

ANNEX 1 to

Thaçi Defence Response to Prosecution “Request to caution Mr Dastid Pallaska”

Public

***Trials at Specialist Chambers – how does defence counsel see the process? – Interview with
Dastid Pallaska
RTK Prime show, RTK, 13 April 2023***

***Host:** Dear viewers, good evening. We are starting another edition of RTK Prime. The trial at the Specialist Chambers in The Hague is continuing. The first witness is already testifying at a closed session. It was said that there are more than 300 witnesses, about 80 sessions until the end of December. For the beginning of the trial, the indictment that is already known by the prosecutor. About the opening speech of the defence counsel, we will talk with defence lawyer, Dastid Pallaska, part of the defense counsel of the former President of Kosovo Hashim Thaci. Mr. Pallaska, welcome and thank you for being here.*

***Pallaska:** Good evening. Thank you for having me.*

***Host:** You were also two other times in this studio to discuss exactly the Specialist Chambers in The Hague. Now, we are a week after the beginning of the trial, two years after the confirmation of the indictment. If we go back to 3 April, how do you see the prosecution's opening statement?*

***Pallaska:** In general, to us it was a day that was expected for more than two and half years. Indictment was confirmed in October 2020, while President Thaci surrendered voluntarily in November. For more than two and a half years, Mr. Thaci waited for his day at the courtroom to make his statement in front of the Trial Panel. I think that that day went extraordinarily good, in general, in particular taken taking into account how weak was the presentation of the prosecution, on one hand, and how dignified was the presentation of President Thaci (on the other hand), personally, and the colleagues from the defence counsel. Why am I saying this, although I do not want to comment on the quality of the presentation of the prosecution, but that day there were some that I would call failures, which even I had not foreseen given the lack of the foundation of the case of the prosecution and general. For instance, as colleague Emmerson from the team of Mr. Veseli emphasized, prosecution as one of the main types of evidence of the existence of the structure of the Kosovo Liberation Army, as he said in his opening statement, were the materials that were confiscated at the house of Mr. Krasniqi, a search that had happened several months after the confirmation of the indictment. So, if the main evidence in connection with this extraordinary important count of the indictment is evidence that was gathered after the submission of the indictment shows that also the indictment has no other more quality evidence.*

On the other hand, a scandal of its kind was the reference in the opening statement of the events that are out of the temporal scope of the indictment, such as the case with the alleged attack against former Rector of the University of Pristina during coercive measures, so Rector Papovic. This event is out of the temporal scope of the jurisdiction of the Specialist Chambers, on one hand, and is not part of the indictment, and it was not clear as to why and how was mentioned this reference

when it was aimed at showing the general context in which were developed the events that were the subject of the indictment.

The selection of this case, I do not know if it was a consequence of the lack of knowledge about the reality of Kosovo, given that former Rector (Radivoje) Papovic was one of the most notorious exponents of the Milosevic regime, and even worse than Milosevic himself, because he was also against the agreement on education that was signed by former President (Ibrahim Rugova) and Slobodan Milosevic. As a result, his relations with Milosevic were ruined after the signing of this agreement. And in fact, what was attributed to the KLA in an absolute manner was the attempted murder against him (Papovic) with a planting of a bomb in his vehicle. If one reads the sources of the civil society in Serbia, there are at least three potential scenarios as to what could have been the reason of that attack. And one of the scenarios that are mentioned by a Serbian NGO, which had protested the return of former Papovic to a parallel university of Pristina in Mitrovica in 2004 by former President Vojislav Kostunica, was the fact that it was exactly the refusal of Rector Papovic to support the agreement on education that was signed by Slobodan Milosevic and former President Rugova at that time. And another scenario was also about suspicions for existence of different financial malversations at the time that he was leading the University of Pristina. So, it was strange with what was served the prosecution.

On the other hand, an extremely concerning narrative in the presentation of the prosecution was the goal to distort the reality and to create a reflection that there was no war in Kosovo between the KLA and Serbia, but that in Kosovo there was only a war between Albanians to take power after the war, which is absurd for every citizen that has experienced those difficult days of Kosovo. I am afraid that this was not a mistake in the presentation of the case, because both the prosecution but also the different factors that are not supporters of all that has been achieved in Kosovo through these years there are making efforts to be used for the distance that our society has created in relation to those events, perhaps also the feeling of the negligence for those events in order to offer a parallel narrative completely distorted.

Host: If we return to the basis, if we go back to the establishment of the Specialist Chambers, because there were many debates also for the time, manner, how the Specialist Chambers was created. Often fingers are pointed at those that are there (at Specialist Chambers), saying that they have voted (its establishment), and other issues, which were also justified with the pressure that we had been subjected to, to have such a court of Kosovo in order not to have another at the UN Security Council, and other issues. But if we refer to the statement of former President Thaci about the report of Dick Marty, when he says that he feels good that a stain or “black clouds” have been removed from Kosovo, because in the indictment that we saw, which is already public, for which we have alluded so much of what it contains, there is nothing about what the report of Dick Marty says. At this point, should the defence counsel use this more to raise the attention as to why people are there, which was the reason?

Pallaska: This is not only a semantic issue. This is in fact the essence of several motions that the defence counsel has raised since from the sense of the content of the indictment. Why is this happening? Because the moment when the Specialist Chambers in The Hague was established, with a constitutional amendment and law, the two instruments, in the constitutional and legal one, say expressly that the subject-matter jurisdiction of the Specialist Chambers is limited to specific allegations of the Dick Marty's report. That report of Dick Marty talks about organized crime, which had happened in several parts of Kosovo and Albanian mainly after the war. In fact, former prosecution Carla del Ponte, when she started investigating into the allegations for organ trafficking, she asked to be extended the temporal and territorial mandate – temporal in the sense of after the end of the war in Kosovo and territorial, that its jurisdiction be extended in Albania to have the possibility to investigate these allegations for the existence of the so-called Yellow House ...

Host: ... and Albania has allowed this ...

Pallaska: ... no. The UN Security Council has refused to be extended this mandate because International Criminal Tribunal for the Former Yugoslavia (ICTY) was at the final stage of its work, while the international bodies that were in Kosovo carried out the following investigation happened in cooperation with the authorities of the Republic of Albania and there was not found anything. If you have jurisdiction ... at these Specialist Chambers can only be submitted indictments related to report of Dick Marty, which in fact has an effective quality of a criminal report, drafted by an institution from which came at that time Dick Marty, was raised at the level of a foundational document on the website of the Specialist Chambers. If you look at the website of the Specialist Chambers “foundational documents”, there you will find the report of Dick Marty. So, this is its importance – that the subject-matter jurisdiction is the most important of the jurisdiction, it is more important than the territorial jurisdiction, more important than the temporal jurisdiction, because you can have temporal jurisdiction and territorial jurisdiction all over Kosovo but in the end everything “narrows” to the subject-matter jurisdiction. If you have no jurisdiction for a kind of a crime, then you cannot file an indictment. We have opposed this since the beginning, it was absolutely rejected by all forums of the Specialist Chambers

Host: ... with basic justification, Mr. Pallaska, because there is mentioned a Special Task Force that says, “there might be other crimes, but it is not this”. How can this be justified?

Pallaska: ... just to explain it because it is a very important matter. The constitutional amendment says that there can be established Specialist Chambers that have an exclusive mandate to investigate into the allegations of the report of Dick Marty. The law came after the investigation by the Special Task Force and says that the subject-matter jurisdiction includes allegations and those that were investigated by the jurisdiction, so in cumulative manners should be fulfilled the two conditions, that something be alleged by Dick Marty and be investigated by the Special Task

Force, which has narrowed even further the subject-matter jurisdiction. What we have seen in the indictment is except for two locations in Northern Albania, which were allegedly the place where detained and held some persons that were allegedly arrested by former members of the KLA, there is nothing else. More than 99% of the indictment has nothing to do with the report of Dick Marty. When we objected to this, with all these references, the preliminary judge told us that, “Well, they have connections with the report of Dick Marty, because in the introduction part of the report – the introduction not the content part – Dick Marty said that this report is about the war in Kosovo.” So, the report of Dick Marty has a specific part of allegations – it talks about locations, about persons, and so on. He said, “in the introduction is mentioned the war, and the fact that the war in Kosovo is mentioned suffices for everything to be included within that jurisdiction,” which is really, with all due respect for the Specialist Chambers, a non-serious reasoning, and we will normally follow this until the end. What President Thaci wanted to say in the opening statement when he mentioned the report of Dick Marty? The essence of that report, because it is a ... the first, main problem is why the indictment was completely out the report of Dick Marty. This means a sort of effective deception. It says, “establish the court for this subject-matter jurisdiction, and when you establish this court, we can bring anything we want.”

And the only thing that they have taken from the Marty report is certain names, which are mentioned there as the perpetrators of criminal offences, including former President Thaci. It cannot be the jurisdiction of a court because it is a personal persecution and is forbidden everywhere in the world, so even in the most non-democratic states. This is a special problem, for which the struggle continues, although initial preliminary motions were refused, but this issue continues to remain active and lately was mentioned also in some decisions of this Trial Panel when some issues were refused, but there was reminded the extremely narrow and limited jurisdiction of the Specialist Chambers. The other problem that Mr. Thaci has mentioned, and which also we have mentioned on several occasions before, is the fact the prosecution does not have the courage to finish a basic obligation. It is a procedural obligation of every prosecution in the world, including this one (Specialist Prosecutor's Office) that when carrying out investigation for a certain criminal offence, in the end of the investigation can be issued two sorts of documents: the first document is the indictment for the criminal offences for which there is sufficient evidence to file an indictment; and the second document is the decision for the closure of the investigation in the absence of evidence. Now, if this prosecution had investigated the Marty's claims for more than ten years, and even after ten years, and after all those preliminary investigations has found no evidence to file an indictment for organ trafficking, this prosecution has a legal obligation to issue a decision for closure of investigation for this count. But they have not done this yet, despite some requests from the defence counsel, for simply formally to be closed with a simple document, so this part of the investigation that they have carried out. But regardless ...

Host: ... and if they do not fulfil a legal obligation, what happens, Mr. Pallaska?

Pallaska: We have asked that the preliminary judge orders the prosecution because it is his obligation based on the request of the defence counsel, because investigation cannot continue endlessly, and endlessly to have that could over the head. But regardless this, fortunately the indictment and the fact that in that indictment there is no claim of Dick Marty for organ trafficking is the best confirmation that those claims have had no basis or evidence based on which could be filed an indictment. And today, the indictment is the best evidence that those claims were completely fictitious, and President Thaci has alluded exactly to this, when he said that regardless the entire saga and injustice that I have been subjected to all these years, it was all worth it” because in the indictment against him was removed a cloud from the entire Kosovo for the suspicions that the KLA was involved in such heinous crimes, such as the organ trafficking.

You have seen, the public broadcaster in Serbia has produced a documentary to compensate this absence and to misinform the public in Serbia now that perhaps this process in The Hague, which most likely the ordinary citizens in Serbia do not follow, just as public in Kosovo might not follow, to think now that this trial is related with organ trafficking.

I personally was glad, although I cannot say that I was completely satisfied, when I saw the last article of the prestigious magazine *The Guardian*, which in 2010 was extremely unjust, personally against Mr. Thaci and against Kosovo, when it published headlines based on the leaked information that there would be published a report, as it was published by Dick Marty, and called former President Thaci with a monstrous accusation, saying that former Prime Minister of Kosovo is accused of leading a criminal mafia group for organ trafficking. So, it was even more brutal than itself (the report). Now, in the latest article that it (*The Guardian*) published, within the article there was the announcement that the indictment has nothing to do with organ trafficking, but still they had not bothered to put this in the headline, because I think that they (*The Guardian*) have a moral obligation given that they had spread an information that now after more than 10 years it was proved not to be true.

Host: As we will be following the interview about the others coming days, I would like to see a chronicle, a summary of the days (opening statements) of the prosecution and defence counsel and then comment on it together.

THE CHRONICLE:

Reporter: The trial against the KLA leaders Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi started last week. On the first day of the opening statements, the Specialist Prosecutors presented their claims that the accused had established and led a Joint Criminal Enterprise, which had targeted the opponents, also including those that were considered traitors, collaborators, supporters, or members of the Democratic League of Kosovo (LDK). The Specialist Prosecutor's Office (SPO), among others, said that it is not the Kosovo Liberation Army (KLA) that is being tried, but these four individuals. A day later, the defence counsel of the KLA leaders denied all the claims of the of the SPO. Gregory Kehoe, defence lawyer of Hashim Thaci, in the defence

statement denied all the claimed accusations of the prosecution against former President Hashim Thaci.

Kehoe (addressing the Trial Panel): “The provisional Government of Kosovo, with Mr. Thaci as so-called Prime Minister, was trying to take Kosovo under control. This is not true at all, neither from factual nor from legal aspect.”

Reporter: Before the Trial Panel, the defence counsel played several videos of Hashim Thaci, in which Thaci condemned attacks against Serbs and called for co-existence.

Thaci: (a press conference, in a video report by the Associated Press, dated 24 July 1999): “I once again call on Serbs who are in Kosovo not to leave Kosovo, not to be afraid.

Reporter: After the defence counsel, the floor was given to former President Hashim Thaci. He said before the Trial Panel that he expects this process against the KLA leaders to be finalized soon, stating that he is satisfied that this process is proving that there was no organ trafficking by the KLA.

Thaci: (addressing the Trial Panel) Now, the world knows, today because of this process that there was organ trafficking and that the Yellow House has never existed. Now we know that I, and the KLA, and the people of Kosovo, and all Albanians have been exonerated of these accusations.”

Reporter: The defence lawyer of Kadri Veseli, Ben Emmerson, said that the prosecution has no evidence or witness that connects his client with any count of the indictment.

Emmerson: (addressing the Trial Panel) “You are in vain expecting to see evidence that would implicate Mr. Veseli during this trial or that he was part of any Joint Criminal Enterprise.”

Reporter: Defence lawyer of Rexhep Selimi made a similar statement.

Defence lawyer of Rexhep Selimi: (addressing Trial Panel) Honourable judges, Mr. Selimi is not responsible either as a perpetrator, or a member of a Joint Criminal Enterprise, as a supervisor, as *(inaudible), or of inciting ...*

Reporter: Rexhep Selimi before the Trial Panel said that he is not afraid of justice, but of injustice.

Selimi: (addressing the Trial Panel) I have always said, and I will repeat it again today: I am not afraid of justice, but we should all be afraid of injustice”.

Reporter: On 5 April, the defence counsel of former Assembly Speaker Jakup Krasniqi denied all the accusations of the prosecution, expressing their confidence that at the end of this trial, it will be proven that Jakup Krasniqi had nothing to do with any crime.

Defence lawyer of Jakup Krasniqi: *(addressing the Trial Panel):* “There is no credible evidence that connects Jakup Krasniqi with any crime, there is no credible evidence for Joint Criminal Enterprise

Reporter: In his statement before Trial Panel, former Kosovo Assembly Speaker Jakup Krasniqi said that he was not involved in any murder or any other form of pressure against anyone.

Krasniqi: *(addressing the Trial Panel)* I have never been involved in any murder, in any detention, in any form of pressure against anyone.”

Reporter: Thaci, Veseli, Krasniqi, and Selimi have been in detention in The Hague since November 2020.

THE END OF THE CHRONICLE

Host: *We return to the studio. Mr Pallaska, this was a chronology to see what the confrontation of the prosecution was and the defence counsel. Initially, I have a more technical question. Is the role of the defence counsel more difficult when four persons are accused of a Joint Criminal Enterprise, and is it easier when only one person is accused?*

Pallaska: It depends on the content of the indictment, principally, but a Joint Criminal Enterprise, the criminal responsibility of a Joint Criminal Enterprise exists in the cases when the accused are not accused of having committed any criminal offence individually, be it directly or indirectly. And this is exactly the case with President Thaci and others that are being accused in this case, that none of them is accused of individually being responsible for any criminal offence, be it committed directly or indirectly. This, moreover, the prosecutor has mentioned and explained several times after the request of defence counsel at preliminary sessions, in particular the status conferences, that precede the beginning of the main examination. Now, in this case, it is very important to explain, because the prosecution again for so many times in violation with the content of the document that they have drafted – the indictment – says it is not the KLA being tried, that not all KLA members are part of the Joint Criminal Enterprise. With all due respect, I do not want to argue in a TV studio, but this is a big untruth. If we look, and this can be proved by any viewer, even the laic ones, if they read the content of the indictment, namely the part of the indictment that defines notion Joint Criminal Enterprise, namely that defines members and instruments of the Joint Criminal Enterprise ...

Host: *... let us define (explain the meaning of) a Joint Criminal Enterprise ...*

Pallaska: What is a Joint Criminal Enterprise? A Joint Criminal Enterprise, in principle, is a group of individuals who have a criminal part to commit criminal offences. To make it simpler and remove it from this context of war crimes, that perhaps could complicate the meaning of this notion, let us talk about an ordinary crime. Two or three individuals reach an agreement to rob several banks. And those individuals, with the fact that they agreed to commit a criminal offence – rob banks – they are responsible both for banks they have robbed the three of them together and for the banks that has robbed any of them without the presence of the two others, because they have acted within a criminal plan. In this case that we have here, there is no criminal plan. Do you know what the criminal plan is? The criminal plan is taking control over Kosovo, which to us that lived in that time, it means liberation of Kosovo, taking control from Milosevic, absolutely. Saying there was a criminal plan ...

Host: ... it is said it was believed that freedom for Albanians could only be won by force. It was one of ...

Pallaska: Criminal plan ... here the main problem based on the prosecution is that the plan is not criminal, because a precondition for existence of a criminal responsibility according to Joint Criminal Enterprise is the existence criminal plan. The plan itself should be in violation of the law, criminal by nature. This is not the case. A criminal plan is the political plan for liberation of Kosovo with other means. This is not a criminal (plan). Even the prosecution must not say it is criminal, because it is not criminal. This is not even a disputable matter. And they are accused, but the worst thing is that most of the criminal offences are not even offences that were committed within the criminal plan. Now there is also a “spin-off” of the primary notion of the Joint Criminal Enterprise, which is that you are involved in a criminal plan and have acted within the criminal plan, and you are responsible for yourself and the actions of the others that were part of the group and the criminal plan. But, here the spin-off here is the criminal responsibility of Joint Criminal Enterprise, category 3, which is that you are personally responsible also for the actions of someone that has acted without your consent, your will, and without you knowing, and who has acted out of the criminal plan but for which you should have foreseen that with the fact that this (person) has accepted to be part of the criminal plan, he might commit another criminal offence that is out of the criminal plan. This is a notion of the international criminal law, which is even well-established, disputable, most of academia and courts even abandoned as a notion of criminal responsibility because it is vulnerable in particular to a misuse and the criminal law should be a law that offers a judicial security for those indicted and this is not allowed. Most indictments against Thaci at al belong to this category 3. So, for the offences that were committed by persons for which Mr. Thaci or others have not known that they exist, that are operating, and who had operated even out of the criminal plan, but for whom Mr. Thaci should have foreseen that they might commit any criminal offence. This is ridiculous for any objective. Now ...

Host: ... Mr. Pallaska, let us also talk about the idea of who is being tried, because among the public in Kosovo there is a group of people who say that “The KLA is being tried because there are the four most important individuals of KLA, who held (leading) posts in the KLA”; on the other hand, there is a group which says, “Individuals are being tried”. How do you comment on this?

Pallaska: In fact, I see here a third group – the group of individuals that have led the indictment and who say that. “The KLA is being tried in The Hague” but not for the reasons that you mentioned that there are the leaders of the KLA, but because of paragraph 35 of the indictment,

Host: ... this is paragraph 35 (Paragraph 35 of the indictment shown on screen) ...

Pallaska: ... paragraph 35, which is public and accessible for all public, defines the notion Joint Criminal Enterprise, namely who were the members of this enterprise, and says expressly ... first mentioned the accused, some other members by names and posts, and then under 35 elaborates it until the end. It says, (*Pallaska reads Paragraph 35 of the Indictment against Thaci et al, which is shown on the TV screen*): “Other members of the joint criminal enterprise included Azem SYLA, Lahi BRAHIMAJ, Fatmir LIMAJ, Sylejman SELIMI, Rrustem MUSTAFA, Shukri BUJA, Latif GASHI and Sabit GECI, as well as certain other KLA and PGoK political and military leaders, including other General Staff members; PGoK ministers and deputy ministers; KLA zone commanders, deputy zone commanders, and other members of zone command staffs; brigade and unit commanders; commanders and members of the KLA and PGoK police and intelligence services; other KLA soldiers and PGoK officials; and others acting on behalf of the KLA or PGoK (together with Hashim THAÇI, Kadri VESELI, Rexhep SELIMI, and Jakup KRASNIQI, collectively, ‘JCE Members’).” I ask ... because the prosecutor Mr. Whiting, said that, “the claim that the KLA is being tried, is false, inaccurate, not true.” If such a claim is not true, then either this declaration stands, or that – not both of them can stand, and this nobody can insult our intelligence and tell us that this does not say what is saying and what I read. This can be understood by anybody. It is not a complicated judicial matter ...

Host: ... one does not have to be a lawyer to understand this ...

Pallaska: ... absolutely. Here is ... look at the end, it says “and other members of the KLA and PGoK”. Nobody else is left out. Let them say, “Five persons have remained out”. And let us not forget: a Joint Criminal Enterprise was used also at the International Criminal Tribunal for the Former Yugoslavia (ICTY), in cases of Milosevic, Milutinovic, Seselj, and so on. But, in all cases Joint Criminal Enterprise has not included the entire state apparatus of Serbia. Even in trials of Nuremberg there was not criminalized the entire state apparatus, but where it was defined. So, here is being tried the KLA, because members of the Joint Criminal Enterprise, according to the prosecution, and which is untruth claim, is the entire KLA, nobody is left out ...

Host: ... including the last soldier if referring to ...

Pallaska: ... so, in this regard, I think that also the debate as it was divided, as you presented it, that there is being tried the KLA because there are the KLA leaders, it is not true, and neither is the other debate that there is not the KLA (being tried) there are individuals. We must bear in mind, the prosecution has said several times, “They are not accused of individual offences. They are accused of responsibility because the KLA is claimed to have had a criminal plan to take Kosovo under control by targeting opponents. Now, we go back to other definitions, very problematic, of opponents. How can it be possible for all of us that have experienced that time that somebody says that within category of opponents be people both Albanians and Serbs, that have worked with Serbia security structures in the active fight of the KLA, so, together with officials of other political parties who have faced local problems at the places where they have operated for reasons that they have to do with everything but a certain politics or ideology that was followed by the KLA? How can these two groups co-exist within a single definition? I think they cannot. It was mentioned also in the Limaj case, that targeting of members of the security forces, be those operating as uniformed or those that is legitimate military objective, and it does not verify the existence of a comprehensive campaign for targeting of civilians. Mr. Limaj was released exactly for this reason because he said, there was no comprehensive wide policy or campaign to target civilians but only a certain category of those that collaborated with enemy forces. Regardless of this, some elements of the KLA have used this sort of umbrella to target certain individuals for personal reasons but this in no way has ...

Host: ... and how do we refer to this ...

Pallaska: ... it has nothing to do with the KLA goals ...

Host: ... and how do we refer to this, Mr. Pallaska, and the intervention of NATO, which was mentioned also by the defence counsel, you, there? Does it mean that ... why has NATO intervened?

Pallaska: According to the theory of Joint Criminal Enterprise 3, and legal request – I do not want to be very technical – it is that one person should foresee that somebody might act out of the agreement. All NATO member states are legally responsible for the alleged crimes that were committed by some individuals within the KLA. And this is the absurdity of all this indictment; this absurd. And we must bear in mind that ... I think and I respect a lot the request for justice. Absolutely. Every victim has the right to justice and there should come the day for every victim at the court to seek and be delivered justice. But the question that I raise and also for all those respected victims of the different crimes that have happened during the war, and which in my opinion, are not necessarily war crimes just because they were committed during the war, because there are crimes that are committed during the war but have no background of war or war politics

and so on, and the war crimes, with a background, behind which exist organizations, be them state or other sub-state groups. My question for those victims is: Is this justice sufficient for them? I personally, although I find it difficult to put myself in their situation, I personally, if I would be victimized in any way, I would be interested to hold responsible only the direct perpetrator and the person who gave order directly. Nothing else would serve my request for justice. Anything else - somebody cannot be replaced, (if someone) says “They are responsible, but we have offered someone in higher position.” Is this what should offer you moral satisfaction for the injustice? No. And this is exactly what Mr. Thaci said during the opening statement, that one injustice can never solve another injustice. I think that the unfortunate, absurdity of all this process, if it goes like this – and we hope that it will not go like this because we trust the Trial Panel – is that in the end, if this thesis of prosecution survives, the victims will not be delivered justice either ...

***Host:** ... this was my next question, because if we have a concern, regardless of what we discussed so far, every one of us has a concern of victims, and every family member has the right to ask for information, but will they find this justice at these Specialist Chambers, based on information you have?*

***Pallaska:** Based on what the prosecution has presented, and in the public, which I can comment on, my most sincere evaluation is NO, because there is no connection between the crimes that have been committed – and there was a misunderstanding among the public that the accused are denying their involvement in the KLA, or the crimes were admitted. The problem is that there is no connection between the crimes that were committed and the criminal responsibility of persons that were charged with these crimes. Why? Because these crimes were committed without them knowing, without their consent, without their order, and have happened even - as we found during our investigation - of very specific reasons, very personal, because Kosovo is a small place and most of the disagreements even are even public secrets, it is not that an intensive investigative work is needed to solve them. There are crimes that were committed between neighbours, between persons that had earlier unresolved disputes, and certainly that every person misuses an opportunity or another to achieve any certain goal, and now all these crimes are attributed to a leadership of the KLA, which allegedly KLA ... we have called the KLA also at that day during opening speech “The Army of expropriated”. The KLA did not have ... the KLA was an army of “expropriated people”, who were striped of everything by the regime, and therefore the KLA has existed only there where the brutality Serb existed. It did not exist in places where there was no Serb brutality. And those people were involved in the KLA to protect their home yards, their doorstep, and not for advanced political goals or any wrongdoing.*

***Host:** You mentioned it a little, but do you have any response to those that today say that after the statements of Thaci, Selimi, and Krasniqi, there was seen a sort of distance for the post they have had once in the KLA. This because of perhaps the indictment, which wants to be based on the*

hierarchy of the KLA, by putting them in post and responsibilities. How do you comment on this public opinion that has happened ...

Pallaska: ... the most fortunate issue for the defence counsel in this case is that our case is based ... the prosecution case has distorted the reality so much that we will win very simply with the reality only. It is not about ... because usually the defence counsel does not have the burden of the evidence to present a reality what has happened but simply responds to the accusations that is presented by the prosecution. But in this case, our affirmative defence is to show the accurate reality of that time. We must bear in mind one more thing. This trial is being held 25 years after the events. Many issues have changed from that time and there exists a reason why trials are prohibited to be after more than 20 years later, because there is a disconnection from reality, and everyone contributes to the disconnection of reality, first of all memory, then change of human relations, changes of relationships, other reasons or conflicts of interest which might enter into action and protect even more the reality, and so on.

So, this is what we are facing, and all that we need to do in this case is to go back to sources of time, sources of authorities which have had an extremely large apparatus of intelligence, sources of the US government, sources of different NGOs that existed in Kosovo, declarations of protagonists of time. Now, I remember a maybe it is an inadequate example, but a famous actor of Kosovo who had had a great career also outside Kosovo borders, in an interview he was asked about the days of his glorious careers, and he told the journalist, and I remember this very well, it was right after the war, he said, "I do not want to talk about the past, because I no longer trust even my own memory, because the memory has a sort of mechanism that justify the present." And certainly, he does not trust even to his own memory. So, the efforts of people to "beautify", exaggerate (things) for their role, be it by writing in books, and so on, are natural, but they never have the importance of an evidence, and as such, no evidence weight ...

Host: ... *this was also in the statement of former President Thaci, making it clear that some books were also exaggerated, if I am saying correctly as he (Thaci) said, and the indictment had referred also to these books. Can (an indictment) refer to such books?*

Pallaska: This is exactly the other absurdity of the prosecution case. The prosecution case is based on media articles, books. I, as a professional, can tell you that (for instance) a murder is committed today. Two weeks later, the murderer writes a book, and in a sentence, he says, "I have committed the murder", and publishes it under his name, and then it is distributed. It cannot serve as evidence to sentence that person, because before an accused gives a statement to admit a crime, he should be given constitutional warning, which is also the right to non-self-incrimination. Therefore, the evidence weight of a book, which admits the crime, is zero in the criminal procedure. And in this case, we have no such books, because nobody has admitted having committed (a crime), but there are stories ... imagine ...

Host: ... has talked gloriously about the war ...

Pallaska: ... the documents that the prosecution presented that day as communiques, in many books, communiques are reproduced and not even original facsimile of the documents that were archived, and saved, but were rewritten in a book. So, it is rewritten content in a book and renamed in a book. Now it is produced as an authentic document. These are really very concerning signs for the prosecution because they reveal a complete absence of basis and nobody can describe the KLA, in any case These are tried issues. The International Criminal Tribunal for the Former Yugoslavia (ICTY) has substantiated that there was no criminal plan for targeting civilians even at a zone level. How can the following level be crossed if there was no (criminal plan)? Zone's commanders are released, while the direct perpetrators, some of them were sentenced, if you remember, but it was not substantiated that crimes were committed based on a criminal plan that existed at a zone level. So, they said there was no plan.

Host: Mr. Pallaska, you mentioned several times during this interview two won cases: Limaj and Haradinaj at The Hague Tribunal? How important are they in this process?

Pallaska: They are crucial, and they were cited in our opening statements purposely, and both cases are included in the indictment.

Host: ... cases that were treated by the court ...

Pallaska: ... cases that were tried ... the indictment ... due to the lack of content, the prosecution focused on volume. But there is no volume in the world that covers the absence of the content. You can have more than 300 witnesses, you can have 3,000,000 witnesses, if they say nothing it is 3,000,000X0=0. In the indictment, there are the tried cases of Mr. Haradinaj, the case is completely transposed, copy-paste; the case of Mr. Limaj, and they were both acquitted. And we expected the prosecution to say what they had discovered because this investigation is comprehensive. We expected them to say what they had discovered. They did not say in their opening statements as to why we should not believe two courts. Imagine, they use the KLA communiques knowing that the KLA communiques were reviewed in Limaj's case and in other cases, and it was concluded that the communiques were for propaganda purposes, and were exaggerated, and often the KLA took over the responsibility for crimes which they have never committed, this was done to portrait their selves as relevant factor in the war, and they even mentioned a communique when they took the responsibility of downing of a fighter jet which was downed due to technical fault in 1997 if I remember well. The communiques have no evidentiary value, especially if the author of these statements is unknown, are inconsistent in the sense of who issued them, on what grounds were issued and for what reasons. There are communiques which are allegedly issued by the General Headquarters and others were issued by an HQ of a small village. If this tells us something it is an indicator that these communiques lack structure and the other thing is that the prosecution said

communiqués have evidentiary weight because what was written in communiqués it was confirmed, namely has happened later. This is not true. One of the “infamous” communiqués which was mentioned that day by the prosecution was the so-called communiqué number 59. This communiqué has not been implemented, meaning that all commanders of the Drenica region have opposed this communiqué, this shows that this communiqué was issued from an authority that had no weight or control whatsoever over anyone operating in that area. These are issues which will unfold, but the main problem we are facing now, because it is not enough only for justice to be done, is that justice should be seen being done by getting legitimacy either in present or in the historical perspective. And now because of this exaggerated system of defence measures, where in fact the court makes impossible that the public opinion interested in this case to see what is really all this about. I am convinced, although I cannot speak about what is not aired from within the court, that if they have a chance to see it, nothing new or spectacular will be revealed, and second, opinion will be shocked by the lack of context, which I do not know whether intentionally or not, the prosecution was stripped of the overall narration of events.

Host: Voluminous indictment you stated. In the sense of number of witnesses, in the sense of prolonged sessions. This was done to prove the seriousness of the charges, or why the indictment was constructed like that?

Pallaska: Voluminous because in the indictment there are locations in all territory of Kosovo aimed at showing that allegedly this politics of the prosecution and targeting of opponents was in effect and was implemented in all territory of Kosovo. There are locations in the regions where Mr. Thaci never set foot before the beginning of democratic life in Kosovo and electoral campaigns when they were obliged to visit every corner of Kosovo. Voluminous means lacking substance. In the indictment are included all possible crimes and for these crimes there are people already tried, when it was confirmed individual criminal responsibility, or acquittals when it was confirmed that there was neither criminal offence nor responsibility. Now, the voluminous indictment in the formal judicial jargon is called ‘the spaghetti indictment’, which means taking a hand full of spaghetti and splashing to the wall hoping that at least one sticks to the wall, and this justifies the entire indictment. And of course, it is voluminous because the indictment reveals nothing new. There was nothing new. The only new factor of this court, it is that they have benefited from the political intrigues of the deterioration of personal relations occurring here in the last 25 years, which were not so much active at the time when some previous cases were brought to the court. This indictment was enriched with these intrigues or personal conflicts which unfortunately have been misused in this process and I believe will be unfolded.

Host: We already have some interviews, it is an interview of James Rubin given to Radio Free Europe, and I would ask the production to air an excerpt to listen together here. And I am interested whether James Rubin will testify in this court.

Pallaska: For the time being I can neither confirm nor deny, however we have published a list of mainly international witnesses who are all key players of the time the events took place. Normally there are procedures for a person to be proposed to and get the status of the witness. First, with what the prosecution has presented, it is very likely that we do not need presentation of affirmative defence, because the witnesses of the prosecution will confirm our defence eventually. For instance, Mr. Haradinaj in his trial, has not presented affirmative defence, because the prosecution was so poor in presenting its case before the trial panel that the moment has ended its presentation it has also ended the trial and he was acquitted, twice. But we have talked with many people, with all relevant actors, with high-level officials who were in power at that time, and they all were exceptionally ready to cooperate, but the time until an individual gets the status of the defence witness requires some procedures including the approval of relevant countries they come from.

Host: Let's hear James Rubin in this interview.

[plays RFE interview in the show]

[Radio Free Europe journalist: Mr Rubin people in Kosovo know you for your engagement during the war in Kosovo. How did you at that time viewed the role of the KLA?]

James Rubin: *The US position on the KLA evolved. In the early days before I knew much about it, we have condemned terrorist activities that have been conducted by the Albanian groups. But as the peace process evolved, the KLA became a central to that peace process. And it was Hashim Thaci at the Rambouillet talks who made the courageous decision to agree to the Rambouillet accord. And it was that decision that allowed NATO to support Kosovar Albanians. Had that decision not been made, I do not think we would be sitting so happily and freely in a modern European city here in Pristina, namely many Albanians would have died. So the KLA played a crucial role in the accords that were signed by their leaders, and in following through on the demilitarization as promised by them, and as they told me at that time, that if we follow up our promises to use military power on their behalf, they followed through up on their promises, and they did follow up through their promises to demilitarize and have been working closely with our KFOR, with the official representatives of the US here for many, many years. And I think is fair to say that that relationship was one that enabled the Albanians to avoid what would have been a massive slaughter in this part of the world. I have found memories of working with their leaders. That does not mean that every single thing that happened in that time of the war, something I would support, of course there were things done, but that us be clear the threat came from Serbian military forces. The threat of mass slaughter came from the Serbian military forces. And yes, the KLA probably had issues that were examined and looked at were hardly perfect, but I do not think we should rewrite history on this subject.*

RFE: Now Hashim Thaci and other KLA founders are being accused of being members of the “joint criminal enterprise with the common purpose to gain and exercise control all over Kosovo with the use of different means.” What is your comment on that?

Rubin: I just have no comment on that.]

[End of the RFE interview. The host continues with the questions]

Host: ‘I just have no comment on that,’ said Rubin. He mentioned rewriting of history with this special court in these Specialist Chambers. So, recently we saw relevant people of that time who cooperated, who reacted either with statements or interviews explaining the relations they had with the KLA and former president Thaci?

Pallaska: So, what other testimony you would like, this tells all. The most important part said by Mr. Rubin, and which needs to be highlighted, is the fact that he says the KLA became partner of the United States of America, not because of any impressive military structure which it won battles fighting with Serbia, but because of their readiness to solve the problem peacefully. This is exactly the reason why the main exponent of the KLA in that time in interactions of the KLA with international community was not a battlefield general, but rather a politician. Because this was the main currency of the KLA, the readiness that in the name of peace to make serious sacrifices including personal one because of their beliefs that Kosovo should be independent or detached from Serbia, whereas the Ramboulliet agreement was about an extended autonomy. This put Mr. Thaci to ‘pole position’ at that historic moment, because he was among few at that time a visionary man who understood that solving of this problem can be done with political means and not military ones. And this is how he became the main partner of international community by risking his personal credibility and even his personal security knowing that at that time this decision was not popular, and even he received threats from KLA commanders of certain areas that his plane will be shot down before landing in Kosovo and so on. And even was organised a coup, resulting in replacement of some of the Kosovo members of delegation in Ramboulliet. This explains the core – Mr. Rubin makes this to sound so simple because he was protagonist of that time, and no one can change his mind about this. And what Mr. Rubin stated of history being rewritten, is also very important, because this is exactly the goal of Serbia. it might happen that this is not the goal of the prosecution, but the prosecution should be aware and holds responsibility if it is misused by Serbia. The final goal of Serbia is building a fake equivalent of responsibility alleging that crimes have been committed by both sides. We should not forget Serbia today physically cannot be present in Kosovo the way it was at that time. However, Serbia today is present in Kosovo through the hybrid-war tools, starting from individuals who are contributing to this intentionally or not, and I would like to believe that most of them are not aware of their actions, but also the misuse of general political discourse, political fights, personal conflicts, serving to final goal which is very simple - if the KLA is declared joint criminal enterprise, according to the paragraph 35 of the indictment then what the freedom of Kosovo is? What is the independence of Kosovo? It is a product of a

criminal offence, the products of a criminal offence are confiscated or destroyed after confirmation of the criminal offence. This is exactly the goal, declaring Kosovo a criminal state which cannot survive on its own.

***Host:** Mr. Pallaska. Another point that was discussed also in TV studios, I do not want to mention specific ones, and if we refer the public opinion and social networks, the point of the indictment which was discussed the most is the part referring to political opponents, because in the indictment is mentioned the Democratic League of Kosovo (LDK). Also Mr. Thaci in his opening statement said that he regrets the fact that late president Ibrahim Rugova cannot become one of his witnesses in the trial. How relevant is this point and is this under the jurisdiction of the court?*

Pallaska: I would like to point out that all people have individual identity. Someone is actively engaged in politics, others not. Someone is in Pristina others in rural areas of Kosovo. These are issues related to individuals. There might be persons who had political identity at that time and might have been involved in any issue, but they are not part of the indictment, and I can say more than saying this: The macabre events which happened after the war which are mentioned and misused in TV debates, for the simple fact, because the scope of the indictment ends in September 1999, whereas these events happened later. There were no political hostilities during the war as far as I saw during the investigation of the defence counsel. Why there were no hostilities? Because most of the KLA were former members of the LDK. Do you know when the LDK people joined the KLA? When the war reached their doorstep, and they are left no other alternatives. How one can say the KLA was against the LDK, knowing that Rame Buja held a very important position and was member of the LDK chairmanship, Jakup Krasniqi, and others. The most important part is when interviewing ex-KLA soldiers who were in different areas when we ask their personal history, most of them tell us that they were part of the LDK. Today if one watches TV debates can see people speaking nonsense about people for different reasons. Most of them have personal problems, institutions of mental health do not function properly. I do not object that there were bad people at that time, but no politics existed, because at that time no one had the luxury to deal with these differences because we all were under the imminent threat of what Mr. Rubin referred, which was Serbia's threat towards all population of Kosovo regardless. Do you think Serbs have spared the LDK officials of persecution, did they ask whether they are with the LDK or 'honest Albanians.' This is hyperbolic, distortion and is deliberate. As I said in the beginning, I was very concerned seeing that the focus of the opening statement was the artificial divergence. Because on individual cases there are exact explanations why and when have happened what was the personal conflict of person A with person B, and this is now distorted, and efforts are made to be increased to the political level as being directed against the LDK officials. The idea is very simple, there is no way being in one group the LDK officials who were soldiers of the KLA, for instance there were people who were LDK officials but when the war went to their doorstep they became members of KLA, and they may have entered a disagreement with someone which might have went too far, but how can you explain this like being a political war at the ideological level.

Absolutely no, and this will be confirmed case after case. Because such a distortion can exist only if we speak on general terms as presented by the prosecution in its opening statements. But when witnesses testify and when they are cross-examined by the defence counsel all these details will be revealed which show the true motives why something happened if happened, and the fact that what happened has nothing to do with the four accused at the courtroom.

Host: The first witness has started her testimony. Three days she testified before the court, and we know nothing because the session was private. Do you expect this to continue Mr Pallaska? There was a justification given to media that this was done because of the security concerns, and the trial panel will try to come up with a solution between security and transparency to be cautious, because it might be understood on who is testifying before the court based on their stories. Do you expect the hearings continue like this?

Pallaska: In principle trials are open to public. The meaning of trial is this. Because moral satisfaction is not sufficient if the justice is delivered somewhere in hidden and say, ‘ok person A is responsible for the crime it has committed against person B’ and no one knows. If someone has labelled you for instance of being collaborationist of Serbia and you feel like someone, did you an injustice, for instance detention, injury, killing of any family member, normally you would like the entire world to know that this is not true. In principle, I do not understand this, but all I can say is that the security measures are extremely exaggerated, but the court has decided so. We knew little about the benefits of these protective measures because most of them were protected even in relation with the defence. Now most of these have been revealed to the defence counsel although very late, in a way this was an additional security measure. The importance of the public confrontation in the courtroom is not a new notion of democracies, it is known from the Roman law. Keeping secret identity of witnesses before the defence counsel or public, harms beyond reparation the credibility of the witness. The idea of the trial is to solve all outstanding issues once and forever. There is no need to talk at TV studios, everything that should happen now should happen in the courtroom. A witness should go to the court to testify and undergo cross-examination and after all this the panel of judges sits and gives their verdict.

Host: One of the reason the Court was relocated in The Hague is because of the security of witnesses. There were allegations of intimidation of witnesses, the special court has dismissed motions of defence counsels using this reference of witnesses. This is because of our small state in the sense of family relations, or how can this be explained?

Pallaska: The decisions of all instances of the Specialist Chambers related to the detention measure were based in a generalised reasoning “there is a general environment of intimidation of witnesses in Kosovo.” To me if such a claim is generalised is an indicator that it groundless. If such statements are grounded, for instance saying Witness X or Y was subjected to intimidation, was contacted without his consent and so on, these are the reasons which can justify a security

measure. But “general environment of intimidation of witnesses” is a subjective criterion open to various interpretations. I think that there is no reason for keeping the accused in detention and to demonstrate this we went to extreme. When we proposed release from detention of former president Thaci and putting him under house detention...

Host: with the guarantees of a third state...

Pallaska: No. This was the first option which almost succeeded, but it was not confirmed because the President of the Specialist Chambers changed the composition of the Trial Panel at the Appellate instance after we have filed our motion. I believe this has never happened in any other court. This was the reason and I already discussed this publicly several times. But when this option has failed, namely his release from detention with guarantees of a third country, we have proposed house detention measure to be applied in Pristina. In his house. But the conditions of the house arrest we have proposed were stricter than conditions he currently have in the detention centre. We proposed surveillance cameras in the most private parts of the house to pacify any potential concern that Mr. Thaci might use his house arrest to any obstructions. And the brutal answer we received was that we have no resources, and this is very expensive. How can state deprive you of a right with the justification that it lacks resources? If the measure of house detention is foreseen by the law, then the resources should be created. You cannot tell someone I cannot transfer you in a normal prison because we have no money. Their detention has absolutely nothing to do with the issue of intimidating witnesses, because as I told you the conditions, we have proposed for the house detention in Pristina were stricter. The prosecution to this day treats Mr. Thaci as the arrested person. I am witnesses that he has not only surrendered, but also offered his resignation as president of Kosovo, giving up thus from the immunity of being arrested and detained, and I have accompanied him to a certain place where he voluntarily surrendered to authorities. Whereas he is now being treated as a fugitive of justice as being caught in flagrante delicto. The other justification for keeping him in detention is that because Thaci held high-ranking positions, including the position of prime minister, president, former leader of the Ramboulliet delegation, he has an omnipotent authority. Regardless of this not appropriate climate, I was convinced that the guarantees of the third states which were extremely serious, and these strict conditions of the house arrest cannot be turned down, for instance guarantees have never been rejected, but they gave other justifications to jump to the conclusions they wanted, by even changing the trial panel.

Host: We are in the beginning of the trial. It was stated that the trial will last for several years, it was mentioned that it will last at least six years. The Trial Panel has asked the prosecution to reduce number of witnesses, do you think this trial will take six years, or it will be shorter?

Pallaska: We were hoping the trial was going to be short. The time given to the prosecution to present its case is very long and unexemplary maybe in similar cases or exceeds similar cases or the most complex and serious cases. But I remain optimistic that the deadlines of this trial will be

reduced because it is unsustainable. Even to the best-case scenario, the trial cannot be concluded before November 2026. This means that if Mr. Thaci and others are acquitted it turns out that they have been kept six years in detention, which is a prison sentence. Because in the ICTY people have been convicted to six years found guilty of war crimes and crimes against humanity. I hope that the panel of judges after hearing 12 first witnesses, a process which can last until the beginning of summer, will review once again the deadlines, because it is very difficult to be in the position of these judges who must adjudicate such a voluminous indictment which is completely irrelevant. If you have followed the preparation hearings, the trial panel asked the prosecution how they were thinking to present their case, whether this will be done on the chronological order, and their answer was, no, we will present how it suits us best. In October last year were about one million pages of documents, they took documents from all sources like for instance coming to RTK and taking all documents and include as part of the file which have nothing to do with the four accused. To give you one million documents which are not properly filed, this makes impossible even for artificial intelligence to process such information and let alone one individual who is just a human being. So, the panel of judges is interested to properly manage the file, to structure the file. How can you write a judgment for a file with one million pages, or maybe one and a half million pages, because we have not received the final figures, but I am referring to the references the prosecution made back in November. I believe that after hearing the first twelve witnesses, seeing the dynamics of the trial this will change, because the trial panel has urged the prosecution several times to consider reduction of the case file. Because there is no need, if you have a solid case for instance only ten witnesses are enough. There is no need to have over 300 witnesses. The trial panel has mentioned several times that they will exercise their discretion to reduce the trial. Imagine, the indictment alleges, because to exist war crimes accusations, the war should exist in the first place, and the ICTY in the cases of Limaj and Haradinaj, all courts of UNMIK, all courts of EULEX, all courts of Serbia, have concluded that the war ended in June 1999. This prosecution the smartest of all has concluded that the war ended in September 1999. The trial panel during preparatory sessions told the prosecution 'Are you sure about that'. They asked for substantial motions for this specific point. In these three months reflected of the indictment the war crime accusations should be dropped, if it is confirmed that there was no state of war in that period of time.

Host: Let us return to Kosovo, to see what is going on in Kosovo. A march for justice was held which was supported by many citizens to show solidarity with the former president Thaci, Veseli, Selimi and Krasniqi, and support for the KLA war. A march in Pristina was held. But on the other side, there were discussions on how the institutional leaders of the state have commented on this issue. President Vjosa Osmani speaking to an Austrian daily has mentioned the KLA war and stated that in The Hague will be confirmed that the KLA war was just. But there is an ongoing debate of what Kosovo institutions can do in relation with the Trial in The Hague. You as a legal expert, knowing the principle of separation of powers, what can Kosovo institutions do?

Pallaska: First of all, when it comes to organising of the March for Justice and declaration of institutional leaders, I cannot comment them. I have criticised the leaders of the Specialist Chambers when they dealt with such politics. For instance, if you remember, the President of the Specialist Chambers appearing in a TV studio sworn on her honesty referring to her late mother. This was unexpected. On the other hand, we have heard a lot on the efforts made by the Specialist Chambers to manage public opinion stating that they carry out surveys and are satisfied with the support of the people. I have criticised these actions, because I do not think that a court should be a political player that should manage political expectations. Considering it is a separate power the court should decide with closed eyes, because the symbol of justice, the goddess of justice has its eyes closed for a reason. This is why I do not want to comment. Now, the main problem, and here are involved also media, because every court despite being independent from other layers of the power, it should operate in a democratic environment, and as such should be subject of the democratic control mechanisms. For instance, the court which operates in The Hague, provides media only a link enabling public access of the court sessions which is redacted. How it is possible for a court of a country to operate where there is no physical presence of media in the courtroom. Because journalists do not get information only sitting in the studio, they collect information working on the terrain, the journalist goes after the information. The role of civil society. There is no systematic monitoring of this court. Every court in the world has a systematic monitoring of its work, another credible party should have a saying. Let's say that maybe Kosovo media are not sufficient, civil society of Kosovo is not sufficient, let us engage some special monitors. Someone should monitor the work of this court.

Host: Who should do this?

Pallaska: During my contacts with journalists, I told them that it is not enough to report about the work of the special court from Pristina or through interviews which are aimed at compensating the general part of the transparency. I told journalists that they should go to The Hague, because reporting about the special court is only ten percent of the work, and ninety percent of the job is done by reporting through other means and using other modalities and of course all this should be done within the frame of the ethics of this profession. The civil society is the same. The statistical data about the work of the special court are not enough.

Host: Media were there.

Pallaska: Yes, they were at the opening statements. But this is a marathonic process. To ensure that this court is functioning properly, operates in an environment of a democratic society, it should be subject of all pleasant or unpleasant processes that comes with a democratic society. Questions should be asked, their work should be monitored, because due to lack of accountability, every credible body risk losing its way. My idea is that after we have created everything special, also there should be a special extension covering the special court's work which is not physically

located here. Media, civil society, the Government. I do not know whether the Government monitors the work of the court, or whether it has assigned a special rapporteur. Whether the Government should engage NGOs. Because the interest of international community is not focused despite that a former president is being tried there. The Government should engage a well-known rapporteur, I am referring to the elite academics and legal experts of the world, who should be engaged in this process, and say 'can we see how this procedure is going', 'are Kosovo laws being implemented.' What happens if Kosovo laws are not being implemented? Who is responsible? What happens if the prosecution commits a criminal offence? Who investigates them? We should not allow a body to operate outside all mechanisms that exist in a democratic society aimed at keeping under control and holding accountable an institution. This is one of the absences which I have noticed during my work there. I do not know who can necessarily address this, but if you ask me, I will start in a very simple way, starting from media and civil society and maybe to continue with steps from institutions.

Host: Mr. Pallaska, one last question. I have read your r interviews when you were asked why you have decided to join the defence counsel of former president Thaci. This is referring maybe to your political opinions in the past. You have stated that you accepted this challenge, but to you personally what does this mean to you as a lawyer when this trial will be over?

Pallaska: Initially I would like to explain once again, because I have answered this question long time ago. This was very simple. I am lawyer and people who need my services find me. Obviously, I do not take every case, and there are some preconditions which need to be met. This specific case has fulfilled all the criteria. Which are these criteria. This is not a conventional criminal case. All my colleagues know that I do not deal with ordinary criminal cases which are not complicated. This case is special for every legal expert of criminal and constitutional right. Because for the first time ever in the world we have an international court which operates within the constitutional order of a European state. To me this was one in a lifetime professional challenge, and second, I had no information about this the moment I received the job, and I am referring here the responsibility. What kind of responsibility we are talking about, whether this is individual or collective responsibility such as the joint criminal enterprise which is a very complicated issue. And after I joined the defence counsel, something I was not expecting at all, is the injustice I witnessed in this case that simply has shocked me, both personally and professionally. Regardless of how long will be involved in this case, the injustice I have witnessed it will stay with me forever, because I believe personally in these principles. I think no one, including people who committed crimes, which by the way has nothing to do with the case here, should be subject to such injustice, because the moment an injustice is applied then it can be applied in other cases. The case is very difficult, teamwork which requires a lot of efforts dealing with such a voluminous case, with colleagues from different backgrounds with whom I work on regular basis is not easy and of course requires personal sacrifice, but it is one in a lifetime challenge. What does this mean to my career? I do not know exactly. I did not know Mr. Thaci before being involved in this case, but now I have

exceptional respect for his persona, because of his endurance which I can say that it has surprised me. Knowing that he was part of the politics for a long time, I was not expecting him to be so strong morally and remains an example even to us when we sometimes get upset following clashes, but he is always convinced that we will succeed and it is him who gives us courage to continue further, a quality which I simply did not know that he possessed given that I did not know him earlier. I will always appreciate this.

***Host:** Thank you for all your answer Mr. Pallaska. I asked you the question because this was my first interview with you, and I believe we will have other interviews. It was very important to know because of the entire process which is not common with the cases you have dealt so far. Thank you very much.*

Pallaska: Thank you for your invitation. It was my pleasure.

***Host:** Thank you. Dear viewers we are closing another edition of the RTK Prime show, the new show will be aired again next Tuesday starting at 20:20. With you will be my colleague Bashkim Vishaj. Stay tuned with RTK.*

The end