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Kunduz Affair Report Puts German Defense Minister Under Pressure

NATO's Secret Findings

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The secret NATO report on the Kunduz affair already contained all of the details that Germany's new defense minister, Karl-Theodor zu Guttenberg, claims he did not become aware of until later. Why did he initially deem the deadly airstrike "militarily appropriate" and then change his mind?

No one in Germany's coalition government of the center-right Christian Democrats (CDU) and the business-friendly Free Democrats (FDP) has mastered the art of verbal obfuscation as effectively as the new defense minister. Karl-Theodor zu Guttenberg is an expert at wrapping his listeners in such elegant language that, by the time he's finished, they don't dare ask what exactly he meant. Guttenberg, like former Foreign Minister Hans-Dietrich Genscher, knows how to use a lot of words to say very little. When he wants to, that is.

Apparently verbal obfuscation was not his intention on Nov. 6. Barely a week in office, the young defense minister said something on that Friday that left no room for interpretation. Guttenberg was addressing the controversial airstrikes called in by a German officer, Col. Georg

Klein, that killed up to 142 Afghans. The minister told reporters that he had just briefed the parliamentary groups in the German Bundestag about the secret NATO investigation report on the Sept. 4 airstrikes in Kunduz, a discussion he described as "very good and important."

Then came the crucial sentence: "I myself have concluded that I have no doubts with regard to the assessment of the Inspector General (of the German military), namely that the military strikes and the airstrikes, given the overall threat environment, must be viewed as militarily appropriate." The NATO report had uncovered "procedural errors," Guttenberg said, but added: "even if there had been no procedural errors, the airstrike was inevitable."

That assessment remained part of the official position for all of four weeks. On Dec. 3, in a statement to the German parliament, the Bundestag, Guttenberg spoke once again with uncharacteristic directness: "Although Colonel Klein undoubtedly acted to the best of his knowledge and belief, as well as to protect his soldiers, it was, from today's objective viewpoint, and in light of all of the documents that were withheld from me at the time, militarily inappropriate."

Beginning this Thursday, a parliamentary investigative committee will attempt to answer the question as to why two so very different versions of the truth could have emerged in the space of only four weeks. The goal of the investigation is to determine who was responsible for the airstrike on Sept. 4, 2009, in which two American 500-pound bombs killed up to 142 people, including civilians, after Taliban fighters had hijacked two fuel tanker trucks near the Afghan city of Kunduz.

The Opposition Has It in for Guttenberg

But Colonel Klein, the then commander of German military operations in Kunduz, will not be the man at the center of the political uproar over the incident. Nor will it be the hapless former Defense Minister Franz Josef Jung, who was forced to resign from his new job as labor minister as a result of the Kunduz affair.

Instead it is Guttenberg who is expected to play a pivotal role for the investigative committee. The opposition has it in for Guttenberg, who is still seen as something of a golden boy in Chancellor Angela Merkel's CDU/FDP cabinet. For the main opposition parties, the Social Democratic Party (SPD), the Greens and the Left Party, the investigative committee will only have been worth the effort once they have succeeded in inflicting lasting political damage on the defense minister, perhaps even forcing him to resign. That, in turn, would harm the ruling coalition itself and, with it, Chancellor Angela Merkel, who, four days after the airstrike, promised the Bundestag a "full investigation of the incident."

Guttenberg will face many uncomfortable questions when he is called to testify before the committee in February. For instance, why was he willing to commit himself on Nov. 6 when he described the airstrike as "militarily appropriate?" Did the minister actually read the NATO report or did he simply rely on the judgment of his advisors? Or did he deliberately deceive the parliament and the public, under the assumption, which seemed valid at the time, that the investigation report would remain classified indefinitely? And did he only correct his initial assessment once it became clear that nothing about the affair was going to remain secret for much longer?

The commission will also want to know whether the documents Guttenberg claims were withheld from him were in fact so new and surprising as to justify Guttenberg's dramatic about-face -- and whether they actually offered any new information that the comprehensive secret NATO report did not contain.

Although individual passages from the NATO report were leaked in the past few weeks, only now has SPIEGEL obtained a full copy of the "NATO Secret" report for the first time. Just how Guttenberg, after studying this report, could have arrived at the conclusion that the attack was "militarily appropriate" will have to remain his secret.

Despite being couched in diplomatically reserved language, the "conclusions" summarized on a single page make it clear that Colonel Klein made every conceivable mistake during the night of the attack. According to the report, Klein relied on only one person for "intelligence gathering," which, even when combined with the aerial video images, was "inadequate to evaluate the various conditions and factors in such a difficult and complex target area."

The report states it was not clear "what ROE (rule of engagement) was applied during the airstrike," and that there was a "lack of understanding" by the German commander and his forward air controller (JTAC), "which resulted in actions and decisions inconsistent" with ISAF procedures and directives. Moreover, the report concludes, intelligence summaries and specific intelligence "provided by HUMINT (human intelligence) did not identify a specific threat" to the camp in Kunduz that night -- the mandatory condition for an airstrike.

The Key Document

The NATO report to which Guttenberg referred in his first statement on Nov. 6 is much more comprehensive and precise than the so-called military police report, which triggered the scandal in November. It is the key document in this affair.

The document is the product of an internal NATO investigative committee, which partly preempted the case to be debated before the German parliamentary committee starting this week.

The NATO commission, headed by Canadian General Duff Sullivan, carefully questioned 34 key witnesses, including Colonel Klein.

The 73-page report, which contains about 500 pages of attachments, uses sober language to arrive at an unsettling conclusion: that the mission on that night of Sept. 4 was the result of a combination of ineptness and deliberate misinformation, without which the airstrike would never have occurred.

The document sharply criticizes the German soldiers' inexperience and the lack of professionalism in the application of NATO regulations, the deficient reconnaissance of the situation at the site of the bombing and the inadequate involvement of superiors. In the end, Colonel Klein reached a decision on his own that he should not have had the authority to make.

German General Jörg Vollmer, the International Security Assistance Force (ISAF) Regional Commander North at the time and Klein's superior officer, told NATO investigators that he normally attached great importance to adherence to the rules of engagement. He said that he considered it "not acceptable" that he had been "notified so late" -- namely after the bombs had already been dropped.

Most of all, the interviews with the pilots and the radio communications records show how contentious the military and legal assessment of the situation was before the strike. During that night, there was an arduous tug-of-war between the German soldiers on the ground and the American pilots in the air, which lasted about 45 minutes and was characterized by suspicion on the part of the Americans. The pilots maintained the view that dropping the bombs was not the right thing to do, at least not in this manner, and they kept presenting new arguments against the airstrike.

'No Imminent Threat'

Even though there was in fact no contact between German soldiers and the enemy, Colonel Klein reported that there were "troops in contact." As a result, two American F-15 fighter jets appeared in the skies over Kunduz at 1:08 a.m. The forward air controller told the pilots to prepare to drop six 500-pound bombs.

After circling the area several times, the pilots suggested that they fly at low altitude over the sandbar where the two tankers the Taliban had hijacked were stuck. It was intended as a deterrent, or "show of force," in military jargon.

But the German forward air controller replied: "negative." He wanted the fighter jets to remain out of sight, so as not to warn the people at the site. The report states that "it could not be said from the information made available to the aircrew that they were aware of any rule of

engagement that would apply to the situation." The aircrew, the report adds, "continued to discuss amongst themselves the fact that they could not see an 'imminent threat'."

This discussion led the Americans to reiterate their previous suggestion, at 1:22 a.m., to fly at low altitude over the site, so as to scatter the people on the ground and then destroy the trucks. But they were unsuccessful with their plea. At 1:31 a.m., when the Germans gave the F-15 crews the precise bombing coordinates, the F-15 crews asked whether the trucks or the people were to be targeted. According to the radio communications report, the German forward air controller replied that he wanted the people targeted.

The US pilots proposed another option, called "dynamic targeting procedures" in NATO jargon. It normally includes the use of remote-controlled drones and other reconnaissance measures. Most of all, however, it would have meant involving the ISAF headquarters in Kabul. But the Germans, who were adamantly opposed to headquarters involvement, rejected the proposal. Instead, a few minutes later the German forward air controller, code-named "Red Baron," urged the Americans to treat the trucks as a "time-sensitive target" and to arm the bombs.

'I Want You to Strike Directly'

The pilots, who felt that the Germans' instructions were odd, remained skeptical and suggested obtaining the approval of the higher-ranked US Combined Air Operations Center in Qatar on the Persian Gulf, so that both sides would be in the clear.

Red Baron's response was unambiguous. He told the pilots that he had the "approval" of Klein, who happened to be sitting next to him, for the strike to proceed, but that the bombs should only hit the sandbar and not the area along the riverbank.

There are strict rules of engagement within NATO, and the pilots were under the impression that a number of these rules were about to be violated. Once again, they repeated their request to be allowed to fly at low altitude over the river as a deterrent. The response from the German base was clear: "Negative. ... I want you to strike directly."

At 1:46 a.m., the American pilots asked the Germans one more time whether the people on the ground truly constituted an "imminent threat." Under the NATO rules of engagement, only an imminent threat justified an attack. Absent such a threat, the pilots would have been required to leave the area. But Klein was apparently intent on having the airstrike go forward, and his forward air controller, acting on Klein's orders, replied: "Yes, those pax (people) are an imminent threat." He said that the insurgents were trying to tap the gasoline from the trucks, and when they had finished, they would "regroup and we have intelligence information about current operations" and they would probably be "attacking Camp Kunduz."

It was apparently a white lie. The investigation report soberly concludes that there was no "specific information" or "hard intelligence" to indicate the Taliban "were either preparing or had a plan for attacking" the German forces that night. Based on everything the Bundeswehr and the Americans now know, the Taliban originally planned to take the trucks to a nearby village and, when the tankers became stuck on the sandbar, they decided to strip the vehicles instead. The report concludes that it was an "act of opportunity."

False Information to Obtain US Air Support

One of the US pilots later told the investigative commission that he had had an "uneasy feeling about everything." According to the NATO investigators, such cases lead to the ultimate question between forces on the ground and in the air, which is precisely the essence of what happened here.

One of the pilots told the investigators that he even considered abandoning the operation altogether, because he and the other Americans were under the impression that Colonel Klein, the ground commander, "was really pushing to go kinetic (*editor's note: to bomb*)". But when the forward air controller confirmed that there was indeed an imminent threat, the pilot set aside his concerns.

Perhaps the most important witness the NATO commission interviewed was Klein himself. During his questioning in Kunduz on Sept. 26, Klein said that he had asked "at least seven times that night" whether there were civilians at the scene, and that he had consistently been told that there weren't. To be on the safe side, he told the commission, he had reduced the number of bombs from six to two. But Klein also admitted that he had deliberately used false information to obtain the US air support. He described the quandary he was in after the US air operations center decided not to send any additional aircraft after a first jet had been ordered to leave the area. Without the fighter jets, there would have been no mission, and the Taliban would have escaped, possibly taking the tanker trucks with them.

Klein wanted to prevent this from happening at all costs, and he reasoned that he had only one option. He had to create the impression that there were German "troops in contact," or TIC. According to the NATO report's summary of Klein's interrogation, "his problem was that he knew that they did not have a TIC in reality. ... He believed that by declaring a 'TIC' he would get the air support he wanted," even though everyone knew that Klein's TIC claims were in fact untrue. One untruth led to another. Klein knew that if there was no contact with the enemy, then there was no imminent threat, either.

Against the background of Klein's statements, it is difficult to understand how Defense Minister Guttenberg could have justified telling the Bundestag on Dec. 3 that Klein had "undoubtedly acted to the best of his knowledge and belief."

In its investigation, NATO was clearly critical of the Germans' lack of professionalism and pointed out their lack of experience. According to the report, the forward air controller was apparently trained at a German-French aviation school and, as of the end of March 2009, had directed between 40 and 50 air missions. Nevertheless, the report continued, "a lack of understanding" of compliance with certain targeting procedures combined with the inexperience of the PRT (Provincial Reconstruction Team) commander -- Klein -- resulted in behavior during targeting "that was inconsistent with ISAF dynamic targeting procedures and directives."

The NATO report Guttenberg had at his disposal when he characterized the airstrike as "militarily appropriate" on Nov. 6 contains all of the details that the minister claims his team withheld from him. Why then was his assessment so off the mark that he was forced to radically revise it four weeks later? This is the key question the members of the parliamentary investigative committee want to have answered.

'He Was Targeting the People'

Defense Minister Guttenberg changed his assessment in late November after the German tabloid *Bild* published internal Bundeswehr documents. The minister then demanded the resignations of his state secretary, Peter Wichert, and Bundeswehr Chief of Staff Wolfgang Schneiderhan, arguing that they had not kept him sufficiently informed. On Dec. 3, he admitted to the Bundestag that his initial assessment of the airstrike had been wrong.

According to members of his staff, the minister had based his reassessment primarily on a brief statement by Klein, which the colonel had sent to Germany back in early September. Guttenberg insists that he did not receive the Klein statement until the end of November, on the day after the resignations of Wichert and Schneiderhan. In the first paragraph, Klein admits that he had intended to "destroy" both the fuel tankers and the insurgents at the site.

Guttenberg's staff insists that the minister was deeply affected by Klein's admission, and that he completely reevaluated the incident after realizing that Klein had in fact deliberately intended to kill people. But Klein's motives are clearly outlined in the NATO report that Guttenberg allegedly read two weeks earlier. Moreover, they were not hidden somewhere at the end of the report, but are clearly described in the summary on page 7, which reads: "When challenged by the aircrew, the JTAC stated that he was targeting the people, not the vehicles."

When questioned by the NATO officials, Klein stated that his intention was to "eliminate the fuel tankers (to prevent the movement of the tankers) and the people who hijacked them." In other words, the Klein document that supposedly led to the minister's change of heart essentially contained the same information as the NATO report, with which Guttenberg was already familiar. The only thing that changed was the public's perception.

