occurred. They are not alone due to human inadequacy, but can and probably did originate from the generous tendencies of the reporting officers themselves. I know myself to be in concord with the Tribunal, that the Defendant shall only be charged with such acts, in which he actually participated in person and exercised decisive influence.

THE PRESIDENT: Counsel for the Defendant Strauch.

DR. GICK (ATTORNEY FOR THE DEFENDANT STRAUCH): Your Honors, in order to facilitate a better understanding of my defense for defendant STRAUCH, it is necessary to make the following definitions which are of fundamental significance:

Generally speaking, the Einsatzgruppen and Einsatzkommandos were created in order to protect the territorial gains of the Armies advancing in the East.

They could fulfill their task only in direct collaboration with the Army units.

Consequently, it follows that:

- 1.) The Einsatzgruppen and Einsatzkommandos were directly subordinated to the Army and were considered military units.

The Einsatzgruppen were placed under the Chiefs of the Army Groups and the Einsatzkommandos under the commanders of the Armies.

- 2.) Einsatzgruppen and Einsatzkommandos received their orders regarding