

1 Wednesday, 12 November 2025

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: For the record, I note that the accused
11 are all present in court today.

12 Today we continue hearing the evidence of Thaci Defence
13 Witness 1DW-008. Before we continue with the evidence of the
14 witness, there's one preliminary matter the Panel would like to
15 address in the nature of an oral order.

16 First, during yesterday's hearing, the Panel marked three pages
17 from DHT03918 to DHT03940 for identification as P04508. The relevant
18 item contains an interview with Wolfgang Petritsch extracted from a
19 book. The Thaci Defence objects to the admission of this item as,
20 one, it amounts to a fundamentally new allegation; and, two, the
21 allegation is contradictory to the SPO's case, and in particular the
22 account in SPO Exhibit P02094. The Thaci Defence contends that
23 therefore there is a lack of notice, and the SPO is not at this stage
24 of the proceedings allowed to put forth a directly contradictory case
25 to that previously led.

1 The SPO responds that the objection is unfounded since the
2 witness addressed the issue of exchange of prisoners, including who
3 from the KLA attended any meetings about such exchanges during direct
4 examination, and therefore the tendering was responsive to the
5 questioning of the witness. The fact that an item is admitted into
6 evidence doesn't mean that the item reflects the SPO's position
7 indefinitely. Three, the accounts in the two items are not mutually
8 exclusive. And, four, the item was recently disclosed to the SPO by
9 the Thaci Defence so it could not tender it earlier.

10 At the outset, the Panel notes that the item was released in the
11 Thaci Defence presentation queue on 28 May 2024 and has been
12 available to the parties and participants since then. Nevertheless,
13 the Panel considers the item is relevant as to whether the accused
14 knew of and participated in the negotiations about detained
15 individuals.

16 Further, the Panel disagrees with the Thaci Defence's contention
17 that the account in this item is necessarily contradictory to that in
18 P02094. In particular, the Panel notes that the calls appear to have
19 taken place on different dates and it would be to different
20 individuals and as such both calls could have taken place. The Panel
21 further notes that the consistency or contradictory nature of this
22 item with other evidence on the record is to be assessed in light of
23 the evidence as a whole, and this will be done at the end of the
24 trial.

25 With regard to authenticity, the Panel is satisfied with the

1 *prima facie* authenticity of the interview. It is an extract from a
2 published book which bears markings such as origin, date, and
3 author's and interviewee's names. Other pages from this item have
4 already been admitted into evidence as 1D00147.

5 With regard to probative value, the Panel is satisfied that the
6 witness has provided sufficient context.

7 With regard to prejudice, the Panel considers it important to
8 address the Thaci Defence's objection of lack of notice. The Panel
9 notes that, as conceded by the Thaci Defence, notice of the
10 allegation that Mr. Thaci allegedly partook in the process of
11 releasing certain detainees is laid out in the pre-trial brief.
12 Contrary to the claim by the Thaci Defence, the fact that the SPO
13 withdrew witnesses on whom it relied to establish that claim cannot
14 be understood as an abandonment on the part of the SPO.

15 The Panel further notes that it has previously heard evidence
16 about Mr. Thaci's alleged knowledge of and participation in the
17 negotiations about these detained individuals. In this respect, the
18 Panel directs parties and participants to, among others, P01091,
19 P01092, P02094, and the evidence of Prosecution Witness W04147.
20 That's at transcript 14011. Therefore, the Panel disagrees with the
21 Thaci Defence that this item amounts to a fundamentally new
22 allegation and that there is a lack of notice or that any unfairness
23 results from its admission.

24 On that point, the Panel notes that it was the Thaci Defence
25 that sought evidence from 1DW-008 on this point. It is proper for

1 the opposing party to address this aspect of the witness's evidence
2 insofar as relevant to its own case.

3 Therefore, and since the parties have had the opportunity to
4 question the witness about this item, the Panel is satisfied that the
5 *prima facie* probative value of this item is not outweighed by any
6 prejudice.

7 The Panel therefore finds that MFI P04508 meets the requirements
8 of Rule 138 and admits the relevant pages into evidence. Considering
9 that the pages from the book extract have already been admitted into
10 evidence, the Panel instructs that the MFI P04508 be added to 1D00147
11 and directs CMU to vacate the exhibit number.

12 This concludes the Panel's first and only oral order for today.

13 So, Madam Court Officer, please bring the witness in.

14 MR. MISETIC: Mr. President, in terms of the next witness, we
15 have him scheduled currently to arrive after lunch. If it's going to
16 be before that, WPSO needs one hour's notice.

17 PRESIDING JUDGE SMITH: Okay.

18 MR. MISETIC: Thank you.

19 PRESIDING JUDGE SMITH: We'll probably work that out anyway.
20 1.00 should be sufficient.

21 [The witness takes the stand]

22 PRESIDING JUDGE SMITH: Good morning, Witness. We proceed now
23 with the rest of your testimony. I remind you to please try to
24 answer the questions clearly with short sentences. If you don't
25 understand a question, feel free to ask counsel to repeat the

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27874

1 question or tell them you don't understand and they will clarify.

2 Also, please remember to try to indicate the basis of your knowledge
3 of the facts and circumstances upon which you will be questioned.

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

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

9 If you feel the need to take breaks, please make an indication
10 and an accommodation will be made.

11 Lastly, as for the US representative, thank you for joining us
12 again this morning. I remind you that at any time if you need a
13 moment to speak with the witness or wish to address the Panel, just
14 raise your hand and we will recognise you.

15 We now continue with questions from the Panel. We'll begin
16 first with Judge Mettraux to my immediate right and your left.

17 JUDGE METTRAUX: Thank you, Judge Smith.

18 WITNESS: CHRISTOPHER HILL [Resumed]

19 Questioned by the Trial Panel:

20 JUDGE METTRAUX: And good morning, Ambassador.

21 A. Good morning.

22 JUDGE METTRAUX: Do you recall being asked questions by the
23 Thaci Defence about what you understood to be the goals of the KLA?

24 A. Actually, I do not recall them asking me about the goals of the
25 KLA. We certainly discussed my view that the goals of the KLA

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27875

1 were -- had to do with independence for Kosovo and their role in the
2 driver's seat as driving this.

3 JUDGE METTRAUX: Thank you. And that's, indeed, what I was
4 referring to. I'm not going to go back into the goals. I'm going to
5 try to see with you to what extent you're able to help us with those
6 who were articulating these goals and purposes and who were
7 expressing those publicly.

8 First, let me ask you maybe something obvious. But if the KLA
9 as an organisation had certain political goals, we can take it that
10 there were people responsible to articulate these goals. Would you
11 agree with that?

12 A. Yes, that's logical.

13 JUDGE METTRAUX: And did you know at the time who it was within
14 the KLA, whose responsibility it was to articulate these goals?

15 A. We did not. However, at a certain time, and I think we
16 discussed the precise timing, Mr. Krasniqi was announced as a
17 spokesman.

18 JUDGE METTRAUX: And do you recall as well as part of your
19 account, and at any stage, if necessary, I will show you the
20 document, that in mid-August 1993, after you had pressed for members
21 of the KLA to be identified as interlocutors, a communiqué was issued
22 with the names of certain political representatives. It was, I
23 believe, 13 August 1998.

24 A. I do recall the fact that there was some kind of announcement
25 which listed some people on it. This was -- if I can give my view of

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27876

1 the context of this, I had in my position as a special envoy, I had
2 made very clear, and others had made clear, that we did not know who
3 was speaking for the KLA.

4 Mr. Demaci, for example, talked about a role for himself with
5 the KLA, but we had never heard that confirmed by anybody. There
6 were many people, it seemed, coming forward as speaking for the KLA.
7 Our problem was we did not have any set of interlocutors that we
8 could address and talk to about what could be a way forward.

9 The issue of independence for Kosovo was a bit of a slogan.
10 That is, people -- everybody said that was their goal. You would be
11 very hard-pressed to find anyone in Kosovo, any Kosovo Albanian
12 supporting autonomy. People would say things like, "I support that
13 Kosovo should achieve republic status," but I think that was broadly
14 understood to mean that, as the other republics of Yugoslavia had
15 seceded from Yugoslavia, that republic status was simply another way
16 of expressing a desire for independence.

17 With that in mind -- and I'm sorry to belabour this point. With
18 that in mind, we searched for interlocutors that we felt were
19 credible and really did speak for the KLA. And while I did spend
20 time with Mr. Demaci as a kind of influencer, to use a contemporary
21 term, I did not believe that he was really speaking for anyone except
22 himself.

23 JUDGE METTRAUX: I'll come back to Mr. Demaci in a moment,
24 Ambassador Hill. But do you recall that one of the ways in which the
25 KLA General Staff was speaking and addressing its political goals was

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27877

1 through the issuance, all through the conflict, of so-called
2 communiqués and political declarations? Do you recall that?

3 A. Yes, I do. And they were also opaque because we didn't really
4 know who was issuing these. And whether it was out of security
5 concerns or whether it was out of the fact that there was no real
6 structure, which was our suspicion, we could never really use these
7 communiqués to determine an organisational vertical structure to the
8 KLA.

9 JUDGE METTRAUX: Well, you've answered my next two questions.
10 You indicated you did not know who issued these documents. But
11 you've told us yesterday, and please confirm that this is a correct
12 understanding, that at some point you came to know of the existence
13 of something called the political directorate of the General Staff?
14 A. Yes, I did. But I'm sorry, I'm hard-pressed to tell you how I
15 knew that, but it was through open sources.

16 JUDGE METTRAUX: And I understood you to have agreed to the
17 suggestion that you knew Mr. Thaci to be a member of that organ; is
18 it correct?

19 A. That is correct because at some point there was an announcement.
20 I make that point because there were lots of people, including
21 non-governmental people, including people from other US Government
22 agencies, who were trying to figure out who was running - if anyone -
23 running the KLA. So when some names appeared, it was worth pursuing
24 those. And, of course, one of them was as the political director,
25 not clear what that position was, but that that was someone to be in

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27878

1 touch with.

2 JUDGE METTRAUX: I'll see in a second if I can jog your memory
3 about where and how you might have learned of the political
4 directorate. But first let me ask you whether you knew or know now
5 who the other members of the political directorate were.

6 A. I don't. I could not -- I cannot sit here and tell you who they
7 are. But if you repeated some names, I would -- I could tell you
8 whether I was familiar with those names or not.

9 JUDGE METTRAUX: I'll go to another question, rather, in a
10 second.

11 But can the Registry please bring up Exhibit P1078, please.

12 And, Ambassador, this is, I think, a document you've seen
13 already. It's one of the cables.

14 A. Yeah.

15 JUDGE METTRAUX: And if we scroll down a little, you will see
16 that the date of the document, it's -- can we scroll back up, please?
17 It appears to be 1 March 1999. Do you see that?

18 A. Yes.

19 JUDGE METTRAUX: And if we scroll back down a little bit, you
20 will see that it's classified by yourself, Ambassador --

21 A. Yes.

22 JUDGE METTRAUX: -- Christopher R Hill.

23 A. Yes.

24 JUDGE METTRAUX: Do you see that?

25 A. Yes, I do. At the risk of repeating my explanation of that,

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27879

1 that is a technical fact.

2 JUDGE METTRAUX: I understand.

3 A. Yeah.

4 JUDGE METTRAUX: I understand. Thank you.

5 Can we please move to page 4 of that document. That would be
6 bearing the ERN 075372. Thank you. And I will ask you to -- if we
7 can scroll down a little bit, the document.

8 In the large middle paragraph, Ambassador, there's a sentence
9 starting with the words "Finally ..." Do you see that?

10 A. I'm sorry. "Only the General Staff, with the political director
11 taking the lead, can make political decisions."

12 JUDGE METTRAUX: I'll read the sentence for you. It's to
13 the seventh --

14 A. Oh, "Finally ..." I see it.

15 JUDGE METTRAUX: Yes. So some words have been redacted. I'll
16 read you the version we have on the screen. It says that:

17 "Finally," and there's a name or a function that's redacted,
18 "told US KDOM late this evening that Demaci was appointed by the
19 General Staff to carry out certain specific functions and they do not
20 include making political decisions for the General Staff. Only the
21 General Staff, with the political [directorate] taking the lead, can
22 make political decisions."

23 Now, the first thing I want to ask you is whether you recall
24 that cable in particular and the content.

25 A. I do not. I want to make clear that these were part of regular

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27880

1 reports being submitted by the US team that was in the field. They
2 were not within the framework of the OSCE team, but they were
3 supposed to work alongside the OSCE team. We knew that the US team
4 had some good contacts, but we were not always sure that this was
5 entirely accurate.

6 JUDGE METTRAUX: Sure. Let me ask you in that way. Did you
7 ever receive any information that would contradict the content of the
8 statement I've read to you?

9 A. I never heard elsewhere that the political directorate was
10 somehow part of the General Staff and leading anything. That was --
11 I never heard that and that was never our assumption. Our
12 assumption, and I want to be clear, assumption in the absence of
13 fact --

14 JUDGE METTRAUX: Yes.

15 A. Our assumption was that the General Staff was more military and
16 consisted of local commanders who somehow got together at some point
17 somewhere and that the political directorate had to do with a kind of
18 interface with the outside.

19 JUDGE METTRAUX: But just to answer my question, you did not --
20 or if you cannot recall, you can also, of course, say so. But did
21 you ever receive any information that would contradict this
22 information?

23 A. I had -- yes. People said, but I'm not in a position to say who
24 exactly and when they said it, that we should not take this
25 literally; that this idea that the political directorate had some

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27881

1 kind of role with the General Staff seemed to be something that
2 people in the political directorate, including people like
3 Mr. Demaci, would try to suggest that they were actually in charge.

4 JUDGE METTRAUX: And --

5 A. Now, this -- I'm sorry to continue.

6 JUDGE METTRAUX: Go ahead.

7 A. But this suggested to us that there was a lot of pushing and
8 shoving in the sense of people wanting to consolidate their position
9 and be stronger than others. That is, this was not a well-organised
10 group of people with clear command responsibilities. That was
11 certainly our impression throughout. And the fact that we never
12 could really locate somebody who could really speak for the rest
13 seemed to confirm our suspicions. It is why I went to Albania in the
14 hopes that, I think his name was Zeka, right, it was -- he had a *nom*
15 *de guerre* as well.

16 JUDGE METTRAUX: Xhavit Haliti.

17 A. Xhavit Haliti, yes. We thought that he might be such a person
18 because some people in the US Government had said he was the one
19 doing a lot of this or managing a lot of the -- getting weapons to
20 people. In the conversation with him, he did not reveal very much,
21 which made me think maybe there is something there, but I never had
22 that confirmed. Some of those trips we took through Shtime and
23 places like that, they were all dedicated to the proposition that
24 perhaps we could find someone who could really speak for the
25 organisation, and we never did.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27882

1 JUDGE METTRAUX: So on to Mr. Demaci. I'm going to try to put a
2 number of propositions to you, and if you feel you need to qualify
3 them, please do so. But would I be right to say you did not have the
4 greatest opinion of Mr. Demaci at the time?

5 A. I'm sorry, that we did not?

6 JUDGE METTRAUX: That you did not.

7 A. Yes, I would like to say "we," because I did not have a
8 different opinion. He was with always very strong words about every
9 subject. He had a certain gravitas because he had been imprisoned at
10 an earlier date. He was known as a -- as having strong views about
11 Serbia's role not only in Kosovo but in the rest of Yugoslavia. And
12 he was not someone you could essentially work with in reaching a
13 document where at the outset not everyone already agreed. He was
14 very strong-minded, which in some circumstances in life is a good
15 thing, but when you're trying to negotiate something, it's not a good
16 thing to have to deal with. We were not interested in promoting him.

17 JUDGE METTRAUX: Well, that's right on my next question. When
18 you were trying to form a negotiation team in the fall of 1998 and
19 looking for potential partners on the LDK side and on the KLA side,
20 is it fair to say that Mr. Demaci is not someone that you were
21 approaching for that purpose?

22 A. That is correct. I visited him on a number of occasions because
23 sometimes people of very strong views can also be influential, and I
24 did not want a situation where I didn't know him or I wasn't privy to
25 his thoughts. But to the extent I could have any role in who our

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27883

1 interlocutors would be, I was not in favour of helping Mr. Demaci
2 consolidate that.

3 I think it's important to understand that these people -- again,
4 in the absence of a command and control system, there was a lot of,
5 as we say, jockeying for position. And I think he felt that he had
6 been through these issues a lot longer than other people and was
7 deserving of a leading role.

8 JUDGE METTRAUX: Which you did not think was right?

9 A. Again, it wasn't up to me to determine who had a leading role,
10 but I certainly didn't want a situation whereby meeting me he was
11 consolidating his role. This is always a concern that just the --
12 when they meet with the Americans, somehow this gives them some kind
13 of imprimatur. So I tried to meet him quietly for the substance of
14 the meeting and to avoid a situation where he could use the meeting
15 to get, as we say, a leg up on the situation. I'm not sure I
16 entirely succeeded, but I think he had his own set of problems
17 dealing with people.

18 JUDGE METTRAUX: Well, I think you might have succeeded, as we
19 will see in a second. But I'll start by asking you this: Do you
20 recall in November 1998 that a man of Serbian ethnicity who had been
21 an inspector in the Serbian police was arrested and Shaun Byrnes was
22 involved in securing his release, which he eventually got? Do you
23 recall that?

24 A. I do not. There were a few such cases where Shaun's team,
25 because they had good contacts with various people, including people

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27884

1 with guns, out in the hinterland, that they were able to persuade
2 these people that this is not a good idea, that if your goal is to
3 have better relations with the Americans, kidnapping people is not a
4 good way to do that. So there were -- as I recall, generally there
5 was some success in getting people to release such people. And I
6 felt that that was the most important role for KDOM and, frankly, for
7 OSCE, which is why when we had the meeting about the eight Serbian
8 soldiers, I wanted to make sure that OSCE was there and that any
9 success would, again, come from this OSCE/KDOM role rather than my
10 role, because my role was negotiation to get to some kind of status
11 for Kosovo that would encourage people to put down their guns and
12 pick up their plowshares and work, go back to normal life.

13 JUDGE METTRAUX: I'll come to the VJ soldiers in a moment, but
14 can we please see Exhibit P188 first. Thank you.

15 And, Ambassador, this is a book of memoirs of Commander Remi,
16 Rrustem Mustafa, written by a different individual. Do you remember
17 Commander Remi?

18 A. I recall the name. I don't recall the circumstances why I
19 should remember him, except that I think he was understood to be a
20 fighter for the KLA.

21 JUDGE METTRAUX: Can we please go to page 82 of the book.
22 That's, I'm told, at page 14 of the PDF.

23 And, Ambassador, I'll ask you to look first to the left column.
24 There's a question in bold that starts with: "While you were still at
25 Shala ..." Do you see that?

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27885

1 A. "While you were still at Shala ..."?

2 JUDGE METTRAUX: It's -- just to explain to you, it's one of
3 these books of -- it's, in effect, an interview, the reprint of an
4 interview of Remi. So the bold is being asked by the author of the
5 book, and then we'll go to the answer that Remi is recorded as
6 giving.

7 A. I see. So these are a book -- this is an example of something
8 done in Albanian and then translated into English.

9 JUDGE METTRAUX: That's our understanding.

10 A. As an aside, I'd like to mention that some of my interviews were
11 done in English, went back into Albanian, and then back into English,
12 which is why I sometimes did not recognise anything I had said.

13 JUDGE METTRAUX: Understood --

14 A. Okay.

15 JUDGE METTRAUX: -- sir. We'll go and look at what is being
16 said here. So I'll read it out for you, and feel free to read it for
17 yourself on the screen. So the question by the journalist is -- or
18 the comment:

19 "While you were still at Shala the KLA arrested a Serb forest
20 guard. He was released at Majac, but the Serb media said he escaped.
21 How did his release take place?"

22 And Remi is recorded as saying:

23 "Within a short time two arrests and two releases took place: of
24 the forest guard and a certain inspector. We did that in order to
25 demonstrate that we were a serious power that we were not out against

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27886

1 people who did not cause any harm to the KLA. In particular by
2 inspector's release we wanted to demonstrate our seriousness and show
3 that we could even ..."

4 Please turn the page and up:

5 "... we could even in places we did not control, such as the
6 city, to take away anyone we wanted."

7 And then the question he is asked:

8 "Can you give some more details regarding this arrest?"

9 And Remi is recorded as saying:

10 "At a moment when Christopher Hill was in Kosova and did not
11 visit the KLA Office Representative Adem Demaci, we wanted to make
12 Mr. Demaci an important factor. I issued an order to three soldiers
13 to [get] out and capture an inspector called Zoran Zbilic. They
14 carried out this action successfully and brought in the Serb
15 inspector at Llapashtice where we held him for three days. A fierce
16 insistence by Shaun Byrnes and other OSCE officials followed for
17 releasing him. I didn't even want to discuss it. Then Adem Demaci
18 came into consideration and for his sake I released him. I think
19 that with this the position of KLA political representative got a
20 push forward. In all, that was a prepared thing."

21 Now, does that refresh your memory about the incident at all,
22 Ambassador?

23 A. It really doesn't. My reading of this is it's rather
24 self-serving. And, you know, sometimes the Serbs would say so-and-so
25 escaped rather than released, and that's also self-serving. So in

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27887

1 reading this, I wouldn't, as we say, take that to the bank. What I
2 think was clear was that Shaun Byrnes's job had kind of become more
3 focused about trying to do something about these issues. But I'm
4 rather sceptical that I didn't visit Adem Demaci, and, therefore, to
5 enhance his position, they went out and picked up an inspector named
6 Zoran Zbilic. It just doesn't ring true to me.

7 JUDGE METTRAUX: But you would accept, I suppose, that those who
8 were supporters of Mr. Demaci, of which Mr. Remi might have been one,
9 might not have looked kindly at your being a bit reluctant to engage
10 with Mr. Demaci. Would you --

11 A. Well, I saw --

12 JUDGE METTRAUX: -- agree with that?

13 A. As I said earlier, I saw Mr. Demaci more frequently than perhaps
14 he warranted. And in any event, Mr. Remi was not in charge of my
15 schedule.

16 JUDGE METTRAUX: I'll repeat my question. You would accept,
17 perhaps, that those who supported Mr. Demaci, of which Remi might
18 have been one, might not have looked kindly at your being a bit
19 reluctant to engage with Mr. Demaci, or would you disagree with that?

20 A. I'm not in a position to answer that. I didn't see everybody on
21 every visit I made, so I don't know the circumstances why I did not
22 see Demaci. I saw him quite often, and he was accompanied by an
23 assistant named Albin Kurti. And I did see them pretty often. I
24 don't know why I wouldn't have seen him. I would never have
25 announced that I'm not going to see him because I don't see what use

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27888

1 that would be. So I'm not really sure why Mr. Remi would feel that
2 the way to respond to that was to go out and kidnap somebody. I just
3 don't -- it's a rather tortured process of logic, so I'm just not
4 there.

5 JUDGE METTRAUX: Fair enough. You are not Mr. Remi.

6 A. That's for sure.

7 JUDGE METTRAUX: Do you recall meeting the Italian foreign
8 minister Lamberto Dini during that period of time, in 1999?

9 A. I think I met him in Belgrade and at -- I think he came to the
10 Rambouillet meeting along with the other foreign ministers.

11 JUDGE METTRAUX: Do you recall an occasion -- and, again, if you
12 can't, we'll go to a document to try to help you. But do you recall
13 an occasion where Foreign Minister Dini complained about a certain
14 communiqué issued by the KLA General Staff?

15 A. I do not recall that specifically. I do know that the Italians
16 were among the more sceptical observers of the KLA behaviour.

17 JUDGE METTRAUX: I'll try to help you, Ambassador. It's been a
18 long time.

19 Can we please see Exhibit 1D267.

20 So as you can see, this is yet another cable. This one is dated
21 26 February 1999. And if we scroll down just a little bit more, you
22 would see that your name appears here under the title of special
23 envoy for Kosovo. Do you see that?

24 A. Yes, I do.

25 JUDGE METTRAUX: And if we could please go to page --

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27889

1 A. Oh, could you just go up to the top. I want to --

2 JUDGE METTRAUX: Sure.

3 A. -- see who drafted it. Oh, Karen Decker. Okay.

4 JUDGE METTRAUX: And if we can go to the page with DHT05129, I
5 think it's the fourth page.

6 And I'll ask you to look at paragraph 12, Ambassador Hill. Do
7 you see that?

8 A. Yeah.

9 JUDGE METTRAUX: So I'll read it for the transcript. It says:

10 "[Ambassador] Hill asked for an explanation of KLA Communiqué
11 No. 31 which Italian [foreign minister]," it says Dint, it should be
12 Dini, "read during the ministerial and which indicated the KLA did
13 not support the efforts at Rambouillet. KLA Rep Thaci stated that
14 whatever agreement was reached at Rambouillet would obligate the KLA
15 to implement it and would be respected on Kosovo. Thaci said 'I
16 guarantee it. I have the power to do so.' Hill answered that it was
17 important to say so, to help regain the trust of the Contact Group."

18 Now, my first question is does that help refresh your memory
19 about this discussion involving Mr. Dini and a communiqué of the KLA?

20 A. All right. I've been shown these -- this message very quickly.
21 But this is, of course, a meeting in Rambouillet between Mr. Thaci --
22 I didn't quite see all the participants. But it was Mr. Thaci and
23 Secretary Albright. And from what I understand, Foreign Minister
24 Dini had complained, probably to Albright, who talked to me about it,
25 and then I raised it in the meeting with Albright and said this is

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27890

1 not helpful to us and that this needs to be fixed. Is that kind of
2 where we are on this?

3 JUDGE METTRAUX: And then this record says you would address
4 this issue with Mr. Thaci; is that right?

5 A. Yeah, let me -- if I -- I mean, this is what's called a memcon,
6 a memorandum of conversation, written and cleared through the
7 Secretary staff. So this is pretty reliable stuff is what I'm
8 saying. So I just wanted to see -- so:

9 "... [Ambassador] Hill pressed the presidency to get their
10 delegation under control and work with the US and not against it."

11 Okay. And:

12 "... the US was manoeuvring ... to accept a 'phony yes' ... in
13 order to go ahead with military strikes ..."

14 I see. I see.

15 JUDGE METTRAUX: And when something in a cable of that sort is
16 within quotation marks, does that mean it's verbatim?

17 A. Yes. And this is important because what it's suggesting --
18 again, I haven't read it because it was shown kind of quickly. In
19 diplomacy, we do learn to read very quickly, sometimes even read
20 upside-down, but I didn't quite get all of this. But this is
21 important because what it's suggesting is the Italian foreign
22 minister is saying that the US is claiming that the KLA supports this
23 Rambouillet process, but it's really a phony yes because the purpose
24 is simply to get on with bombing Serbia. And this is a pretty
25 serious charge made by the Italian foreign minister about the KLA.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27891

1 So we told the KLA that this is very unhelpful to us. And
2 essentially, the KLA is trying to kind of create problems between us
3 and the Contact Group. And I had to tell people within the KLA that,
4 you know, don't overplay your hand because the US has great interest
5 in maintaining good relations with our partners and allies such as
6 Italy, and this is not helpful to us. And we are not going to put
7 ourselves in the position of pushing Italy to do something that Italy
8 feels is not a real yes. And so you, Mr. Thaci, if you're going to
9 leave this impression, you need to fix this.

10 So it was an admonishment to the KLA not to do this kind of
11 thing.

12 JUDGE METTRAUX: Thank you. And you can see, it's still on your
13 screen, it refers to a KLA Communiqué No. 31. I'll show you a
14 document to see if it can help your recollection further.

15 A. Yeah.

16 JUDGE METTRAUX: If it can't, it can't.

17 A. Yeah.

18 JUDGE METTRAUX: Can we please see --

19 A. Yeah.

20 JUDGE METTRAUX: -- Exhibit P541.

21 So, Ambassador, what you have on your screen, I'll describe it
22 for you, and then I'll take you to the relevant part, is something
23 called Political Declaration No. 31.

24 A. Yeah. Could you help me with the date? Is this --

25 JUDGE METTRAUX: I'll take you to the date, sir.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27892

1 A. Okay.

2 JUDGE METTRAUX: There are, in fact, two dates that are relevant
3 for you.

4 A. Because I don't remember the date that Rambouillet ended -- or
5 the session of Rambouillet ended and then the three weeks of
6 consultation began.

7 JUDGE METTRAUX: I'll give you three dates, sir, to help you.
8 The cable we just saw a moment ago was 26 February.

9 A. Yeah.

10 JUDGE METTRAUX: And if you work backwards, this declaration was
11 issued on 20 February. But if you look at the top of the document,
12 you will see that it was published in the newspaper *Zeri i Kosoves* on
13 the 25th. So 20, this declaration is published -- prepared,
14 published publicly on the 25th, and then on the 26th you have the
15 cable.

16 A. But the cable reported on a conversation I noticed which was the
17 21st.

18 JUDGE METTRAUX: That's correct.

19 A. Which, by the way, is ridiculously long time to get the cable
20 out the door, but it speaks to the fact that when the Secretary is in
21 a meeting -- this is not like some KDOM weekly report. This is real
22 stuff, and so people go over it very carefully.

23 JUDGE METTRAUX: Understood.

24 If we could go to the bottom of that page, please.

25 I'll just draw your attention to the last two paragraphs,

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27893

1 Ambassador. And please read them for yourself --

2 A. [Overlapping speakers] ...

3 JUDGE METTRAUX: -- and then I'll ask you about it.

4 A. "... unwavering confidence ..." Yeah. Well, this is -- I think
5 I see what's going on here. I wouldn't have been able to do this
6 without reading this, but I think I see what is happening here.

7 JUDGE METTRAUX: And what is it you see?

8 A. The KLA, by having said yes at Rambouillet, or yes to
9 Rambouillet subject to the consultations, this is an effort to people
10 out there who feel that there is only one goal and that is
11 independence and nothing short of that is acceptable, this is some
12 kind of assurance to those people that, not to worry, we haven't
13 changed anything in terms of our approach. So it's an assurance
14 that: Whatever you've read in Western press, this is what really
15 happened; that is, we have maintained our -- you know, just
16 independence only. I think they call it self-determination.

17 To me it's kind of interesting because they're trying to
18 justify -- they're trying to say only the US can make things happen,
19 so they're kind of explaining that they're working very closely with
20 the US. For me, in the field, working with Wolfgang Petritsch and
21 working with, for example, the Norwegians who had chair in the OSCE,
22 these kinds of comments were not helpful and, frankly, very poorly
23 received. It doesn't help us to suggest that we are more solicitous
24 of the KLA than we are, for example, of the Italian government.

25 So there -- in reading that previous NODIS cable -- by the way,

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27894

1 NODIS is the highest form of classification. You've seen EXDIS.
2 NODIS, in theory, means "no distribution," which is obviously an
3 exaggeration. But when you see a NODIS message involving the
4 Secretary, that was serious stuff, and you probably were able to read
5 that I was trying to give Thaci a tough message.

6 I was -- drawing on my broader diplomatic career, it is not
7 unusual to have this kind of buyer's remorse from one side to say:
8 Hey, we haven't agreed to anything new, folks. Do not worry, we're
9 still where we are. We just had to do this to keep the Americans
10 close because we need them against these Europeans.

11 Very unhelpful, and that's why if you saw a little anger in my
12 voice, it was real.

13 JUDGE METTRAUX: Let's move forward ten days in time to a period
14 you've discussed with both parties, the lull between the Rambouillet
15 negotiation --

16 A. Yeah.

17 JUDGE METTRAUX: -- and the 18th of March when a signature is
18 put to the agreement.

19 Now, first let me ask you this: Do you know where Mr. Thaci,
20 Mr. Krasniqi, and Mr. Veseli went from France at the time following
21 the first round of talks?

22 A. I do not know. I recall that they were taken in a French plane.
23 I thought it was to Skopje, but I guess it was actually Prishtine. I
24 just learned that since being here in The Hague, either yesterday or
25 the day before. But they did go to different places. I do believe I

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27895

1 heard the rumour that Mr. Thaci was in Tirana.

2 I also recall trying to find out from our embassy there if we
3 had any sign that he was there, and they were unsuccessful in
4 locating him or in confirming his presence there. So it is very hard
5 to say.

6 As much as the KLA wanted to work with us, A, they were not a
7 well-organised vertical machine, to be gentle about it; B, they
8 didn't really work with us except when they felt like working with
9 us.

10 JUDGE METTRAUX: And just on that rumour you had heard about
11 Mr. Thaci being in Tirana, Albania, do you recall that this was
12 also -- or the fact he was out of the country is also what
13 Mr. Blerim Shala and Mr. Berisha had been saying in their respective
14 books? If necessary, I'll go back to the books.

15 A. Yes, it's been a long time since I've read Mr. Shala's books.
16 But I gather he was in Albania. I don't know whether really he was
17 in Tirana. I mean, you just need to go up the road to Kukes, you
18 know, in northern Albania, and you'd be meeting Albanian officials
19 there. So I just I don't know. I know that Senator Dole was very
20 disappointed and even angry because he had been a very strong
21 supporter of the Albanians in Kosovo, and he felt it was somehow
22 disrespectful that he did not have proper meetings. So he was more
23 angry from a political sense rather than from the point of view of
24 the agreement.

25 I must say, as we discussed, I guess, yesterday, I was

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27896

1 pleasantly surprised when we had meetings that people seemed to be
2 understanding that Rambouillet was a positive development.

3 JUDGE METTRAUX: Do you remember where other KLA leaders, and
4 I'm going to mention their names, were at that time? And I'm
5 thinking of Xhavit Haliti, Azem Sylja, and Kadri Veseli. During that
6 lull period, did you see any of them in Kosovo?

7 A. I do not recall seeing any of them. Again, our operating
8 assumption, which I believe is valid to this day, is that there was
9 not much organisation and that people were out having conversations
10 with each other, and that it was a very retail business; that is, you
11 couldn't just speak to someone who would then disseminate to people
12 below on what was going to happen.

13 My assumption -- our assumption was that they had to get out and
14 talk to a lot of different people.

15 JUDGE METTRAUX: So just on my question, and just to be clear,
16 I'm sorry to be insistent, but you did not see during that lull
17 period Azem Sylja, Xhavit Haliti, or Kadri Veseli in Kosovo?

18 A. Not that I recall. I don't rule out the possibility that I did.
19 But as I sit here, without a piece of paper in front of me, I do not
20 recall seeing them. I do recall going out to a meeting with KLA
21 people and maybe they were there. I just don't recall the names.
22 I'd have to -- I mean, Tina Kaidanow would usually write up the
23 notes. Shaun would write them up, Shaun Byrnes, and then we would
24 try to make sure that Shaun Byrnes would share them with us, because
25 by the time his KDOM notes got back to the embassy, and then I'd

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27897

1 look -- if I looked at them, I'd say, "Wait a minute, that's not
2 quite right," and then we couldn't find Shaun. So I'd try to get it
3 right in the first place so that we didn't have conflicting notes
4 going back.

5 So I don't know exactly who was at that meeting, except to say
6 that I was pleasant -- pleasantly -- I was optimistic. And, believe
7 me, when you're a special negotiator in Kosovo, you're never
8 optimistic about anything. But I remember that day I was optimistic
9 that maybe this Rambouillet process might work.

10 JUDGE METTRAUX: And we've received evidence, and I'll put it to
11 you if it's useful, if you cannot recall it, in a second, but there
12 was a time when you personally were involved -- or, I'm sorry, were
13 informed that the General Staff had agreed to sign Rambouillet; is
14 that right?

15 A. I must have been at some point told that, because the whole idea
16 of meeting again in Paris was not to come back to Paris and say no
17 but rather to say yes. And so when we knew that the second phase was
18 on, we knew they were going to agree to this. And, again, my
19 conversations with people during this period, which I believe was
20 three weeks, were upbeat about the agreement.

21 To be frank, I was very concerned that, yes, we were getting the
22 Albanian side to yes, but we were not getting the Serb side to yes.
23 And I don't spend a lot of time re-reading my book, but I do remember
24 saying something like, "The Albanians went back to Kosovo to find
25 peace. The Serbs went back to Serbia to get ready for war." So

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27898

1 there was definitely an upbeat feeling about what we were hearing in
2 Kosovo and a very downbeat feeling about what was going on in Serbia.

3 JUDGE METTRAUX: And do you recall, and I'm asking a lot of your
4 memory, I do realise, but do you recall maybe, being upbeat at that
5 point, informing Secretary of State Madeleine Albright that the
6 General Staff had given you that indication?

7 A. I'm sure I would have done that at some point. Again, we had,
8 as I think someone noted yesterday, we had a lot of cooks stirring
9 the broth. We had NGOs, and we had other people who were not working
10 for me such as our director for south-eastern Europe, Larry Rossin,
11 and they had developed some relations of their own.

12 You know, if you're the special envoy, you would like to be able
13 to forbid all conversations that you have not, you know, requested.
14 The reality is there are a lot of cooks stirring the broth, and so I
15 am sure that she was getting -- that is, Secretary Albright was
16 getting positive vibes from a lot of people, and I, I'm sure, at some
17 point confirmed that.

18 JUDGE METTRAUX: And just a couple more questions before our
19 break, Ambassador.

20 But moving on to 18 March 1999 and the signature of the
21 Rambouillet agreement, am I correct to understand that four
22 representatives of the KLA delegation signed that agreement?

23 A. I don't know. But -- I don't recall that, but I certainly
24 recall that the Albanian delegation was all in agreement. So I don't
25 recall who actually signed. Everyone was in agreement. There was

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27899

1 that signing ceremony in Paris.

2 I must say to you as an aside, I was very pleased that people
3 who had not come together before had come together. I think there
4 was an excessive sort of politicisation of things, with people trying
5 to elbow their way in front of Rugova and issues like that, but I
6 think that they had come together, and that was very satisfying to
7 someone who had spent nine months, if not producing a baby, at least
8 producing an agreement on something that people had not agreed with
9 before.

10 That said, there was a sense of melancholy because we knew that
11 Serbia was not there and that we were heading to a very fateful time.

12 JUDGE METTRAUX: So just briefly - briefly - on that, and tell
13 me if my understanding is incorrect in any way: Mr. Thaci signed on
14 behalf of the KLA, Mr. Rugova on behalf of the LDK, Mr. Qosja on
15 behalf of his party, and Mr. Surroi as a sort of civic society
16 individual.

17 A. I do not recall that Mr. Surroi had a signature there. Maybe he
18 did. We had what we thought of as three groups, KLA, LDK, and
19 independent intellectuals, their term, not mine. And so I don't
20 recall that we had four signatures. I do recall we had those three.

21 JUDGE METTRAUX: And I think you made the point a moment ago,
22 but you find yourself in the situation of having one side sign an
23 agreement with no one else on the other side. I have two questions
24 and they link: What was the point? And is it correct that certain
25 states, maybe Italy or others, were a bit reluctant to have that

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27900

1 happen; and if so, why?

2 A. I think there were some states within the Contact Group, and I
3 think it's fair to say Italy was one of them, although I don't speak
4 for the Italian Government then or now. There were certain states
5 saying, "How could you have an agreement where only one side signs?"

6 The concept was to say, "Serbs, this is now going to happen, and
7 your best move would be to get on board and be part of this process,
8 and that is the best way to safeguard Serbian interests, to be part
9 of this process." And as Milosevic had said so many times, he said,
10 "The Albanians will never agree on anything." So this refuted his
11 view that they will never agree. And, therefore, if they would never
12 agree, then Serbia didn't need to agree. He didn't need to agree.
13 So here we have the counter-example. They agreed. So,
14 Mr. Milosevic, you're wrong about that, and you might consider what
15 your next move is, because the Albanian side that you said would
16 never agree with each other, they have done so.

17 So that was the idea. It was not -- at least not for me,
18 because I am someone who believes war is a very serious purpose to a
19 serious end, and I have a lot of problems with that kind of solution.
20 There were people who felt, ah-ha, now we can get ready. Because
21 there were people - I was not one of them - who said: Oh, we just
22 need to bomb Serbia for two days and it'll be all over. He just
23 needs to show that he's been bombed, and then he will join in this
24 process.

25 I was not one of those.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27901

1 JUDGE METTRAUX: I'll see you on the other side of the break,
2 Ambassador Hill, and we'll continue with Mr. Milosevic.

3 PRESIDING JUDGE SMITH: So we'll take a ten-minute break.

4 [The witness stands down]

5 PRESIDING JUDGE SMITH: We're adjourned for ten minutes.

6 --- Break taken at 10.05 a.m.

7 --- On resuming at 10.15 a.m.

8 PRESIDING JUDGE SMITH: Please bring the witness in.

9 [The witness takes the stand]

10 PRESIDING JUDGE SMITH: All right. Ambassador Hill, we will
11 continue with Judge Mettraux's questions.

12 THE WITNESS: Okay.

13 JUDGE METTRAUX: Thank you, Ambassador. And thank you for your
14 patience. We were talking about President Milosevic --

15 A. Yeah.

16 JUDGE METTRAUX: -- so I'll pick it up there.

17 Very briefly, yesterday you discussed, and the day before you
18 discussed, an occasion in which you placed, and you were not certain,
19 in the fall of 1998, perhaps October or November, where
20 President Milosevic made all sorts of allegations against Mr. Thaci.
21 I'm not interested in the nature of these --

22 A. Yeah.

23 JUDGE METTRAUX: -- allegations. What I'm interested about is
24 whether -- a number of things. The first is whether at the time when
25 you had that meeting with Mr. Milosevic you already knew who

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27902

1 Mr. Thaci was.

2 A. Well, I must have; otherwise, he wouldn't have spoken about him
3 by name. So I must have -- I'm deducing that I did.

4 In terms of what was going on, Milosevic felt that we were
5 moving away from Rugova, and he felt that was a very bad mistake
6 because he felt he would be dealing with KLA which was much harder
7 line. Now, I pause to point out that Rugova never ever strayed from
8 independence, but he certainly was not interested in armed struggle.

9 JUDGE METTRAUX: And why, if you know, of course, did Milosevic
10 flag up or point to Mr. Thaci as the alternative to Mr. Rugova?

11 A. I think there were -- it could have taken place after Thaci's
12 name emerged. I'm still not sure when I first met Thaci. But I
13 think Milosevic was concerned that we were going to sideline Rugova
14 and choose the KLA as our partner. Why he was concerned about that,
15 I'm not sure. Certainly, our KDOM, very active contingent under
16 Shaun Byrnes, was naturally dealing a lot more with people in
17 camouflage uniforms than they were the LDK. So that might have been
18 one thing. But just as a general concept, he felt that we were
19 somehow giving up on Rugova. Now, I must say a lot of other people
20 felt we should give up on Rugova. And certainly Mr. Gelbard was much
21 more interested in talking KLA.

22 But to the question of why he mentioned Mr. Thaci by name, I
23 don't recall the circumstances, but there must have been some meeting
24 between Thaci and some Americans, and so he wanted to tell us this is
25 a mistake.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27903

1 JUDGE METTRAUX: As far as you recall, of course, did he mention
2 any other KLA leader?

3 A. I don't remember. I really don't remember. I just remember
4 that name.

5 JUDGE METTRAUX: [Microphone not activated].

6 A. And I think it had to do -- it might have been in the context of
7 the -- when the KLA said who their political director was going to
8 be, when that -- I think that announcement was kind of end of the
9 summer, when the KLA put out one of those statements. I don't know.

10 JUDGE METTRAUX: Well, let me try -- I'm trying to see if we can
11 jog your memory on that. But time-wise, can you remember if the
12 meeting you had with KLA leaders, including Mr. Thaci, in Dragobil on
13 6 November was before or after your meeting with Milosevic?

14 A. If I were sure that it was before, that would be the easy
15 answer. I'm just not sure about that.

16 JUDGE METTRAUX: Fair enough.

17 Now, you've repeated -- a different subject. You have repeated
18 a number of times that some people were accusing you of being a bit
19 too friendly to the LDK and not friendly enough to the KLA. Do you
20 remember saying these things?

21 A. Yes, but I'm also not 12 years old, and I realise that people
22 will accuse you of things like that, and you just have to continue to
23 do the best job you can.

24 JUDGE METTRAUX: I will explain to you why I'm asking you that.
25 I'm not trying to tease you into picking a fight --

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27904

1 A. Yeah.

2 JUDGE METTRAUX: -- with someone on that. But was Mr. Rubin one
3 of the persons who would hold this view?

4 A. You should ask him.

5 JUDGE METTRAUX: I need to ask you, sir. And it's to give you
6 an opportunity to answer something he said that I will come to in a
7 second.

8 A. I think he had more confidence in the KLA than he did in the
9 LDK.

10 JUDGE METTRAUX: I'll take you to the document that's of
11 interest and that explains my question, sir. It's Exhibit 1D358.

12 It's a document that you were shown by the Krasniqi Defence
13 yesterday, Ambassador. I'll show you some of the parts. First, as
14 you see, it's dated 26 February 1999, so that you have a sense of
15 time, and the subject is "KLA Delegation Receives Warm Welcome," and
16 it's classified by you. Do you see that?

17 A. I do. Again, classified by me is just an administrative matter.
18 I believe -- I'm just looking for why this doesn't have the usual
19 line about it coming from KDOM, but maybe we had dispensed with that
20 by that time.

21 JUDGE METTRAUX: I'll first go to this page. Maybe in the
22 second page you'll find --

23 A. Yeah.

24 JUDGE METTRAUX: -- the information you're interested in, sir.
25 But if we can scroll down a little bit --

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27905

1 A. Yeah.

2 JUDGE METTRAUX: -- you'll see under paragraph 1 there's a
3 summary there.

4 Can we scroll down a little bit more, please.

5 And the last sentence in the summary says the following. It
6 says:

7 "Buja," that is Rame Buja, "and Krasniqi," that would be
8 Jakup Krasniqi we know from above --

9 A. Yeah.

10 JUDGE METTRAUX: -- "expressed determined confidence that
11 Demaci's opposition would be overcome."

12 Do you see that?

13 A. Yes.

14 JUDGE METTRAUX: And if we can turn, please, to the next page.
15 Thank you. I'll ask you to look at paragraph 6. If we can scroll
16 down. I'll give you a second for you to read it, and then I'll ask
17 you about it.

18 A. Yeah. Yeah.

19 JUDGE METTRAUX: So I'll read you the couple of sentences that
20 are of interest here. It says:

21 "As noted above Buja commented that the General Staff was
22 meeting that afternoon with Demaci. Buja indicated that he, Krasniqi
23 and Sulja would participate. Asked about Demaci, both Krasniqi and
24 Buja said stiffly that they would 'take care of him' and that his
25 opposition both to the Rambouillet package and to the provisional

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27906

1 government proposed by Rugova, Qosja and Thaqi on February 24, would
2 be overcome."

3 Now, when I asked Mr. Rubin about this passage and in particular
4 the words in quotation marks, "take care of him," he suggested to me
5 that this was yet another indication of your bias against the KLA.
6 So I wanted to give you an --

7 A. My bias?

8 JUDGE METTRAUX: Your bias. Yes, sir.

9 A. Okay. But I didn't write this.

10 JUDGE METTRAUX: And do you recall the discussion with Mr. Buja
11 and Mr. Krasniqi about Mr. Demaci's opposition?

12 A. No, I don't. I don't think I was having the discussion. Does
13 it say I had this discussion? I took this to mean this was coming
14 from Shaun Byrnes.

15 JUDGE METTRAUX: So in response to my question, this is not
16 something reflected of your bias. Would that be fair?

17 A. No, no. I mean, to me, what this is reflective of is the fact
18 that gradually the KLA was coming around to the view that Rambouillet
19 was a good thing to support. It ensured support from the
20 Contact Group, especially the United States, and it would put much
21 greater pressure on Serbia, on Milosevic.

22 So I take this as kind of part of that process. Demaci was a,
23 as I -- as diplomatically as I could put it, in a -- without being
24 rude about it, I think he was a very stubborn individual. And I
25 think they were simply saying they could overcome his stubbornness.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27907

1 You know, on the one hand -- let me just make this general
2 thought. On the one hand, Washington was very concerned about will
3 this lead to a situation where we get involved in a kinetic war,
4 dropping bombs, and that was very much what was on Washington's mind,
5 with opinions split about whether that was going to help.
6 Sandy Berger, the national security adviser, told me after this all
7 happened, he said: I only heard two people ever tell me that
8 Milosevic would give up after two days of bombing. And -- but the
9 other people said this is *terra incognita* once you start dropping
10 bombs.

11 I was in that category of very worried about how this would play
12 out. Some people were not.

13 JUDGE METTRAUX: I won't ask you who, Mr. Hill, and do you that
14 favour.

15 I'll ask you, though, about two other matters and those are the
16 last two matters, you'll be happy to hear, that I want to ask you
17 about. The first one is about the release process of the nine VJ
18 soldiers that you have discussed. And you were shown Exhibit P0191 -
19 if we could bring it up - a couple of times. You will recall it's a
20 manuscript of a book that is attributed to Jakup Krasniqi.

21 A. Yeah.

22 JUDGE METTRAUX: And I want to ask for your assistance here.

23 If we could please go to page SPOE00231065.

24 And I'll give you some context, Ambassador. If you feel we need
25 to read backwards, we'll go backwards --

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27908

1 A. Okay.

2 JUDGE METTRAUX: -- in the book. But you will recall you were
3 shown some information by the parties about a meeting involving you,
4 Mr. Petritsch, and a representative of the General Staff on the 11th.
5 And then there appeared to be a second meeting on the 13th where
6 Ambassador Walker is also present. So here we are in that phase
7 and --

8 A. Which was not the picture that was shown yesterday. That was a
9 different place.

10 JUDGE METTRAUX: Understood. And here if you -- if you need to
11 read the whole page, please take your time. But you will see that
12 Mr. Krasniqi, whose words they are attributed to, explained the
13 process. And he mentions here, it's in the sixth line of the first
14 paragraph at the top, that:

15 "After much tense discussion we requested that this promise
16 should be put in writing, in the format of an agreement," and then
17 there is a parentheses, "(this had been the minimum of that which we
18 had agreed in the General Staff.)"

19 So my first question to you is -- and again, it's a long time
20 ago, but do you remember that as part of these negotiations over
21 these days, at some stage, when you came up with the suggestion of a
22 delayed release of Albanian detainees, that the General Staff was
23 concerned about Milosevic's compliance --

24 A. Sincerity.

25 JUDGE METTRAUX: Sincerity, if you wish, and that they asked for

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27909

1 your undertaking in writing. Do you recall that particular --

2 A. I do. I do. At first the issue was from Mr. Krasniqi who
3 seemed to be the direct interlocutor in this with me. He said, "How
4 can we trust Milosevic?" And I said, "That's not your problem.
5 That's my problem. Your problem is do you trust me." So that we --
6 and -- I kind of riffed on on that point, but I was basically putting
7 all the chips on the table and saying, you know, this is the best
8 that we're going to get.

9 By the way, the idea of the delay was Milosevic's idea, just to
10 be clear.

11 So I do recall, now that you mention it, I do recall that they
12 wanted something in writing, so we put together something. You
13 understand, when an American diplomat gives something in writing,
14 there's a whole bureaucratic process. You don't just write out stuff
15 and say, "Here." The only person I ever saw do something like that
16 was Holbrooke during the cease-fire -- when we had the cease-fire
17 just before Dayton. And I said, "Dick, you can't do that." And he
18 said, "I can't wait for Washington to determine it."

19 So I think I was in a similar situation, but I think I had -- I
20 got more bureaucratic cover in terms of getting more people to agree
21 to that approach.

22 JUDGE METTRAUX: And if you continue reading, you'll see that,
23 in the middle of that paragraph, Mr. Krasniqi is explaining that on
24 13 January he had or:

25 "We had," he said, "difficulty in consulting with colleagues who

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27910

1 were abroad."

2 And then he goes on to say, that's the last section of that
3 paragraph that I want your assistance with, he says this:

4 "We, with the decision which we were taking, would open the way
5 for an important process for Kosovo. In taking this decision we were
6 helped by the practice followed by many of the Assemblies of Elders
7 among our people who demand of the Head of the Family that he should
8 not send his representative to the Assembly if he cannot make a
9 decision. And so we had a responsibility, certainly a very difficult
10 one, more difficult than that of the Assembly of Elders told us in
11 popular stories. The decision was difficult but had great importance
12 for later events."

13 Now, you are quite familiar, I understand, with the Albanian
14 culture. What do you understand Mr. Krasniqi to be saying here?

15 A. I'm not really sure except to say that he's empowered.

16 JUDGE METTRAUX: And do you understand, perhaps, the use of the
17 "we" as him and others taking responsibility for the decision of
18 release?

19 A. I think the understanding to the extent others were involved in
20 this -- and I'm sure this was not coming from just him but rather
21 from various military people who wanted to establish some kind of
22 mechanism for the return of prisoners because there had never been
23 such a thing, and so I think people wanted that. And I think those
24 who wanted to be very tough-minded on this got a little overruled on
25 that. I mean, that's my sense of it.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27911

1 Also, you know, there were -- hanging above a lot of this was
2 the idea that maybe this tough-mindedness was discouraging the
3 Americans. And I think the underlying idea was you've got to stay
4 with the Americans because they're the only ones who can make
5 something happen in their favour. And so there was a little bit of a
6 sense that we may be pushing the Americans a little too far, which is
7 why I did not find it useful to have Americans go out there and be
8 excessively friendly with one side and not the other. I just didn't
9 think that was in our interests and was not going to lead to a better
10 result. So I think that's what was going on with him.

11 And, finally, I just want to be clear about these people were
12 always looking to have the KLA displace the LDK. It didn't happen.
13 In Rambouillet, there ended up being a kind of equal participation.
14 But they were very much interested in displacing the LDK, which had
15 been kind of in charge of the whole Kosovo issues for -- in charge in
16 a foreign policy sense. It was always Rugova that we would meet,
17 et cetera.

18 So when they saw Americans who seemed solicitous of the KLA
19 viewpoint and spoke extremely harshly about Milosevic, they took --
20 some of the hardliners in the KLA took a renewed sense of optimism
21 that we were going to switch that. I did not think that was the
22 right approach. I told people that in Washington, that we need to
23 have a balanced approach where we deal with everybody, but, you know,
24 not everyone agreed with me.

25 I mean, looking at me now, you would be amused to hear some

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27912

1 people saying, "You know, that Mr. Hill, he's too young to be doing
2 this," so ...

3 JUDGE METTRAUX: I won't comment --

4 A. Thank you.

5 JUDGE METTRAUX: -- on that, Ambassador.

6 A. Thank you.

7 JUDGE METTRAUX: I want to take you to one last issue. When you
8 were having a conversation in the past weeks with the Defence, and
9 I'm referring here to your preparation note at paragraph 16, you are
10 recorded as saying that you "recalled the issues with a couple of
11 journalists, and the Serbian soldiers."

12 Now, I want to ask whether your memory is fresher today than it
13 was yesterday and whether you can recall an incident involving the
14 detention of a couple of Serbian journalists.

15 A. You know, I tried to say yesterday these issues came up. And as
16 you discussed, and you showed me some paper 45 minutes ago where
17 someone was being grabbed for the purpose of making a point, and then
18 they were released. So there was a lot of catch and release going
19 on. It was when -- so, you know, these issues would come up in the
20 context that we cannot support you if you're doing this -- if you're
21 kidnapping people.

22 At the time, it was -- this kind of thing was unpleasant. It
23 came up from time to time. But the real issue was to get people
24 engaged on a document -- my real issue was to get people engaged on a
25 document that in -- we knew that in their view would come up short of

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27913

1 what their goals were.

2 JUDGE METTRAUX: I promise it's the last time I try to jog your
3 memory, Ambassador, but I'll try, nevertheless, to give you an
4 opportunity to do that. It's in the book we have in front of us, the
5 manuscript attributed to Mr. Krasniqi.

6 And it's at page SPOE00231058, please. It's page 22 of the book
7 if it helps.

8 A. When was this book published? Oh, this is the unpublished book;
9 right?

10 JUDGE METTRAUX: That is the -- from its cover, it's a "Book in
11 course of preparation" --

12 A. Oh.

13 JUDGE METTRAUX: -- but it bears a date and a place. It says
14 "Prishtina, February 2020."

15 A. Oh.

16 JUDGE METTRAUX: And if we can go to the lower part of the page.
17 Thank you.

18 Mr. Ambassador Hill, the paragraph I'm interested in is the last
19 one that starts with the words, "The delegation ..."

20 A. Okay.

21 JUDGE METTRAUX: Here, the author is discussing two meetings
22 that he had with you and other US State Department, including
23 Mr. Rossin and later the deputy to SRSG Petersen. But what I'm
24 interested in is in the middle of that paragraph to the right,
25 there's a sentence that starts:

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27914

1 "At this meeting there was also discussion about two Serb
2 journalists who had been taken prisoner near Golesh.
3 Christopher Hill requested that they be released as soon as possible,
4 I said that this would happen on the eve of the 28 November
5 celebrations."

6 First, I'll stop here. Do you know what the 28 November
7 celebration refers to?

8 A. I thought this refers to a Yugoslav holiday, *Dan republike*.
9 Yeah.

10 JUDGE METTRAUX: Then he goes on to say:

11 "This seemed to him to be not [too] far away, and he said to me
12 with pointed cynicism: 'You are not going to hand them over to
13 Vlora, are you'?!"

14 A. Vlora as in the city in Albania?

15 JUDGE METTRAUX: I'll read it to you and then I'll ask you the
16 question, if I may.

17 A. Okay.

18 JUDGE METTRAUX: "I replied: 'On 28'" --

19 A. Oh, oh, I get it.

20 JUDGE METTRAUX: -- "'On 28 November everywhere in Kosovo is
21 Vlora.'"

22 A. Yeah.

23 JUDGE METTRAUX: And then he goes to claim:

24 "This reply at the moment came to me completely naturally and I
25 wanted to say that we were continuing along the road which our

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27915

1 enemies had stopped in November 1912, and which had been made
2 official in London in August 1913 by the Ambassadors' Conference."

3 A. Yes.

4 JUDGE METTRAUX: [Microphone not activated].

5 A. I don't --

6 PRESIDING JUDGE SMITH: Just a second --

7 JUDGE METTRAUX: I'll put the question. I did not have my
8 microphone on, Ambassador.

9 PRESIDING JUDGE SMITH: Mr. Misetic had something.

10 MR. MISETIC: [Microphone not activated].

11 PRESIDING JUDGE SMITH: You were just waving?

12 JUDGE METTRAUX: Mr. Misetic was warning me that I did not have
13 my microphone on, and I'm grateful, Mr. Misetic.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 JUDGE METTRAUX: Mr. Misetic is very friendly.

16 Ambassador, my apologies. Do you recall that meeting and
17 discussion with Mr. Krasniqi about this matter?

18 A. I wish I did. I think what I'm saying is I'm showing that I
19 know what day, or where, rather -- Flag Day was the first time the
20 two eagle flag was raised after the collapse of the Ottoman Empire in
21 this part of the Balkans in Vlora in 1912. I just don't remember
22 what day of the month Vlora was. But sometimes it was useful to
23 suggest to an Albanian interlocutor, or any interlocutor really, that
24 you know a little about their history. It's useful because when you
25 can demonstrate some historical knowledge, people are less likely to

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27916

1 tell you things that are, frankly, not really true.

2 So if you show, hey, I get this, it's just helpful. So I'm not
3 sure exactly how I did that. But I guess the reason I don't really
4 remember is they did get released. I tell you, the good news came in
5 short supplies, and you just kind of, okay, and then you're back to
6 bad news. So ...

7 JUDGE METTRAUX: Thank you, Ambassador. Those were my
8 questions. Thank you, sir.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 JUDGE GAYNOR: Thank you.

11 PRESIDING JUDGE SMITH: Judge Gaynor is at your left, my right.

12 JUDGE GAYNOR: Thank you, Judge Smith.

13 Good morning, Ambassador. I'm going to ask you questions just
14 about two State Department cables. Both of these were on the Thaci
15 presentation queue. They're P1067 and P1069. They're both public.

16 Could I ask the Court Officer to call up P1067. And you'll see
17 on your screen in a moment a cable which appears to be from the
18 American embassy in Belgrade to the Secretary of State in Washington
19 DC, also for the information of the European political collective and
20 the American embassy in Tirana. Do you see that?

21 A. Yes, I sure do.

22 JUDGE GAYNOR: And is it likely you may have been one of the
23 recipients of this?

24 A. I would hope so. I'm a little surprised that Belgrade was
25 sending out a cable that late in the day, but I'd have to read what

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27917

1 they're saying about it.

2 JUDGE GAYNOR: And on that point, just so the record is clear,
3 where it says 031734Z Nov 98, does that mean it's sent out at 1734
4 Zulu time on 3 November 1998?

5 A. Correct. But now I see what this is. This is Shaun Byrnes
6 sending a message up to Belgrade, and Belgrade doing a,
7 quote/unquote, light edit of Shaun's report.

8 JUDGE GAYNOR: And his report, it's being sent out on
9 3 November, which is three days before your visit to Dragobil on
10 6 November with Shaun Byrnes; isn't that right?

11 A. That would be correct, yes. My only question is when was it
12 actually drafted and how quickly did they move it out the door. The
13 date time group you see up there is when it actually went.

14 JUDGE GAYNOR: Sure. Now, given that you were going to Dragobil
15 to meet Hashim Thaci, Jakup Krasniqi and others with Shaun Byrnes, is
16 it likely that even if you hadn't read the cable in detail, that
17 Shaun Byrnes would certainly have shared his analysis of the KLA
18 structure with you?

19 A. I can't say that for sure. Shaun, who had served in Embassy
20 Belgrade before, was very concerned that his reporting channel be
21 through Belgrade and not through the special envoy who was --
22 happened to also be the ambassador to Skopje, that is, namely me. He
23 was very concerned that he had this channel and not through me.

24 So in a perfect world, and this was anything but, whatever is in
25 this cable, I haven't read it yet, should have been shared with me,

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27918

1 and we should have had better cooperation -- coordination on this.

2 JUDGE GAYNOR: Can we turn to the next page of the cable,
3 please.

4 Now, under paragraph 5, I'll read it out, but here Mr. Byrnes
5 seems to write:

6 "As best we can tell at this point, the KLA 'General Staff' or
7 headquarters is made up of at least six departments: Political,
8 information, logistics, police, justice and operations. The
9 political department is made up of seven individuals, only one of
10 whom appears to live abroad (Bardhyl Mahmuti). Hashim Thaqi, the
11 Drenica political 'commissar', appears to be the head of the
12 political department. The political department may also be
13 synonymous with the KLA leadership."

14 So do you have any observations about Byrnes' identification of
15 Thaci as being the actual leader of the KLA?

16 A. You know, there were -- honest people disagreed with a lot of
17 issues going on on the ground there. I think Shaun was more inclined
18 than I to suggest there was a well-organised vertical entity known as
19 the KLA. He would use kind of Western military terms. Although,
20 using the term "commissar" may have been harkened back to Shaun's
21 experience working in Moscow. I'm not sure.

22 But he suggests a highly structured organisation that I
23 didn't -- I did not share that view. And I feel to some extent -- I
24 mean, I have nothing but respect for Shaun, but I feel to some extent
25 this attempt to describe an overall organisation of something from

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27919

1 his vantage point went beyond his capacity to do so.

2 JUDGE GAYNOR: And later on in that paragraph, it says:

3 "The Drenica/Malisevo political leadership," which is to say
4 Hashim Thaci, "claims to speak for all of the zones and hints that it
5 is the 'General Staff.'"

6 So that seems to be Byrnes reporting what he has been directly
7 told himself.

8 A. Shaun was, as we say in the Foreign Service, a real street guy.
9 He would go out and talk to people. So he was probably told this by
10 somebody. But as often happened in Kosovo, and Kosovo is not alone
11 in this, information is often designed not so much to inform but
12 rather to influence. And so I think some of this was done to
13 influence us and to convince us that this was an extremely organised
14 army. And I just -- I didn't see this. I would -- I didn't see what
15 he said he was seeing, and, frankly, I disagreed with it.

16 JUDGE GAYNOR: Now, I wanted to take you --

17 A. And I told people that too. I mean, I could not put myself in
18 the position of censoring his cables, but this was not how I would
19 have word -- I would have discussed -- I would have described it.

20 JUDGE GAYNOR: I want to take you now to some visual
21 observations --

22 A. Yeah.

23 JUDGE GAYNOR: -- which are recorded in this cable.

24 If we could go to the next page, please.

25 At the top of the page, it reads:

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27920

1 "For the most part, the KLA troops look fresh, are dressed in
2 what appear to be crisp new uniforms and carry modern infantry
3 weapons. In Likovac, we saw one small unit of half a dozen men
4 dressed in new light grey jumpsuits carrying 12.7mm sniper rifles.
5 Another dozen or so were dressed in the black jumpsuits of the elite
6 'Tigers' unit and were carrying automatic weapons, light machine-guns
7 and shoulder-fired grenade launches. In the Malisevo area, at night
8 we have seen KLA trucks carrying troops in full battle gear."

9 And if we move to the end of paragraph 7:

10 "In Malisevo," it says, "we have seen the largest and best
11 organised groups of KLA troops. On two occasions, we have seen
12 platoon-sized groups (30-40 men) in full battle gear preparing to
13 move out from the village of Pagarusa."

14 I'm just pausing for the interpreters.

15 The impression that is given there is that Shaun Byrnes' group
16 visually observed troop KLA forces that were armed, that were in
17 uniforms, and at least in one location seemed to be organised in
18 platoon-sized groups in full battle gear. Do you have any comments
19 about that?

20 A. I can just say I feel that these paragraphs are designed to
21 influence rather than inform. "The KLA troops look fresh." I don't
22 know what you mean by "looking fresh." Presumably, I don't look very
23 fresh at this moment because I didn't sleep well from jet lag, but
24 someone may say I look fresh. I don't know what that means.

25 "Dressed in what appear to be crisp new uniforms." I don't know.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27921

1 So I understand, I think, what's going on here. But the fact
2 that we could not get in touch with people for nine months, finding
3 any kind of organisation beyond people saying, "Oh, we'll talk to
4 him," "We'll take care of him," you know, this kind of thing, I do
5 not share the view that we are dealing with an organised, Western,
6 you know, NATO-ready army, which is what this makes it sound like.

7 JUDGE GAYNOR: I'd like to move now to page 5. And at the end
8 of page 4, it says:

9 "Our KLA contacts talk repeatedly of the 'General Staff' but are
10 vague about its composition and location."

11 A. Yeah.

12 JUDGE GAYNOR: And it goes on to say:

13 "... the General Staff appears to have at least six
14 'departments.'"

15 And on the next page, those six departments are identified, and
16 you can see them right there: Operations; logistics; political,
17 which is "headed by Hashim Thaqi"; information, which is "primarily
18 responsible for intelligence matters but may have a press function as
19 well"; police, "responsible for law enforcement," "Sabit Geci or
20 Gecaj claims to be in charge of this department"; and justice.

21 So there we see a fairly detailed outline of the structure of
22 the General Staff based on the information that Shaun Byrnes and his
23 team have been able to accumulate, presumably.

24 A. Presumably from KLA sources. This would have to have been from
25 the KLA.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27922

1 One other note I would make is that the KLA was very anxious to
2 say, one, they are the ones who count in Kosovo, not this legacy
3 thing called LDK; two, that if we need allies in a struggle, in a
4 battle against Serbia, we have a well-organised army on the ground
5 known as the KLA; and, three, since they have an army, they have a
6 political control, the only thing they didn't have was an airforce,
7 and frequently we would be told that we needed to get involved in a
8 bombing campaign.

9 So I think a lot of this was designed to influence rather than
10 inform. I think, at a minimum, when you see things like this, the
11 question should be: Okay, check this out. What do they say? How
12 are they -- I mean, go visit them, find out what this really looks
13 like. So I was -- count me as a sceptic in this idea of the KLA
14 organised in this way. To me, the issue was that Kosovo, which was
15 80, 90 per cent Albanian, had been rudely mishandled by the Serbs,
16 the status quo couldn't go on. We needed to restore autonomy, we
17 needed to find interlocutors on the ground to work on our proposals -
18 when I say "our," I'm talking Contact Group - and that we needed to
19 interest Belgrade in changes.

20 This kind of material is, to me, suggesting that we should get
21 ready for war.

22 JUDGE GAYNOR: Thank you. I believe we'll take a break now for
23 half an hour.

24 PRESIDING JUDGE SMITH: We take our regular half-hour break.

25 [The witness stands down]

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27923

1 PRESIDING JUDGE SMITH: We're adjourned until 11.30.

2 --- Recess taken at 11.00 a.m.

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

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: All right. Judge Gaynor has some more
6 questions for you, Ambassador Hill.

7 Go ahead.

8 JUDGE GAYNOR: Thank you, Judge Smith.

9 Could the Court Officer move to the lower half of that page.

10 Ambassador, on the same page we can see that, according to
11 Shaun Byrnes, he says as follows:

12 "According to Hashim Thaqi, the political department of the
13 General Staff is made up of the following individuals:" First,
14 "himself." And then the next paragraph, "Jakup Krasniqi." "We have
15 neither seen him nor heard of his activities in some time. But Thaqi
16 claims that Krasniqi remains active."

17 A. Yeah.

18 JUDGE GAYNOR: And then we see "Bardahl Makmuti."

19 Do you have any comments about the membership of the political
20 directorate there?

21 A. These are familiar names. I'm not sure I have any comments
22 per se. Yeah.

23 JUDGE GAYNOR: If we move then to two pages further on, we just
24 see that it's reported there that:

25 "The KLA leaders we have met recently have made clear their

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27924

1 eagerness for regular contact with US representatives. Thaqi and
2 Makmuti are especially eager for KLA 'leaders' (otherwise
3 unspecified) to meet soonest with Ambassadors Holbrooke and Hill."

4 And then, of course, three days later they did, in fact, meet
5 you, Mr. Krasniqi and Mr. Thaci; isn't that right?

6 A. Yes.

7 JUDGE GAYNOR: And I've read and listened carefully to your
8 evidence of your impressions that you gained at that meeting. And in
9 your summary at paragraph 28, you say:

10 "Thaci was a political leader, not a military leader. Hill did
11 not see [that Thaci] had control beyond what he had in the room."

12 That's what you said.

13 I want to explore that a little, and I want to start off with
14 the difference between political and military. Would you agree that
15 the KLA was an armed liberation movement?

16 A. Yes. The only question was how integrated it was as opposed to
17 various groups being loosely affiliated with it, taking their own
18 orders. And so the question is was it, A, an organisation, as Shaun
19 here suggests.

20 JUDGE GAYNOR: But given that it was an armed liberation
21 movement, what -- what exactly is the difference between a political
22 leader and a military leader of an armed liberation movement?

23 A. I think to some extent in this context, the political leader
24 would be someone who was sort of playing the role - I mean, this is a
25 funny way to put it - of a foreign minister rather than internal

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27925

1 matters.

2 My impression, and all I can give you are my impressions, and my
3 impression is if you look at Thaci's background, there's nothing
4 there that suggests he could have moved issues internally, but
5 externally he understood how the world was working and understood the
6 importance of getting the US on their side and keeping them on their
7 side.

8 JUDGE GAYNOR: We'll move now to P1069. This is another cable.
9 And when it comes up on the screen in front of you, Ambassador,
10 you'll see that it was sent at 0938 Zulu time on 18 December 1998.
11 It appears to be from the American embassy in Belgrade to the
12 Secretary of State in Washington, D.C., the American embassy in
13 Skopje, Info European Political Collective. It's also being sent to
14 JAC Molesworth; DIA, Washington, D.C.; Secretary of Defense,
15 Washington, D.C.; the Commander of the Sixth Fleet, Naples, Italy;
16 CIA, Washington, D.C. And further down in the middle of the page we
17 see "NSC for Hurley."

18 A. Yeah.

19 JUDGE GAYNOR: What does "NSC" refer to here?

20 A. First of all, the way cables are structured is you have
21 embassies that are recipients, and you'll have military operations
22 who are -- military headquarters that are recipients. And, as you
23 see, SECSTATE is the State Department, but for reasons that have --
24 kind of opaque at this point, it sounds like it's going directly to a
25 person. So it's not.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27926

1 I mean, if you, you know, lost your watch and you thought it was
2 at some office in the State Department, you'd send a cable that would
3 said to SECSTATE. It's not to the Secretary of State, it's -- you
4 have to go down to those slug lines. And the slug lines --
5 Department for EUR/SCE, that was the office dealing with south
6 central Europe, that is the Balkans office. TMS, I can't even
7 remember what that one was. So it sounds like this is a cable going
8 to everybody, but it's really going to a couple of people at a fairly
9 low level.

10 And same with NSC. NSC is National Security Council. So you
11 go, my goodness, who is in the National Security Council? That's the
12 president, the vice-president, the secretary of defense, the
13 secretary of state, and then it's for someone named Hurley. I'm not
14 sure even who that is. So you have to be careful not to think that
15 this is going to everybody.

16 What is interesting about this, and I must have known it at the
17 time, but I don't recall it, is EXDIS, not as exclusive. You saw the
18 ones where Madeleine Albright was in the room and that cable referred
19 to -- it was NODIS, meaning "no distribution," highly restricted
20 distribution. EXDIS means "exclusive distribution," also very
21 limited but not as limited as NODIS.

22 So it's a little odd to be sending an EXDIS cable to a couple of
23 offices. It's a little odd. Because an EXDIS cable should -- you
24 should be having the assistant secretary of Europe -- I can't
25 remember who that was right offhand, but you should be having the

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27927

1 assistant secretary getting all the EXDIS. So these look like kind
2 of daily reports that Shaun is sending in, and I think it's -- this
3 is not the first time in US -- in our cable system a little
4 over-categorised.

5 JUDGE GAYNOR: Further down at 1(C), it says:

6 "This report was prepared by US KDOM on the basis of field
7 observations, conversations with Kosovo Liberation Army (KLA) leaders
8 and well-informed Kosovar observers, including senior Serbian police
9 officials."

10 A. Let me just say. So --

11 PRESIDING JUDGE SMITH: Excuse me, Witness. Wait until the
12 question --

13 THE WITNESS: Oh, I'm sorry.

14 PRESIDING JUDGE SMITH: -- gets asked and don't try to
15 anticipate what they're looking for. The previous question you were
16 asked what is NSC. That was all you were asked, and you put in a
17 paragraph like this long.

18 THE WITNESS: Okay. I --

19 PRESIDING JUDGE SMITH: So just try to listen to what the
20 question is. Answer it first. If Judge Gaynor needs more
21 information, he'll ask for it.

22 THE WITNESS: Okay. It was just it's not 1(C). (C) means
23 "confidential."

24 JUDGE GAYNOR: Thank you.

25 Ambassador, was this likely prepared by Shaun Byrnes?

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27928

1 A. Absolutely.

2 JUDGE GAYNOR: Right. On the basis, it appears, of a fairly
3 strong body of background information.

4 A. That is what he's saying, yes.

5 JUDGE GAYNOR: Now, could we go to the second page of this. At
6 the second biggish paragraph you see there, he says:

7 "No clear leader of the KLA has emerged though General Staff
8 political director Hashim Thaqi's profile has become more prominent.
9 In our meetings, KLA military leaders have clearly deferred to
10 Thaqi."

11 I want to invite your comments on the observation that, based on
12 what Byrnes saw, the military leaders were deferring to Thaci.

13 A. This cable was when?

14 JUDGE GAYNOR: 18 December --

15 A. December.

16 JUDGE GAYNOR: -- 1999 -- 1998.

17 A. I think he is saying, and I would agree, that Thaci, who was
18 kind of an unknown, as a result of meeting people, and you recall he
19 was having direct phone calls with Petritsch, had raised his
20 visibility. Yes.

21 JUDGE GAYNOR: If we can move now to a page which has the ERN
22 number 075323. It's also paginated as 8 of 20. That's it. And
23 there's a header here which says "The KLA General Staff." And it
24 acknowledges that the staff is "relatively incoherent because it is
25 constantly in motion." Halfway down, he says:

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27929

1 "Nevertheless, we have been able to identify several GHQ
2 members. They include Hashim Thaqi, chief of the GHQ's political
3 directorate; Rexhep Selimi ... Rame Buja ..."

4 And if we turn the page, we see:

5 "Jakup Krasniqi, KLA spokesman and a member of the political
6 directorate; Suleman 'Sultan' Selimi ... Azem Sula ... and
7 Xhavit Haliti ..."

8 And it goes on to say:

9 "We believe that Sokol Bashota ... and Nuredim Isbishi ... [may
10 also be] members of the GHQ but [they] cannot confirm that."

11 Now, would you agree that here we have rather detailed
12 information based on fairly reliable sources as to the identity of
13 members of the General Staff?

14 A. Yes. However, I note they seem to be all from Drenica.

15 JUDGE GAYNOR: Indeed, that leads into our next point, which is
16 on page 075327, which is also paginated as 12 of 20, I'll read out
17 several parts of this, and it says here:

18 "It appears that the Drenica group has fought and apparently
19 succeeded in asserting its control over the new KLA hierarchy that is
20 emerging. The Drenica group appears to be led by Hashim Thaqi and is
21 made up largely of 'moderates' who favour a political solution over
22 more fighting."

23 That, once again, appears to suggest that if anyone is leading
24 the KLA, it's Hashim Thaci.

25 A. I'm not in a position to analyse -- I mean, he said -- that

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27930

1 appears to be what he's saying.

2 JUDGE GAYNOR: If we go on, around the middle of the page it
3 says:

4 "The leadership is made up of former political prisoners,
5 Jakup Krasniqi and Rame Buja, for example, who became politically
6 active in the early 1980s; of former leaders of the 1999s student
7 movement, Thaqi and Rexhep Selimi, for example; and 'fighters' like
8 Suleman Selimi, Malisevo military commander 'Chelik' and Podujevo
9 military commander Isbishi, a former JNA officer. The former
10 political prisoners are reportedly the leaders of the moderate wing
11 while former student leaders like Thaqi and Selimi are more radical.
12 Though they claim to support the political track in their contact
13 with us, Thaqi's and Selimi's tone and approach are tougher than
14 Buja's, Krasniqi's, and Bashota's. Thaqi, who the others appear to
15 defer to, is nevertheless not universally liked."

16 Now, my reading of that is, again, there is actually very clear
17 identification by name of numerous members of the -- of what this
18 writer believes to be the KLA leadership, and of those, Hashim Thaci
19 appears to be the first among equals, if you like.

20 A. In reading this very quickly, I agree that appears to be what
21 they're -- what it's saying, especially the idea that Drenica has
22 somehow asserted primacy over other groups throughout Kosovo. If
23 this is, I think, great effort to try to put together a lot of
24 disparate information and make it into something coherent so that we
25 would know what we're dealing with.

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27931

1 JUDGE GAYNOR: Now, if we could go to page 075325, we're now
2 talking about the assessed size of the KLA. A protected source has
3 claimed several times -- we're in paragraph 9 at the bottom of the
4 page, I should say. The person's name is redacted.

5 "... has claimed several times that the KLA possesses 30.000
6 soldiers and ... an equal number of weapons. We understand that the
7 KLA table of organisation provides generally that each zone contains
8 five brigades. Brigades can have up to five battalions of 140-150
9 men each. We therefore estimate that the KLA could contain as many
10 as 22.000 men. We doubt, however, that the number is so high and
11 believe a more likely guesstimate is in the seven to twelve thousand
12 range."

13 Did you have any reason to consider these figures inaccurate?

14 A. No, it's just that I don't know how they were compiled. And
15 such information is normally done back in -- normally put together
16 back in Washington within the intelligence community rather than in a
17 cable. So this is a little surprising that there was this amount of
18 texture.

19 Shaun did have a military background, so he was able to make
20 sense of some of this in a way that maybe a typical Foreign Service
21 officer couldn't. But normally this kind of information would be
22 sent back to Washington and there would be an all-sources look at
23 what we're talking about in the KLA. And I am not in a position -- I
24 don't recall whether this was something that the intelligence
25 community had agreed is more or less accurate. I just don't know at

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27932

1 this point.

2 JUDGE GAYNOR: In terms of structure, you've seen that Byrnes
3 assesses that the 7 to 12.000 men were divided into zones, which were
4 divided into brigades, which were divided into battalions.

5 Now, did you at any stage have any opportunity to review
6 internal KLA communications whether issued by the zone commands or
7 the brigade commands or by the battalions?

8 A. I think this granularity of brigades and battalions is something
9 that we were never able to observe or therefore confirm. So this is
10 far more detail about the structure than any embassy in the field
11 could have produced. And for me, the real question would be how was
12 this received in offices, in defence department, in our intelligence
13 community, how did they view this? Did they take it seriously? I
14 don't know.

15 From my point of view, trying to get a negotiation going, it
16 didn't change a lot for me because we knew we needed the KLA as part
17 of a negotiation no matter how many brigades they had. We needed
18 them as part of it, but we didn't need them to be pushing aside the
19 LDK and saying the LDK was somehow irrelevant, which is what some
20 people were trying to say at the time.

21 JUDGE GAYNOR: So would I be right in understanding that your
22 assessment as to the extent to which the KLA was organised or not
23 organised, it was not based to any real extent on reading internal
24 communications issued by the brigades, issued by the zone commands,
25 issued, indeed, by battalions within the KLA? Is that a correct

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27933

1 understanding?

2 A. I'm sorry, could you repeat?

3 JUDGE GAYNOR: What I say is this: Did you have access, as far
4 as you can recall, to a file of documents issued by the zone
5 commands, issued by the brigade commands, issued by the battalions
6 within the KLA?

7 A. I don't recall having access of that kind. I think my reaction
8 to this was let's see what people who deal with this for a living,
9 that is, assessing the capacity of foreign armies -- we have offices
10 within the Defense Intelligence Agency, in the Central Intelligence
11 Agency, whose jobs, morning till night, is to try to come up with the
12 order of battle of every military formation out there in the world,
13 so I would have been interested in what they had to say.

14 But from my point of view of what I was trying to do was to try
15 to make sure we had, I'll use a term from more modern day, our
16 inclusive negotiating team. I wanted to make sure that we had people
17 from the KLA, from the LDK, and then these independent types who I
18 thought could be part of a solution. So that was what I was trying
19 to do.

20 Reading this would suggest that the KLA is -- you know, is a
21 potent force, and maybe they were, but it didn't change what I needed
22 them to do, which was to take part in the negotiations.

23 JUDGE GAYNOR: Those are all my questions. Thank you,
24 Ambassador.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27934

1 Sorry. Judge Barthe has some questions now.

2 THE WITNESS: Can I just make one other point. One thing I
3 noticed in that cable is a lot of paragraphs -- for instance, (C)
4 means "confidential." But N/F means "no foreign," meaning that you
5 would not release the contents of that to a non-American, and it
6 usually means you're trying to keep your office in NATO from giving
7 this to other NATO members. You might say releasable France,
8 Germany, et cetera, I didn't see any of that. So I was a little
9 surprised, why would you try to keep this from allies. So that's
10 just a comment but ...

11 JUDGE GAYNOR: That's very helpful. Thank you, Ambassador.

12 JUDGE BARTHE: Thank you. And good morning, Ambassador Hill. I
13 have only a few more questions for you, and I promise it won't take
14 too long.

15 A. I apologise for my long answers.

16 JUDGE BARTHE: That's okay.

17 PRESIDING JUDGE SMITH: You're not the only one.

18 JUDGE BARTHE: Ambassador Hill, you told us during the last two
19 days of your testimony that Mr. Thaci had been the head of the Kosovo
20 Albanian delegation in Rambouillet representing the KLA. And I
21 assume you're aware that he, Mr. Thaci, later became the
22 prime minister of the so-called PGoK, or Provisional Government of
23 Kosovo; is that right?

24 A. That is correct.

25 JUDGE BARTHE: Apparently, the Rambouillet conference and the

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27935

1 establishment of the PGoK were also the subject of your interview
2 with the Defence, the Thaci Defence, on 9 July 2025, as can be seen
3 from paragraph 33 and the following paragraphs of the summary of your
4 interview. Do you remember discussing this with the Defence,
5 Rambouillet and the establishment of the PGoK?

6 A. Yes, especially the establishment of the negotiating group,
7 which was a three-headed group with nobody leading the other two.

8 JUDGE BARTHE: Thank you. During your examination by the Thaci
9 Defence on Monday, you were shown a document that purported to be the
10 political declaration of the KLA General Staff. And just for our
11 record, this is Exhibit 1D50, and I refer to page 27679 and the
12 following page of our transcript.

13 In that document, Mr. Thaci was announced, along with five other
14 individuals, as a political representative of the KLA. Do you recall
15 seeing this document, which was also mentioned by my colleague,
16 Judge Mettraux, earlier today?

17 A. Yes.

18 JUDGE BARTHE: Now, Ambassador Hill, based on your knowledge at
19 the time and now, do you know what Mr. Thaci did before the war; that
20 is, before March 1998? Do you know whether he had any role in the
21 KLA?

22 A. I was not aware of any role that he had. And our understanding
23 was he had been a student in Western Europe and had returned to
24 Kosovo from those studies.

25 JUDGE BARTHE: Thank you. During your cross-examination by the

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27936

1 Prosecution yesterday, you said that you didn't know whether
2 Mr. Thaci was a founding member of the KLA and that you were not in a
3 position to confirm this. And, again, this is just for our record,
4 can be found on page 75 of yesterday's provisional transcript.

5 Ambassador Hill, do you recall saying this yesterday?

6 A. Yes, that was in answer to the question was he a founding
7 member, and I am not in a position to say whether he was or wasn't.
8 I must say, at the time, we were thinking someone 31 years old who
9 had spent time in Western Europe was probably not a founding member
10 of anything, but I am not in a position to say whether that guess was
11 true or not.

12 JUDGE BARTHE: Thank you. My question now is do you know when
13 and how the KLA was founded and who founded the KLA?

14 A. I don't recall the stories now, but I do recall there were
15 various theories about it, many of them surrounding the attack on the
16 Jashari family home which took place in May.

17 JUDGE BARTHE: Which year, if you know?

18 A. May 1998.

19 JUDGE BARTHE: Thank you. You further said yesterday that prior
20 to the Rambouillet negotiations, Mr. Thaci was described to you as a
21 member of the KLA's political directorate. And this can also be
22 found on page 74 of yesterday's transcript. Is that right?

23 A. Yes, that he was the -- he had the position of political
24 directorate. My concern was I didn't really know what that meant
25 except that he seemed to be the representative or the head of the

Witness: Christopher Hill (Resumed) (Open Session)
Questioned by the Trial Panel

Page 27937

1 delegation to the KLA at the Rambouillet Accords, so that would
2 suggest that he -- there was some clout to that position.

3 JUDGE BARTHE: Thank you. I just wanted to ask you whether you
4 know now who told you that Mr. Thaci was, indeed, a member of the
5 political directorate.

6 A. Again, I think it was contained -- and this is an empirical
7 question that I'm sure someone can look up, but I think it was
8 contained in one of the announcements.

9 JUDGE BARTHE: Thank you. And my final question,
10 Ambassador Hill. Assuming that the information is correct, how do
11 you explain that Mr. Thaci was able to obtain all these positions and
12 roles in the KLA and later in the PGoK; in other words, how was it
13 possible for him, as you said, as a former student, to obtain all
14 these high-ranking positions since you said he had -- or you had the
15 impression that Mr. Thaci has no influence and power and authority?
16 What is your explanation, if you have any?

17 A. Well, I don't have an explanation. I have a number of thoughts,
18 some of which may be conflicting. One of them is that they weren't
19 as powerful as they may have looked to the outside. After all, any
20 decisions he made always seemed to be preceded by a lot of
21 consultation. So my impression was that he was a credible
22 interlocutor but not a decision -maker, and this impression gained
23 some altitude. This impression made sense when he said he could not
24 agree to what was being done at Rambouillet, when he said, "If I go
25 back, I'll be killed." So usually the decision-maker doesn't make

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27938

1 that kind of comment. So I took it to mean that he was trusted to
2 gather the information and trusted to make the arguments that are
3 made by the KLA but not entrusted to make decisions.

4 JUDGE BARTHE: Thank you very much. That's all from me.

5 PRESIDING JUDGE SMITH: Thank you.

6 JUDGE BARTHE: Thank you.

7 PRESIDING JUDGE SMITH: Any follow-up questions?

8 MR. MISETIC: Yes, Mr. President.

9 PRESIDING JUDGE SMITH: Go ahead.

10 Further Re-examination by Mr. Misetic:

11 Q. Good afternoon, Ambassador Hill. I just have a few follow-up
12 questions for you, just following up on what the Judges asked you
13 about and nothing more. You were asked both by Judge Mettraux and by
14 Judge Barthe about what we call the Political Declaration No. 7,
15 which was the declaration on 13 August 1998 where the KLA
16 General Staff purported to announce who its political representatives
17 were.

18 A. Yes.

19 Q. Okay. However, you did not -- that was issued on 13 August.
20 You do not recall meeting Mr. Thaci before 6 November. Should we
21 read into that three-month span anything about what you thought about
22 the announcement on 13 August?

23 A. I'm not sure what could be read into it except that they were --
24 the KLA would often release statements of that kind. Of course, what
25 was interesting here was they're releasing some names. So I know we

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27939

1 tried to find out who these people were. But, again, we were not yet
2 in a position to make proposals along the lines of what we did at
3 Rambouillet.

4 So I don't think there was any purpose in not meeting them. I
5 would stress that it wasn't easy to get to people who were not living
6 in Prishtine and were, obviously, subject to arrest by the Serbian
7 authorities. So I think there are a lot of practical concerns in
8 terms of meeting them. But my recollection is what you suggest,
9 which was that in three months we did not have a meeting, but maybe
10 we did and maybe I'm failing to remember something.

11 MR. MISETIC: Okay. If we could -- you were asked about another
12 document by Judge Mettraux, which is a code cable that I'd like to
13 bring back up on the screen, which is Exhibit 1D267, please.

14 Q. Now, you'll recall this cable.

15 MR. MISETIC: If we could just stop there for a second.

16 Q. Paragraph 2, if we could take a look at that, just so you see
17 the date and the time.

18 A. Yeah.

19 Q. It's about a meeting that took place on 21 February at 1.30 p.m.
20 in the chateau at Rambouillet. Do you see that? And the timing is
21 important here for the next series of questions I'm going to ask.

22 So there's a meeting at 1.30 that afternoon. And if we scroll
23 down and read the summary of the discussion --

24 A. Could I just see who was there?

25 Q. Yes.

Witness: Christopher Hill (Resumed) (Open Session)

Page 27940

Further Re-examination by Mr. Misetic

1 A. So the Secretary, myself, Rubin, Dobbins, and the note-taker,
2 Thaci, Rugova, Surroi, and Qosja. Yeah.

3 Q. Okay. And if we go right underneath that, you'll see where the
4 summary begins:

5 "The Secretary told the Kosovar Albanian presidency they must
6 undo the damage they caused by demanding new concessions of Contact
7 Group ministers, or accept responsibility for the failure of the
8 talks. If the members of the presidency were unable to lead their
9 delegation to accept the current text, the Secretary would be forced
10 to conclude they were not serious about peace or international
11 military security guarantees. She suggested, and the presidency
12 accepted, a strategy to arrive at a final understanding of the text
13 by midnight on February 21," which is that same day. "The Secretary
14 refuted Kosovar Albanian criticisms of the text and [Ambassador] Hill
15 warned language on a referendum would not be forthcoming."

16 If we pause there for a second. Can you tell us based on that
17 summary if you recall what the discussion was about and what had
18 happened?

19 A. Yes, the discussion was -- concerned, I think, a public
20 perception that we were getting the groups to yes, followed by a KLA
21 statement to suggest that they were not on board, and that is when
22 the Italian foreign minister, Mr. Dini, said, "Wait a minute,
23 Americans, you told us they were on board. You told us they were
24 getting to yes." And so the KLA, by making the statement to the
25 effect of they had not agreed to anything, created a circumstance

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27941

1 where we look like we were not being forthcoming with our allies.

2 And, therefore, I think Secretary Albright was reading the riot
3 act to them and telling them, "We can't can go forward with this kind
4 of thing. You, the KLA, you need to fix that." And I guess the --
5 my intervention was a lot of people were very sceptical of this idea
6 of having a referendum because -- it's called a referendum. In the
7 Balkans, it would just be a census. You would know that every
8 Albanian would vote in one way and every Serb would vote in another
9 way, and that this would absolutely determine the future of Kosovo,
10 and everyone knew what that meant. It's one of the reasons the Serbs
11 would not go along with Rambouillet, because of the inclusion of the
12 provision of a referendum.

13 But then for us to come out with the language of a referendum
14 simply made it more difficult to get allied -- our partners and
15 allies interested in going forward. They -- we did not want a
16 situation, as Foreign Minister Dini was suggesting, that we were
17 somehow cooking the books in favour of Kosovo independence.

18 Q. What I'd like to go is step by step in the order of what
19 happened. And the way -- you tell me if I'm wrong, but this passage
20 seems to suggest that the Kosovo delegation was demanding new
21 concessions, and you were warning that language on a referendum would
22 not be included in the text.

23 A. Yeah.

24 Q. At that point in the negotiations, I'm saying.

25 A. I -- at that point in the negotiation, there was a promise of a

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27942

1 referendum but not the text of a referendum.

2 Q. Right. And so let's then continue in the document.

3 MR. MISETIC: And if we could go to the page that was shown to
4 you by Judge Mettraux, which is DHT05129, please.

5 Q. And here we see at paragraph 11:

6 "[Ambassador] Hill added that the last minute demands by the
7 presidency convinced the Contact Group at the highest levels that the
8 US was not being honest with them, and that the US was manoeuvring
9 the Contact Group to accept a 'phony yes' from the Albanians in order
10 to go ahead with military strikes against the Serbs."

11 And if we go into paragraph 12:

12 "[Ambassador] Hill asked for an explanation of KLA
13 Communiqué No. 31 which Italian [Foreign Minister Dini] read during
14 the ministerial and which indicated the KLA did not support the
15 efforts at Rambouillet. KLA Rep Thaci stated that whatever agreement
16 was reached at Rambouillet would obligate the KLA to implement it and
17 would be respected [in] Kosovo. Thaci said 'I guarantee it. I have
18 the power to do so.' Hill answered that it was important to say so,
19 to help regain the trust of the Contact Group."

20 MR. MISETIC: And if we could turn to paragraph 17 in this
21 document before we flip back to this paragraph.

22 Q. 17 is Mr. Thaci's position:

23 "KLA Rep Thaci reiterated it was the delegation's right to ask
24 for language on a referendum in three years' time. Though the demand
25 for a referendum had sparked a negative reaction from the negotiators

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27943

1 and Contact Group, nevertheless, the Kosovar Albanians felt it should
2 at least be taken into consideration. Thaci defended this position
3 by stating that a guaranteed referendum would end the bloodshed in
4 Kosovo, and he assured the Secretary that the referendum would
5 reflect accurately the non-Albanians in Kosovo. Thaci called a
6 referendum 'the key to Rambouillet.'"

7 MR. MISETIC: Now, if we can go back to the paragraph
8 previously.

9 Q. Can you help us understand this sentence:

10 "'Thaci said 'I guarantee it. I have the power to do so.'"

11 What could he guarantee and what was he asking for in your
12 understanding at the time?

13 A. I think he was trying to assure us that he could really speak
14 for the KLA, and not to be concerned about stray voices on the KLA.
15 I remember not thinking that he could really come through with that,
16 so the problem for us was still there. We had a problem convincing
17 our allies that the KLA was serious about Rambouillet.

18 Q. Let me --

19 A. And when this issue came up, it really demonstrated to our
20 partners and allies that you do have a problem.

21 Q. If the agreement included an independence referendum, as
22 Mr. Thaci was demanding --

23 A. Yeah.

24 Q. -- did you think he could then deliver the KLA?

25 A. Jim O'Brien, who was the department lawyer and worked directly

Witness: Christopher Hill (Resumed) (Open Session)

Page 27944

Further Re-examination by Mr. Misetic

1 with Madeleine Albright, had included the fact of a referendum, a
2 will of the people, in Rambouillet, not the text of it, but the fact
3 that there would be in the final text of Rambouillet a reference to
4 disposition of Kosovo being determined by will of the people. So it
5 was there.

6 Our partners, our diplomatic partners felt that this was making
7 it impossible to get Serbia on board, because they -- the Serbs
8 understood that a referendum simply would mean that it's going to be
9 independent and they were not prepared to accept that.

10 So the idea was not to get too explicit about it with a text of
11 a referendum.

12 Q. Okay. We can take a look at what Mr. Thaci's reaction was to
13 that not explicit reference --

14 A. Yeah.

15 Q. -- in the text itself.

16 MR. MISETIC: And if we can go in the new queue that we just
17 released to Exhibit 1D282, which is a code cable from the same day at
18 4.00 p.m., so -- I mean, not the cable but the meeting at 4.00 p.m.
19 of the same day.

20 THE WITNESS: I'm sorry, this is a cable going from the US
21 delegation back to Washington?

22 MR. MISETIC:

23 Q. I'll show you the front page and you can maybe do a better job
24 telling me who it's going to than I could. The cable is dated, as
25 you see, 25 February, but it's reporting on a meeting - if we scroll

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27945

1 down a little bit - on 20 February. And if we turn the page -- first
2 of all, you can take a look to see where it's going and then tell me
3 when I can turn the page.

4 A. Okay. Go ahead.

5 Q. If we turn the page and go to paragraph 2, it tells you the date
6 and time of the meeting that it's reporting on.

7 A. Okay.

8 Q. So this is now two and a half hours after the first meeting
9 began.

10 And if we go to the next page, paragraph 4, the summary says:

11 "The Secretary requested a decision from the Albanian delegation
12 by 4:30 that afternoon on whether it would agree to the proposed
13 interim settlement. The Albanians did not commit to provide one."

14 And if we scroll down the page for Mr. Thaci's position:

15 "Thaqi: Continues to press for referendum."

16 It says:

17 "Thaqi apologised for wasting the time of the Contact Group, but
18 the Albanian delegation had to make important decisions which could
19 not be rushed. He hoped that the United States could understand
20 their tardiness. The Kosovo Albanians have always been and will
21 always be with the United States. However, the people of Kosovo must
22 be able to express their judgment about their status after the
23 expiration of the three year interim period."

24 And now we get to paragraph 9, which is the issue you've been
25 discussing just now:

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27946

1 "The Secretary underscored that the document under consideration
2 by the delegation did not preclude such a right. Ambassador Hill
3 would also be willing to issue a public letter which confirmed the
4 right of the people of Kosovo to hold a referendum after three years.
5 Thaqi rejoindered that Ambassador Hill's letter would be a public
6 letter but not an official letter. It would have no weight."

7 Now, do you recall, does that refresh your recollection about
8 how this discussion was going?

9 A. Yes. Yes, it does. And, of course, Thaci was having trouble
10 selling this to people who counted. You know, not unlike any
11 negotiator, you think you've got a deal, and you're talking to people
12 back home and they're saying, "What? This is terrible. Go back in
13 there and tell them it's unacceptable." It happens all the time to a
14 negotiator.

15 Q. Okay. And then I'll just conclude this by going to what
16 happened 30 minutes later.

17 MR. MISETIC: And if we could go to 1D359, also in the new queue
18 please.

19 THE WITNESS: It's interesting, "public letter" versus "official
20 letter." This is a degree of bureaucratic hairsplitting that kind of
21 eludes me.

22 MR. MISETIC: And if we -- I'll show you again the cover so you
23 can see, and if we can scroll down a little bit, please. And if we
24 turn the page.

25 Q. Do you see in point 2 it's reporting on the meeting at 4.30 on

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27947

1 the same day --

2 A. Yeah.

3 Q. -- in the chateau. And you see the Contact Group members are
4 there as well as the delegation.

5 MR. MISETIC: And if we go to the next page, paragraph 8,
6 please.

7 Q. It says:

8 "The presidency of the Kosovar Albanian delegation
9 (Hashim Thaqi, Rexhep Qosja, Ibrahim Rugova) plus Vetton Surroi
10 entered the room and [Foreign Minister] Vedrine posed both questions,
11 noting that question two would not bind the Russians. Thaqi answered
12 question one (on the framework and political settlement) by stating
13 that we do not say no,' but, at the same time, insisting on the
14 definitive right of the people of Kosovo to express themselves. 'We
15 are calling for the right for a referendum.' Dini asked if this
16 meant yes? Thaqi said they were prepared to say yes only if after
17 the interim period they had a clearly recognised right to hold a
18 referendum."

19 Now, do you recall the communiqué that Judge Mettraux showed you
20 was issued by people calling themselves the General Staff in Kosovo
21 demanding that the right to self-determination be included in the
22 deal?

23 A. Yes.

24 Q. Correct? Okay. So what Mr. Thaci here is -- is what he's
25 demanding here, did you understand it to be consistent with what was

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27948

1 being demanded from Kosovo?

2 A. Yeah, a classic situation of a negotiator, out on the edge of
3 his skis, trying to make the case and getting pushback by people at
4 home.

5 Q. Okay. Thank you. Turning to another topic that Judge Mettraux
6 raised with you which is when this meeting with Mr. Milosevic took
7 place where he mentioned Mr. Thaci, and I'd like to just see if I
8 could just refresh your recollection to maybe establish a date. And
9 I'm going to take you to that chronology that I think you've seen a
10 couple of times now that was published by the Congressional Research
11 Service.

12 MR. MISETIC: If we could please go to DHT02858 to DHT02880,
13 please, which should be in the original queue. And it's now
14 Exhibit 1D310, I'm told. And if we go to --

15 THE WITNESS: Oh, yeah.

16 MR. MISETIC: -- page DHT02872, please. If we scroll down to
17 February 16.

18 Q. Now, in the middle of the Rambouillet talks, it says:

19 "US envoy Christopher Hill flew to Belgrade to meet with
20 Yugoslav President Milosevic in an attempt to make progress on the
21 issue of the NATO peacekeeping presence. Milosevic continued to
22 refuse to accept a future NATO deployment on Yugoslav soil. In
23 Washington, Secretary of State Albright called such a position a
24 'deal-breaker,' and warned that it would be 'followed by NATO
25 bombings.'"

Witness: Christopher Hill (Resumed) (Open Session)

Page 27949

Further Re-examination by Mr. Misetic

1 And if I can further try to refresh your recollection with a
2 newspaper article we found on your meeting here that this is
3 discussing.

4 MR. MISETIC: If we could please call up in the new queue
5 DHT12579 to DHT12594, please.

6 Q. And here you can see there's a series of press reports from a
7 listserv called International Justice Watch that cross-posts
8 newspaper articles.

9 MR. MISETIC: And if we can go to page DHT12585, please.

10 Q. This is now talking about this meeting in February 1999. It
11 says:

12 "Hill travelled Wednesday with British and French
13 representatives, and Serbian negotiator Nikola Sainovic to meet with
14 Milosevic. US State Department spokesman James Foley said Wednesday
15 that Hill 'delivered a very clear message to President Milosevic ...
16 to come to terms now' with the threat of NATO air strikes."

17 THE INTERPRETER: Interpreter's note: The speaker is kindly
18 noted to slow down when reading. Thank you.

19 MR. MISETIC:

20 Q. "Agence France Presse reported February 17 that 'a Western
21 diplomatic source close to the Rambouillet conference, said ... that
22 'the talks lasted just about four hours.'"

23 And to spare the interpreters, I'll let you read the next
24 paragraph. That might refresh your recollection [Overlapping
25 speakers] ...

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27950

1 A. About *The Times* of London?

2 Q. Yes, about the distress that Wolfgang Petrisch had about your
3 trip.

4 JUDGE METTRAUX: Mr. Misetic, just while the witness is reading,
5 will you make sure to ask the witness whether that's the same meeting
6 he's --

7 MR. MISETIC: Well, that's the point. I'm getting there.

8 JUDGE METTRAUX: I'm grateful.

9 THE WITNESS: Okay. I got it.

10 MR. MISETIC:

11 Q. Okay. So, first of all, do you recall that you went to visit
12 Mr. Milosevic in Belgrade during the Rambouillet talks?

13 A. Yes, I do. I recall going twice. I'm having trouble, however,
14 remembering that I was accompanied by Britain and France and not by
15 the EU negotiator. I'm surprised that it says here that
16 Wolfgang Petrisch was chasing the aeroplane down the runway. That
17 just doesn't sound like -- I mean, we -- all negotiations have their
18 problems, but I don't think it was that disorganised.

19 Q. Yeah. Well, so, my question to you is -- and Judge Mettraux had
20 asked you whether Milosevic -- or whether you knew who Thaci was in
21 this meeting where Milosevic called Mr. Thaci a -- someone who
22 tortures people and kills people.

23 A. Yes.

24 Q. Could that conversation have taken place in February 1999?

25 A. Absolutely, it could have been. I thought it was earlier, but

Witness: Christopher Hill (Resumed) (Open Session)

Page 27951

Further Re-examination by Mr. Misetic

1 it could have been. I do know that Milosevic just really worried
2 that we were leaning more to the KLA and not the LDK, and so he was
3 very concerned about that. He had made a similar comment after the
4 meeting in Junik where Holbrooke was seen in that photo that went
5 around the world of sitting next to the Che Guevara figure, and
6 Milosevic says, "Do you understand that you're completely undermining
7 Rugova when you do that."

8 Q. Understood.

9 A. So it was kind of his, you know, continued concern. But we felt
10 that in putting together Rambouillet, we needed everyone there.

11 Q. Thank you. I'll turn to questions that were put to you by
12 Judge Gaynor.

13 MR. MISETIC: If we could please have the cable that he showed
14 you, the first cable, which is P1067.

15 Q. You'll see that this is the 3 November cable that you were asked
16 quite a few questions about.

17 A. Yeah.

18 Q. And I wanted to ask you first about the first page.

19 MR. MISETIC: If we could scroll down a little bit, please.

20 Q. If you could look at number 2, it says:

21 "The following is a lightly edited version -- evaluation" -
22 sorry - "of the Kosovo Liberation Army prepared at the request of the
23 COM by the US KDOM team leader, an experienced politico-military
24 observer. In the interests of time, this report has not been cleared
25 by the embassy's sections and agency representatives who follow

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27952

1 Kosovo affairs."

2 A. Nor by me, by the way.

3 Q. Okay. That second sentence, does that have any impact on how
4 the report should be interpreted?

5 A. I think the embassy Belgrade is trying to signal this is coming
6 from one source without clearances. Clearances are a major element
7 of US Government. That's why every cable looks like a petition,
8 because there are always 15 offices that need to look at something.
9 This clearly had very few.

10 Q. Now, you were asked by Judge Gaynor, or it was pointed out to
11 you, that this is three days before your 6 November meeting with
12 Mr. Thaci. Do you recall that?

13 A. Yes, I do.

14 Q. Nothing in the cable would suggest that Shaun Byrnes had any
15 information that Mr. Thaci had been involved in human rights abuses
16 by the time of this cable; correct?

17 A. No, correct.

18 Q. And if I understood your earlier testimony, he also didn't brief
19 you in advance of that 6 November meeting about any human rights
20 abuses tied to Mr. Thaci?

21 A. No, he didn't, to the best of my recollection. He may have
22 asked me to help emphasise that we don't want any detainees.

23 Q. Okay. But I think you said earlier you don't recall any
24 discussion of that in the meeting?

25 A. I don't.

Witness: Christopher Hill (Resumed) (Open Session)

Page 27953

Further Re-examination by Mr. Misetic

1 Q. Okay. All right.

2 MR. MISETIC: And if we can turn to the next cable that was
3 shown to you by Judge Gaynor, which is P1069, please.

4 Q. This is the cable of 18 December that Judge Gaynor showed you
5 about various assertions being made by Mr. Byrnes concerning
6 Mr. Thaci. You had asked for the date of the cable, and it was
7 pointed out to you that this is 18 December that is the date of the
8 cable.

9 These observations about military people deferring to Mr. Thaci,
10 do you agree that they would have had to have been made by Mr. Byrnes
11 in meetings with Mr. Thaci present?

12 A. Yes.

13 Q. Okay.

14 A. It was unclear to me where that's coming from, frankly.

15 Q. Now -- I believe you know Mr. Byrnes has testified in these
16 proceedings?

17 A. I believe -- I do know, but someone told me it was a long time
18 ago, so I don't know.

19 Q. Okay. The reason I ask is because it's relevant to you
20 specifically. He testified that he met Mr. Thaci on fewer than five
21 occasions over a two-week period from late October to early November.
22 I'm giving you that context because one of those meetings would have
23 had to necessarily been the meeting where you were present on
24 6 November.

25 A. Yes.

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27954

1 Q. Do you understand?

2 A. Yes.

3 Q. So this cable -- my first question to you is: Do you know if
4 Mr. Thaci was even in Kosovo from the middle of November on, until he
5 returned from Rambouillet?

6 A. I have no recollection on thinking that he was not or was. I
7 just don't have recollection on that.

8 Q. Okay. Well, keep in mind this is written on 17 December.

9 A. Yeah.

10 Q. And Mr. Byrnes's testimony is that it was only over a two-week
11 period that he observed this. So I'm asking you now, since you were
12 present at one of the meetings, did you have the same observations
13 about military people deferring to Mr. Thaci?

14 MR. PACE: Your Honour, before the witness answers that
15 question, can counsel clarify if he's saying those are the totality
16 of the meetings Mr. Byrnes said he ever met Hashim Thaci, or could he
17 be more specific or call something up?

18 PRESIDING JUDGE SMITH: Could be more specific.

19 MR. MISETIC: In the indictment period.

20 PRESIDING JUDGE SMITH: The entire indictment period.

21 MR. MISETIC: Yes, I don't believe he met him in the summer --
22 or, sorry, I take it back. He met him in Rambouillet, but we're
23 talking about pre-Rambouillet. So in the period before Rambouillet,
24 that's the entirety of his meetings.

25 MR. PACE: Your Honour, on something of this nature, we really

Witness: Christopher Hill (Resumed) (Open Session)
Further Re-examination by Mr. Misetic

Page 27955

1 should be calling up the evidence. I know counsel thinks I should
2 have knowledge of everything that's ever been said or disclosed or
3 put in a presentation queue in this trial, but this is a very
4 specific --

5 PRESIDING JUDGE SMITH: But he has been calling [Overlapping
6 speakers] ...

7 MR. PACE: No, we are not seeing anything from Mr. Byrnes. This
8 was counsel's misrecollection, misstatement of Byrnes's evidence. So
9 before we put propositions from one witness to another, we need a
10 proper basis for that.

11 MR. MISETIC: It's paragraph 71 of Mr. Byrnes's SPO interview.

12 MR. PACE: Yes, and is that on your presentation queue?

13 MR. MISETIC: I don't need it to be on the presentation -- I
14 just need a good-faith basis to --

15 PRESIDING JUDGE SMITH: Your objection's overruled.
16 Go on.

17 MR. MISETIC:

18 Q. So did you understand my question --

19 PRESIDING JUDGE SMITH: You have a chance to ask questions, too,
20 Mr. Pace.

21 MR. MISETIC:

22 Q. My question to you is: His observations are, at least in part,
23 based on at least one meeting that you were also present, which is
24 why I'm asking you. So can you explain in your own words what
25 dynamics you may or may not have observed between Mr. Thaci and the

Witness: Christopher Hill (Resumed) (Open Session)

Page 27956

Further Re-examination by Mr. Misetic

1 person that was identified by Mr. Pace on cross-examination as

2 Commander Celiku, Mr. Krasniqi --

3 A. This is the gentleman who had the gun in --

4 Q. Correct, yes.

5 A. Yeah.

6 Q. What did you observe?

7 A. My main interlocutor in the meeting was Mr. Thaci. Others did
8 not speak to the best of my recollection. I do not recall any
9 interaction between Mr. Thaci and others to suggest a hierarchical
10 role for Thaci or for the other. I just -- Mr. Thaci came in, he had
11 some notebooks with him, he sat cross-legged on the -- I remember it
12 very well, and we began to talk. I don't remember any orders or -- I
13 don't remember anyone telling anyone else what to do.

14 Q. Okay. Thank you. And, finally, with respect to the question
15 that Judge Barthe asked you about how do you explain how Mr. Thaci
16 may have achieved certain positions, including position as
17 prime minister of the provisional government, my question to you is
18 did Mr. Thaci's interactions with the United States at Rambouillet,
19 do you know if that had any impact on his profile?

20 A. I believe it was extremely helpful to Mr. Thaci. But with
21 regard to what happened afterwards, I would have to defer to someone
22 else on that. But as far as I could see, it was extremely helpful,
23 and he ended up as the person who seemed to be closest to us.

24 Q. Ambassador Hill, I promise this is the last time you will have
25 heard from me in the courtroom, so I just want to thank you again for

1 your time, and we're concluding our cross-examination. Thank you --
2 or direct examination.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. DIXON: Thank you, Your Honours. There is one small matter,
5 if I may be able to ask that, arising from the questions, please.

6 PRESIDING JUDGE SMITH: You haven't been taking part in the
7 Defence --

8 MR. DIXON: I am allowed to ask questions arising from the
9 Judges' questions as has been the practice. So this is not
10 re-examination, it's merely arising --

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. DIXON: Yes, one small matter.

13 PRESIDING JUDGE SMITH: Ask your one question.

14 MR. DIXON: We will easily be done.

15 Thank you, Your Honours.

16 PRESIDING JUDGE SMITH: Please introduce yourself.

17 MR. DIXON: Exactly.

18 Cross-examination by Mr. Dixon:

19 Q. We haven't had a chance to introduce ourselves yet. My name is
20 Rodney Dixon. I act on behalf of Mr. Kadri Veseli.

21 A. Oh, okay.

22 Q. And, Ambassador Hill, I just wanted to ask you one question in
23 relation to a question that was put to you by His Honour
24 Judge Mettraux earlier on, when you were asked about that period
25 after the Rambouillet negotiations but before the signing on

Witness: Christopher Hill (Resumed) (Open Session)

Page 27958

Cross-examination by Mr. Dixon

1 18 March, that lull period. And I'll read the question just so you
2 have the full context. Judge Mettraux said:

3 "Do you know where Mr. Thaci, Mr. Krasniqi, and Mr. Veseli went
4 from France at the time following the first round of talks?"

5 And your answer was:

6 "I do not know. I recall that they were taken in a French
7 plane. I thought it was to Skopje, but I guess it was actually
8 Prishtine. I just learned that being here in The Hague, either
9 yesterday or the day before. But they did go to different places."

10 Now, my question is, bearing in mind what you said yesterday to
11 Mr. Pace from the SPO in relation to Mr. Kadri Veseli, you said that
12 you did not recall in what context that you had heard his name or
13 what he was involved in. So bearing in mind what you've said already
14 in your evidence, is it correct that in relation to that lull period
15 that you were asked about by the Judge, you don't recall anything
16 about Mr. Veseli, where he was, where he might have been travelling,
17 let alone who he was with?

18 A. I do not recall what his itinerary or what his schedule was. I
19 can say as a general comment that it was all part of a -- when these
20 people scattered from the aeroplane in Prishtine, they all had
21 consultations that they were doing. And I later learned that
22 Mr. Thaci had gone to Tirana -- or had gone to Albania. Although,
23 when checked with our embassy there, we did not find out any further
24 information.

25 So I think it is fair to say that we were expecting them all to

Witness: Christopher Hill (Resumed) (Open Session)

Page 27959

Cross-examination by Mr. Dixon

1 go out and canvass opinion, and I think that is, indeed, what
2 happened, because by the time we reassembled, there was a lot more of
3 a positive feeling about Rambouillet than there was the day before --
4 the day before we left.

5 Q. Thank you. And in relation to the name Mr. Kadri Veseli, it's
6 right that you don't recollect him in that context at all, him
7 being --

8 A. No, I do not.

9 Q. -- there, where he might have gone, who he might have been with;
10 is that right?

11 A. I -- that's correct. Now, this -- I want to emphasise there is
12 a passage here of about 26 or 27 years. And I was very much trying
13 to focus on getting all the sides to yes on the autonomy deal.

14 Q. Yes, thank you. Those are my questions. Thank you,
15 Ambassador Hill.

16 PRESIDING JUDGE SMITH: Thank you, Mr. Dixon.

17 Mr. Ellis, anything?

18 MR. ELLIS: Thank you, Judge. Nothing further from us.

19 Thank you, Ambassador.

20 PRESIDING JUDGE SMITH: All right.

21 SPO?

22 MR. PACE: No.

23 PRESIDING JUDGE SMITH: Ambassador Hill, you are finished with
24 us. We thank you for being with us. Thank you for sharing your
25 information. Thank you for following the rules so carefully. And we

1 wish you well in the future.

2 THE WITNESS: Thank you very much. It's been quite an
3 experience.

4 PRESIDING JUDGE SMITH: I'm sure it has. I hope it wasn't too
5 awful.

6 THE WITNESS: I've had worse.

7 PRESIDING JUDGE SMITH: Okay. Thank you. Goodbye.

8 [The witness withdrew]

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 [Trial Panel confers]

11 PRESIDING JUDGE SMITH: If everybody is on board with it, we
12 will start with the next witness at 2.00.

13 Also, Ms. Gearhart-Serna, thank you very much for being with us.
14 Thank you for adding your assistance when necessary. I don't know if
15 you're going to be here next week or not, but we'll see you again
16 then. Thank you.

17 Yes?

18 MR. MISETIC: Judge, that's no problem for us. I just want to
19 alert you that we were told by WPSO that he needs an hour of prep and
20 he's arriving at 1.00. So if you could just check with WPSO -- we'll
21 be here --

22 PRESIDING JUDGE SMITH: An hour -- from 1.00 to 2.00 is one
23 hour.

24 MR. MISETIC: Yes, that's what I'm saying. I assume that is
25 okay, then, with WPSO but -- yeah.

1 PRESIDING JUDGE SMITH: Okay. Thank you.

2 You can leave. You don't have to sit and watch this any longer.

3 All right, everyone. We will plan to reconvene then at 2.00.

4 Thank you for your attendance.

5 --- Luncheon recess taken at 12.39 p.m.

6 --- On resuming at 2.02 p.m.

7 PRESIDING JUDGE SMITH: Yes?

8 MR. MISETIC: Yes, thank you, Mr. President. We sent around an
9 e-mail this morning regarding the scheduling of the witness next
10 week, and the sooner we can find out, the better --

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. MISETIC: Okay. Thank you.

13 PRESIDING JUDGE SMITH: Madam Court Officer, call the case.

14 THE COURT OFFICER: Thank you, Your Honour. This is case
15 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
16 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

17 PRESIDING JUDGE SMITH: All the accused are present in court
18 today.

19 We're going to start hearing the evidence of Thaci Defence
20 Witness 1DW-009.

21 It's going to be a race as to whether my voice lasts to the end
22 of this.

23 Before we start the evidence of the witness, there are some
24 preliminary matters that the Panel would like to address.

25 The Panel notes that the Thaci Defence e-mail regarding

1 scheduling of 1DW-007's evidence on Monday, 17 November 2025, at or
2 after 12.00 p.m., and postponing the scheduled Status Conference
3 until after the completion of the witness's testimony.

4 Do the other parties and participants have any objection to the
5 scheduling of the witness and the Status Conference as proposed by
6 the Thaci Defence?

7 Defence? Anybody?

8 MR. DIXON: [Microphone not activated].

9 PRESIDING JUDGE SMITH: Anything? All right.

10 Mr. Laws?

11 MR. LAWS: No, thank you, Your Honour.

12 PRESIDING JUDGE SMITH: In light of the parties' and
13 participants' submissions, the Panel adjusts next week's hearing
14 schedule as follows: 1DW-007 will begin testifying on Monday,
15 17 November 2025 at 12.00 p.m. Upon completion of 1DW-007's
16 testimony, a Status Conference will be held on Wednesday,
17 19 November 2025. The Panel also vacates the hearing day that was
18 tentatively scheduled for Friday, 21 November 2025.

19 The Panel will further issue four orders.

20 First, the Panel notes that the Thaci Defence requested for
21 leave to reply to F03572, which is the SPO's response to the Thaci
22 Defence second request for admission of documents through the bar
23 table.

24 The Panel recalls that in the order revising deadline for the
25 filing of bar table motions, that is filing F03535, it decided that

1 no replies will be entertained. Nevertheless, the Panel notes that
2 the Thaci Defence requests that its reply be confined to a discrete
3 issue limited to two proposed exhibits.

4 The Panel further notes that the SPO does not object to Thaci
5 Defence's request to reply.

6 In light of the limited scope of the Thaci Defence arguments and
7 the nature of the proposed exhibits, the Panel considers that it will
8 be assisted by these submissions in determining the admission of the
9 two proposed exhibits. The Panel will therefore allow the Thaci
10 Defence to make brief submissions in reply.

11 Mr. Misetic, you may present your submissions.

12 MR. MISETIC: Mr. President, I'm sorry, could I do it after the
13 next break?

14 PRESIDING JUDGE SMITH: Sure.

15 MR. MISETIC: I haven't had a chance to review it yet.

16 PRESIDING JUDGE SMITH: Yes, you can.

17 MR. MISETIC: Thank you.

18 PRESIDING JUDGE SMITH: Second oral order.

19 On 20 January 2025, the Panel admitted into evidence the
20 statement of Prosecution Witness W02183 as P01968. During the
21 hearing, the SPO indicated that it would prepare a public redacted
22 version of the document.

23 The SPO disclosed the public redacted version of the statement
24 in Disclosure Package 1592.

25 On 14 February 2025, the SPO tendered 01610-101634 RED PRV and

1 its translation for admission into evidence and requested that they
2 be assigned Exhibit Numbers P01968.1 and P01968.1_AT.

3 Can I confirm there are no objections?

4 The rest of the Defence? Victims' Counsel? SPO?

5 Having heard the parties and participants, the Panel admits into
6 evidence the public redacted version of P1968 and its translation,
7 and orders that they be added to P01968 and P01968.1 and P01968.1_AT.

8 This concludes the second order.

9 The third order.

10 On 14 February 2025, the SPO requested that P01969, 1972, 1975,
11 1976, 1978, and 1980, and any translations thereof, be reclassified
12 as public.

13 Can I confirm there are no objections?

14 Defence? Victims' Counsel? SPO?

15 Having heard the parties and participants, the Panel
16 reclassifies those named exhibit numbers and any translations
17 therefor as public.

18 This concludes the Panel's third oral order.

19 For the fourth oral order.

20 On 14 February 2025, the SPO informed the Panel that the Thaci
21 Defence Exhibits 1D00230 and 1D00233 can be reclassified as public.

22 Can I confirm there are no objections?

23 MR. MISETIC: No objection.

24 PRESIDING JUDGE SMITH: No objections from the Defence.

25 Any objection? No objections are heard.

1 Having heard the parties and participants, the Panel
2 reclassifies 1D00230 and 1D00233, and any translation thereof, as
3 public.

4 This concludes the Panel's fourth oral order.

5 Madam Court Officer, you had a correction to make? Go ahead.

6 THE COURT OFFICER: Thank you, Your Honour. Yesterday, pages
7 SPOE00058041 and SPOE00058153 to 58155 from the document SPOE00058041
8 to 58445 were tendered by the SPO and the following pages
9 SPOE00058337 to 58338 tendered by the Thaci Defence were admitted as
10 P04507.

11 It appears, however, that this exhibit number was assigned on
12 2 October 2025 to certain pages of another document with ERN 052690
13 to 052841. In that regard, we propose that the document assigned as
14 P04507 on 2 October retains that exhibit number, and the pages
15 admitted yesterday be assigned Exhibit P04508, which was the number
16 vacated this morning in the Panel's oral order.

17 Thank you.

18 PRESIDING JUDGE SMITH: Any objection to that submission?

19 MR. MISETIC: No objection.

20 MS. D'ASCOLI: No objection, Your Honours.

21 PRESIDING JUDGE SMITH: None?

22 MR. LAWS: No objection.

23 PRESIDING JUDGE SMITH: Judge Gaynor -- Judge Mettraux had a
24 question.

25 JUDGE METTRAUX: Yes, thank you, Judge Smith. It's for you,

1 Mr. Misetic.

2 Now that we've granted your application for a change of schedule
3 for next week, do you have any indication of when we can expect to
4 receive the preparation note for the witness, if any? The question
5 being loaded in the sense that if there is one, that perhaps you
6 don't wait four days to read the prep note to the witness and that we
7 get it ASAP.

8 MR. MISETIC: Well, first, with respect to the four days, it's
9 because it's difficult to get these witnesses to give us time to read
10 back these notes. That's the first issue.

11 But, secondly, the preparation is not scheduled until Friday, so
12 I would stay by the 24 hours. I can't promise anything before the
13 24-hours notice that we're required to giving under the Order
14 on [Overlapping speakers] ...

15 PRESIDING JUDGE SMITH: What is scheduled on Friday?

16 MR. MISETIC: The preparation session for next week's witness.

17 PRESIDING JUDGE SMITH: Oh, okay.

18 MR. MISETIC: Yeah. And there's a seven-hour time difference,
19 so it won't start until Friday evening our time.

20 PRESIDING JUDGE SMITH: Can you inquire if you can speed that up
21 in any way?

22 MR. MISETIC: We have made multiple inquiries, and we're
23 thankful to have the time we've been given.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. PROSPER: [Microphone not activated].

Witness: Michael Durkee (Open Session)
Procedural Matters

Page 27967

1 [The witness entered court]

2 PRESIDING JUDGE SMITH: Good morning, Witness.

3 THE WITNESS: Hello.

4 PRESIDING JUDGE SMITH: Can you hear me okay?

5 THE WITNESS: Yes, I can. Can you hear me?

6 PRESIDING JUDGE SMITH: Yes, I have hearing aids.

7 THE WITNESS: Yes.

8 PRESIDING JUDGE SMITH: The Court Usher will now provide you
9 with the text of the solemn declaration which you are asked to take
10 pursuant to Rule 141(2) of the Rules. Take a look at it and then
11 read it aloud.

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

16 WITNESS: MICHAEL DURKEE

17 PRESIDING JUDGE SMITH: Thank you, Witness. You can take a seat
18 now.

19 Witness, today we will start your testimony, which is expected
20 to last approximately two days. As you may know, the Thaci Defence
21 will ask you questions first, and then the remaining Defence teams
22 will have questions for you perhaps. And once they are done the SPO
23 - the Prosecution - will have the right to ask questions of you, and
24 the members of the Panel might also have questions for you.

25 The Thaci Defence estimate for your direct examination is two

Witness: Michael Durkee (Open Session)
Procedural Matters

Page 27968

1 and a half hours. The remaining Defence teams will take
2 approximately one hour. And the SPO estimates that it will need two
3 and a half hours. As regards each estimate, we hope that counsel
4 will be judicious in the use of their time. The Panel may allow
5 redirect examination if conditions for it are met.

6 Witness, please try to answer the questions clearly with short
7 sentences. If you don't understand a question, feel free to ask
8 counsel to repeat the question, or tell them you don't understand and
9 they will attempt to clarify. Also please try to indicate the basis
10 of your knowledge of facts and circumstances that you will be asked
11 about.

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

16 Please also speak into the microphone and wait five seconds
17 before answering a question and speak at a slow pace so that the
18 interpreters, who are watching and listening, can catch up.

19 During the next days while you are giving evidence in court, you
20 are not allowed to discuss with anyone the content of your testimony
21 outside of the courtroom. If any person asks you questions outside
22 this Court about your testimony, please let us know.

23 Please stop talking if I ask you to do so, and also stop talking
24 if you see me raise my hand. These indications mean that I need to
25 give you an instruction.

Witness: Michael Durkee (Open Session)

Page 27969

Examination by Ms. Tavakoli

1 If you feel the need to take breaks, please make an indication
2 by raising your hand and an accommodation will be made.

3 So that you know, at approximately 3.00 we will take a short
4 break, just a ten-minute break, and then we'll get through the end of
5 the day. And if we extend beyond 4.00, we will take an additional
6 break, but we don't anticipate that.

7 So are you ready to proceed?

8 THE WITNESS: Yes, I am, Your Honour.

9 PRESIDING JUDGE SMITH: All right. We begin first with
10 Ms. Tavakoli who will be asking questions to you for the Thaci
11 Defence.

12 Examination by Ms. Tavakoli:

13 Q. Good morning, Mr. Durkee. We've met before. My name is
14 Nina Tavakoli and I represent Hashim Thaci.

15 Could you please state your full name for the record?

16 A. Michael Leroy Durkee.

17 Q. And what is your date of birth?

18 A. August 16, 1939.

19 Q. And what is your nationality?

20 A. US.

21 Q. Did you give a statement to the Thaci Defence which you signed
22 on 27 October 2023?

23 A. Yes.

24 MS. TAVAKOLI: If the Court Officer could please pull up on the
25 screen DHT11739 to DHT11742, please.

Witness: Michael Durkee (Open Session)

Page 27970

Examination by Ms. Tavakoli

1 THE INTERPRETER: Interpreter's note: We kindly ask the
2 speakers to make a pause between question and answer. Thank you.

3 MS. TAVAKOLI: Sorry.

4 Q. Mr. Durkee, do you recognise the document that's on your screen?

5 A. Yes, I do.

6 Q. What is it?

7 A. It is the statement that I prepared and submitted to the Defence
8 earlier this -- 2023.

9 MS. TAVAKOLI: Please could we go to the last page and the
10 bottom of that page.

11 Q. Is that your signature at the bottom?

12 A. Yes.

13 Q. Did you have a chance to review that document before you signed
14 it?

15 A. Yes, I did.

16 Q. And did you have another chance to review it last week?

17 A. Yes, I did.

18 Q. Did you meet with me and my colleagues twice last week via
19 video-conference?

20 A. Yes.

21 Q. And in those meetings, were you given an opportunity to make
22 corrections and clarifications to your statement?

23 A. Yes.

24 Q. Do you recall those clarifications and corrections being
25 recorded in a note which was read back to you?

Witness: Michael Durkee (Open Session)

Page 27971

Examination by Ms. Tavakoli

1 A. Yes.

2 MS. TAVAKOLI: For the record, the preparation note is DHT12570
3 to DHT12573.

4 Q. And subject to those clarifications and corrections that you
5 gave us last week and we recorded in that note, is the information
6 that you provided in the statement to the Thaci Defence accurate and
7 truthful to the best of your knowledge and belief?

8 A. Yes.

9 Q. And subject to those corrections and clarifications recorded in
10 that note, does the information provided in your witness statement
11 accurately reflect what you would say if you were asked the same
12 questions in court as you were asked when you provided the witness
13 statement and that note?

14 A. Yes.

15 MS. TAVAKOLI: Your Honour, we seek admission of the witness
16 statement -- of this witness's witness statement, DHT11739 to
17 DHT11742, that was provisionally admitted by the Trial Panel in
18 decision F03452. We also tender Preparation Note 1, DHT12570 to
19 DHT12573, for admission.

20 PRESIDING JUDGE SMITH: Any objection?

21 MS. D'ASCOLI: No objections, Your Honours.

22 PRESIDING JUDGE SMITH: Anybody else? Any objection?

23 DHT12570 to DHT12573 as the prep note is admitted.

24 THE COURT OFFICER: Thank you, Your Honour. That document will
25 receive Exhibit 1D00427. Classification is confidential.

Witness: Michael Durkee (Open Session)

Page 27972

Examination by Ms. Tavakoli

1 PRESIDING JUDGE SMITH: And the -- I'm sorry, what was the
2 second one? Was that Prep Note 2?

3 MS. TAVAKOLI: No, the statement itself.

4 PRESIDING JUDGE SMITH: Oh, the statement itself, yeah. Also
5 the note is -- I've lost it here.

6 MS. TAVAKOLI: You've admitted the prep note. It's just the
7 statement.

8 PRESIDING JUDGE SMITH: Yeah. 12 -- I've lost track of it here.

9 MS. TAVAKOLI: If I can assist.

10 PRESIDING JUDGE SMITH: Just give me the note again.

11 MS. TAVAKOLI: The statement again.

12 PRESIDING JUDGE SMITH: I mean, the statement again.

13 MS. TAVAKOLI: It's DHT11739 to DHT11742.

14 PRESIDING JUDGE SMITH: Okay. DHT11739 to 11743 --

15 MS. TAVAKOLI: 42.

16 PRESIDING JUDGE SMITH: -- is admitted. 42 is admitted.

17 THE COURT OFFICER: The statement will receive Exhibit 1D00428,
18 and classification is confidential.

19 MS. TAVAKOLI: Thank you.

20 PRESIDING JUDGE SMITH: Go ahead.

21 MS. TAVAKOLI: Thank you.

22 On 10 November 2025, the Thaci Defence submitted by e-mail a
23 proposed summary of this witness's now admitted Rule 154 statement to
24 the Panel, all parties, and participants. We have not received any
25 objection to that proposed summary, so with your leave, I will read

Witness: Michael Durkee (Open Session)

Page 27973

Examination by Ms. Tavakoli

1 it now.

2 PRESIDING JUDGE SMITH: Leave is granted.

3 MS. TAVAKOLI: Michael Durkee is a retired senior US Foreign
4 Service officer who served as a political adviser to four NATO
5 Supreme Allied Commanders in Europe from 1993 to 2009, including
6 General Wesley Clark.

7 In 1999, Michael Durkee's role included providing advice and
8 counsel to General Wesley Clark and senior NATO military officers and
9 acting as a liaison from the SACEUR to the ambassadors to NATO as
10 well as to actors on the ground in Kosovo.

11 As part of his role, Mr. Durkee attended a meeting between
12 General Clark and the Kosovar delegation to Rambouillet at which he
13 interacted with Hashim Thaci. General Clark and Mike Durkee got the
14 sense that the KLA leaders wanted independence for Kosovo but lacked
15 a clear military strategy and capability to achieve that goal.

16 Mr. Durkee also provides observations about the wave of post-war
17 violence that engulfed Kosovo in the summer of 1999. In his view, it
18 was a widespread social reaction that neither KFOR nor the KLA
19 leadership could control. It was not organised from the top but was
20 spontaneously generated at the local level, motivated by revenge,
21 personal grudges, score settling, opportunistic property theft, and
22 long-standing feuds between families and criminal gangs.

23 The KLA leadership was unable to control the violence in part
24 because the emotions of the displaced population were so strong, but
25 also because the KLA had no solid chain of command.

Witness: Michael Durkee (Open Session)

Page 27974

Examination by Ms. Tavakoli

1 In Mr. Durkee's view, Mr. Thaci had no motive to promote KLA
2 violence but every incentive to tamp it down if he could. Ordering
3 or encouraging KLA soldiers to commit interethnic violence or acts of
4 revenge could only serve to undermine trust with the international
5 community and jeopardise everything Mr. Thaci sought to accomplish.

6 Q. Now, Mr. Durkee, I'd like to start with a few background
7 questions about your career and professional experience.

8 Now, for how many years did you serve in the US Foreign Service?

9 A. I served from 1967 until the end of 1999.

10 Q. Thank you. Now, in paragraph 3 of your -- can I just clarify,
11 you said you've -- it was until the end of 1999. I'm asking --

12 A. Oh, sorry. I'm sorry. 1998. Thank you.

13 Q. And you retired on 31 December 1998; is that correct?

14 A. That's correct.

15 Q. Now, in paragraph 3 of your statement, you note you were first
16 selected in 1967, and you were assigned to various diplomatic posts,
17 principally in Europe and South America. Can you give the Court a
18 flavour of what type of posts you held in that period, briefly.

19 A. During most of that time, I was assigned as a political officer
20 in embassies abroad and back in the Department of State in
21 Washington. A political officer in the Foreign Service is
22 responsible for the collection of political information, political
23 analysis, and assessments and recommendations provided to higher
24 levels.

25 Q. Thank you. And in which countries did you serve in that period?

Witness: Michael Durkee (Open Session)

Page 27975

Examination by Ms. Tavakoli

1 A. I've served in Ecuador, I've served in Norway, I've served in
2 Switzerland. I've served as the Spanish desk officer at the time of
3 the fall of the Franco regime. I served later in Canada, again in
4 Finland, and then later in both Washington assignments, and then off
5 to my retirement.

6 Q. And when were you promoted to the Senior Foreign Service?

7 A. I believe I was first promoted to that level in -- while I was
8 serving in Helsinki, Finland, in 1984.

9 Q. And once you were promoted to the Senior Foreign Service, what
10 posts did you hold, in brief?

11 A. That was while I was serving as the deputy chief of mission in
12 the embassy in Helsinki. I went back briefly to be the senior
13 assistant to one of the assistant secretaries in the Department of
14 State. Then I went as consul general to Toronto, and from there I
15 was selected to go to the political adviser position in the US Naval
16 Command for Europe based in London. From there I was selected to go
17 to SHAPE to serve as the political adviser to SACEUR. So from 1993
18 to the events of 1999, I had been serving as a political adviser to
19 senior military leaders.

20 Q. Were those military leaders all Americans?

21 A. Yes.

22 Q. You retired from the United States Foreign Service on
23 31 December 1998 with the rank of minister counselor. What is that
24 rank?

25 A. Without getting too detailed about the rank structure within the

Witness: Michael Durkee (Open Session)

Page 27976

Examination by Ms. Tavakoli

1 Foreign Service, it is the second-highest career level that a Foreign
2 Service officer can reach.

3 Q. And what is the highest?

4 A. That would be minister.

5 Q. Thank you. Now, 1999 wasn't the end of your diplomatic career,
6 was it?

7 A. No.

8 Q. In paragraph 4 of your statement, you say that you were then
9 employed at SHAPE directly, so by NATO, from 1 January 1999 until
10 your retirement in 2004; correct?

11 A. Yes.

12 Q. And then you continued as an unpaid senior adviser to the SACEUR
13 until 2008; correct?

14 A. Yes.

15 Q. And then you also say in paragraph 4 that you returned to the
16 US State Department as the Deputy Special Envoy for Middle Eastern
17 Security from 2008 to April 2009; is that correct?

18 A. That is correct.

19 Q. Now, was that the last diplomatic position that you held?

20 A. Yes.

21 Q. I now want to ask you about your professional experience working
22 in or on countries in the Balkans. In paragraph 5 of your statement,
23 you stated that you worked in Bosnia with Admiral Layton Smith in his
24 role as commander of the IFOR mission. When was that and, again in
25 brief, when was that role?

Witness: Michael Durkee (Open Session)

Page 27977

Examination by Ms. Tavakoli

1 A. As with many US officers serving in NATO positions,
2 Admiral Layton was what we call dual-hatted. That is, he held a
3 position as a senior US commander, commander of US Naval Forces
4 Europe, and also as a NATO commander as commander of Allied Forces
5 South headquarters in Naples, Italy. And so while I was stationed in
6 London, the State Department, in its wisdom, had eliminated the
7 similar political adviser position in Naples, so he had two
8 headquarters, two command staffs, but only one political adviser.

9 And so for the time leading up to the deployment of IFOR, I
10 shuttled between London and Naples, trying to work with both staffs
11 to prepare them for the mission that was assigned under the Dayton
12 Accords.

13 Q. And what years -- year was that?

14 A. I was in London 1993 to 1995. The Dayton Accords of 1995
15 required a good deal of military preparation, because it was the
16 first time that NATO had ever assumed a mission outside NATO nation
17 territory.

18 Q. And did you go to Bosnia in the course of that role?

19 A. Once the IFOR had been deployed, Admiral Smith and I were --
20 well, he was living in Sarajevo. I visited. But in summer 1995, I
21 was reassigned to SHAPE.

22 Q. Thank you. And aside from your work on Kosovo that you are here
23 to testify about, do you have any other professional experience
24 working in or on the Balkans?

25 A. As the Partnership for Peace was established in 1993, and as the

Witness: Michael Durkee (Open Session)

Page 27978

Examination by Ms. Tavakoli

1 former Warsaw Pact nations were beginning to look at the possibility
2 and to apply for NATO membership, at SHAPE we undertook various
3 visits and analyses trying to figure out what would be required for
4 them to attain the capabilities and to prepare for membership. And
5 so in that capacity, we visited areas in the Balkans - Bulgaria,
6 among other things, but also the countries that were then breaking
7 free of the former Yugoslavia, Slovenia and Croatia.

8 Q. Now, you've received a number of awards and decorations over the
9 course of your career, some of which you've detailed in paragraph 6
10 your statement. Were any of these awards for your work honouring
11 Kosovo?

12 A. The NATO Medal for Operations in the former Yugoslavia was
13 awarded on the basis of my assistance to SACEUR and the staff in the
14 campaign against the Serbs.

15 Q. And when were you awarded that? Do you remember?

16 A. General Clark gave it to me, and I think that would have been in
17 1997.

18 Q. Thank you. I'd now like to move on to your education. Can you
19 tell the Court where were you educated from degree level and above?

20 A. I received my Bachelor of Arts degree, baccalaureate, from
21 Colgate University, with a major in sociology. And then I had a
22 master's -- sorry, that was followed by a Fulbright year at the
23 University of Oslo in which I studied political sociology, working
24 with an American Fulbright professor, followed by a year at Harvard
25 at the Kennedy -- what became the Kennedy School, and that was in

Witness: Michael Durkee (Open Session)

Page 27979

Examination by Ms. Tavakoli

1 government and economics, and that was awarded in 1967, which is the
2 same year that I joined the Foreign Service.

3 Q. I just want to double-check one of your answers. You said that
4 you got that award for Kosovo in 1997. Is that right or should it --

5 A. No, it can't be. It has to be later than that. That would have
6 been in -- just before General Clark left, so it would be late 1999,
7 early 2000.

8 Q. Thank you.

9 A. Thank you. Sorry.

10 Q. That's all right. Now, before you entered the US Foreign
11 Service, you served in the United States military for two years; is
12 that right?

13 A. Yes, I did.

14 Q. And you've explained in paragraph 2 of your statement that
15 you've served in various positions, as a platoon leader, then as an
16 assistant operations officer for the battalion, and then finally as
17 an assistant intelligence officer in the US parent armoured brigade,
18 a very high level. And in headline, what did serving in these three
19 different positions in the United States Army teach you?

20 A. I think the overriding lesson that I learned is that the US
21 military is a vast machine that operates at different levels with
22 different functions and goals.

23 So, for example, as a platoon leader, I was basically
24 responsible for directing 40 enlisted men in whatever operations and
25 exercises we would undertake. So my view was very much top-down.

Witness: Michael Durkee (Open Session)

Page 27980

Examination by Ms. Tavakoli

1 When I became a battalion S3, an operations officer, then I
2 became involved in the planning of potential operations and exercise
3 activities for the battalion consisting of four of those kinds of
4 companies and platoons. And so that gave me a sense of what a
5 military staff does at a higher level.

6 And then finally when I worked at brigade level, I could see the
7 relationship from the brigade down to the battalions and companies
8 and up to the division headquarters that we were reporting to. And
9 so, again, it deepened my understanding of how military staffs worked
10 and how command structures worked.

11 Q. Thank you. Now, you also describe at paragraphs 1 and 5 of your
12 statement that between 1993 to 2009, you served as the political
13 adviser or deputy to six different four-star commanders and that you
14 served as the political adviser to four of NATO's Supreme Allied
15 Commanders in Europe; correct?

16 A. Yes.

17 Q. From these professional experiences and your own service in the
18 military, do you understand how militaries work and military
19 concepts?

20 A. Yes, I do believe so.

21 Q. Now, I'd like to move on now, please, to your role at SHAPE, the
22 Supreme Allied Powers Europe headquarters in 1999, where you were
23 adviser to General Wesley Clark.

24 My first question, and I will ask you to be brief, even though I
25 realise that might be tricky, is what is SHAPE?

Witness: Michael Durkee (Open Session)

Page 27981

Examination by Ms. Tavakoli

1 A. SHAPE is a unique animal in military history --

2 THE INTERPRETER: Interpreter's note: Could the witness kindly
3 be asked to speak up? Thank you.

4 THE WITNESS: I will do that. Yes.

5 The Supreme Headquarters Allied Powers Europe is the supreme
6 military command structure in NATO. NATO itself is the most
7 successful multinational military alliance in history. SHAPE is the
8 embodiment of the willingness of NATO nations to commit their forces
9 to their common defence. It consists of several layers, SHAPE itself
10 at the top, and then subordinate commands throughout Europe and the
11 United States. They are a multinational headquarters, multinational
12 staffs, meaning that officers from all of the member nations serve in
13 those positions as alliance officers, not as national officers. And
14 in that way, the NATO alliance is enriched by the information and
15 experience available from all the different military components of
16 the nations, so that it is a very active web of cooperative
17 exchanges, information exchanges, working together for common purpose
18 over an extended period of time. NATO officers are uniquely
19 qualified to participate and lead in multinational military
20 activities.

21 MS. TAVAKOLI:

22 Q. And at the time of the events in question here, 1999, how many
23 member states of NATO were there? Do you remember?

24 A. You surprise me. I think at that point, we were still at 15 --
25 no, that can't be right, because 1997 I think we started -- Poland,

Witness: Michael Durkee (Open Session)

Page 27982

Examination by Ms. Tavakoli

1 Hungary, Czech Republic, I think those were the first three. Maybe
2 the Estonians. You take me back --

3 Q. I think it was 19. Would you agree with that?

4 A. You are better informed than I at least in terms of the numbers.

5 Q. Now, how was your office organised where you worked, in brief?

6 A. We were a mixture of international officers and US officers,
7 military and civilian, so that I had, generally speaking, a staff of
8 14 or so.

9 Q. When you say you had a staff, what --

10 A. I was the head of that office.

11 Q. Thank you.

12 A. I was the international affairs officer. I should explain that
13 in NATO terminology, it was the international affairs adviser rather
14 than the political adviser, because some of the NATO nations were
15 extremely sensitive to the idea that SACEUR might have a political
16 thought in his head. So it was preferable that I be called the
17 international affairs adviser rather than political adviser.

18 So from the US side, they always referred to me as the POLAD,
19 and on the NATO side they referred to me as the INTAF. That meant
20 that I was the senior adviser to General Clark, while there were
21 others on my staff who sometimes had direct contact with
22 General Clark for specific purposes, for example, John Duncan. Also,
23 the officer Steve Covington on my staff who was responsible for
24 liaison and day-to-day management of the unique SHAPE Russian
25 delegation. It was the first time that a Russian military officer

Witness: Michael Durkee (Open Session)

Page 27983

Examination by Ms. Tavakoli

1 had become incorporated into the larger staff at SHAPE for the
2 purposes of the implementation of the Dayton Accords in Bosnia, and
3 that was -- that took three officers on my staff to do that day by
4 day.

5 Q. Thank you. Now, I'm going to come back to your staff in a
6 minute, if I may. I just want to go now on to what your specific
7 role was in 1999 as the political adviser to the Supreme Allied
8 Commander in Europe. What were your responsibilities?

9 A. I was broadly responsible for making sure that General Clark had
10 full information and assessments on the political developments
11 throughout the region that would affect the conduct of his military
12 mission. So that included, for example, the continued relationship
13 with the Russian military that we were responsible for. It was the
14 continued assistance to the new members of NATO for them to be able
15 to assume responsibility of their membership; working with the
16 aspirant nations that wanted to become members of NATO, former Warsaw
17 Pact largely; working with a collection of nations that had agreed to
18 participate in both Bosnia and then later in Kosovo. At one point at
19 SHAPE, we had representatives from 52 different nations participating
20 in one or another of the operations. They each had the need for
21 guidance about how to work within a multinational environment. And
22 then, finally, it was the continued assessment of what was happening
23 in the actual operations both in Bosnia and Kosovo.

24 Q. When you say the continued assessment of what was happening in
25 Kosovo, what do you mean by that?

Witness: Michael Durkee (Open Session)

Page 27984

Examination by Ms. Tavakoli

1 A. We were looking at how the operating environment was developing
2 in terms, for example, of the continued effort of Slobodan Milosevic
3 and his forces to repress any Albanian resistance, the jockeying for
4 influence and power in the future among Kosovar Albanians as they
5 were organised at that time, and thinking ahead to how to manage this
6 in a way that kept the continued commitment and operation of the NATO
7 and non-NATO nations that were involved in KFOR.

8 Q. And why was it important for SACEUR to be advised on those
9 matters?

10 A. Every military commander has to have an appreciation for the
11 larger environment within which he conducts his military operations,
12 because, at the end of the day, he will be influenced and directed by
13 political actors outside his own sphere of influence. So it is other
14 governments that are acting as well as his own member government. So
15 it is the interplay of all those that shape the operating environment
16 for a commander to conduct his mission.

17 Q. Now, what sources did you draw on to provide that advice to
18 SACEUR?

19 A. As I said, SHAPE is a marvelous machine with multinational
20 actors and national governments of NATO members but also national
21 governments of partner nations, so that it is a web of a flow of
22 information and reports from the different components within the
23 headquarters and NATO headquarters generally as well as from the
24 subordinate commands.

25 So in the case of Kosovo, once we constituted General Jackson's

Witness: Michael Durkee (Open Session)

Page 27985

Examination by Ms. Tavakoli

1 headquarters, there was a constant daily flow of information and
2 reporting from KFOR. Similarly, we were receiving the reports,
3 either directly or indirectly, from the UN Mission in Kosovo.

4 Q. Now --

5 A. And I should have mentioned, by the way, that prior to that, the
6 OSCE Kosovo Verification Mission was submitting regular reports.

7 Q. Just to go back to the role of the member states. Am I right to
8 understand there was a flow of information from NATO member states,
9 like the UK, US, Germany, Ireland, I guess, to SACEUR, to your
10 office?

11 A. To SHAPE staff and then through my office, because we were often
12 the filter -- not so much the filter in terms of blocking
13 information, but we were the office that received, collated, and
14 assessed the information that was being provided.

15 Q. So in the context of Kosovo, for example, were you receiving
16 political, military and intelligence assessments about what was going
17 on on the ground in Kosovo from all the member states of NATO?

18 A. Yes, all the member states that had assets that could contribute
19 that information, because, you know, some NATO nations would not have
20 people or offices on the ground that could do that. But for those
21 that were active and involved, yes. Certainly the US, UK, Germany,
22 and others were providing that kind of information.

23 Q. And did that information -- did you take that information into
24 account when you advised the SACEUR?

25 A. That would be the greater part of the information base that we

Witness: Michael Durkee (Open Session)

Page 27986

Examination by Ms. Tavakoli

1 used for the assessments that we provided to General Clark, yes.

2 Q. Does NATO have its own intelligence agency or does it rely on
3 member states' intelligence agencies?

4 A. There is an intelligence component at SHAPE. There is an
5 intelligence component at NATO headquarters. In neither case do they
6 have active field agents operating directly under them. They are
7 more in the capacity of recipients of information provided by
8 subordinate NATO headquarters or national sources.

9 Q. So presumably, if some of those NATO nations had active field
10 agents, you would and did receive that intelligence; is that right?
11 If I -- sorry, if I've strayed into something you can't answer,
12 please just say you can't answer.

13 A. I'm looking for a more general way to respond to that. On my
14 staff at the time, we had a British representative and we had a
15 German representative from the German foreign ministry. And in their
16 roles through national channels, they would receive information that
17 did not necessarily come to NATO directly, to SHAPE. But because of
18 the kind of working relationship that we had and our commitment to
19 providing the best possible advice to SACEUR, they would share some
20 of that information, as I would share some of the information I
21 received in US channels, as it was relevant to the SACEUR's mission.

22 So, yes, but I can't -- I would not say that I was getting all
23 the information that was available in those national channels. There
24 were other NATO members that would, from time to time, provide
25 information and assessments available to them through national

Witness: Michael Durkee (Open Session)

Page 27987

Examination by Ms. Tavakoli

1 channels, but that was more on an *ad hoc* occasional basis. It was
2 not a continuing flow.

3 Q. I just want to run through a few other sources. Did you also
4 draw on meetings with NATO missions to inform your advice to the
5 SACEUR?

6 A. I regularly attended the meetings of the NATO Political
7 Committee, which is the location for those kinds of conversations,
8 and I would report back to General Clark what the nature of the
9 discussions was and where I saw the political committee heading in
10 terms of advice to their ambassadors.

11 Q. And did you have your own personal network of contacts on the
12 ground in Kosovo or not?

13 A. I tried very hard, but -- I was not resident in Kosovo, and
14 therefore occasional visits were helpful, but it's difficult to build
15 a solid network of regular sources.

16 Q. Now, once you've collated all of this information, you advise
17 the SACEUR; is that right?

18 A. Yes.

19 PRESIDING JUDGE SMITH: Ms. Tavakoli, this is very interesting,
20 but it's very slightly relevant. I'd rather you moved on to
21 something that had something to do with our inquiry.

22 MS. TAVAKOLI: I have just got about five more minutes on it.
23 It's just to close. We've had a lot of evidence in this case --

24 PRESIDING JUDGE SMITH: I haven't made a note in 45 minutes.

25 MS. TAVAKOLI: I'll move on. I'll get to the end.

Witness: Michael Durkee (Open Session)

Page 27988

Examination by Ms. Tavakoli

1 Q. And what did the SACEUR use this information for?

2 A. General Clark would absorb vast quantities of information to
3 decide on his own assessments and priorities and the advice that he
4 would provide to the NATO, the North Atlantic Council, consisting of
5 the member state ambassadors, and to the Secretary-General.

6 In the course of the Bosnian mission and then later the Kosovo
7 air campaign, the NATO Secretary-General assumed a more directed
8 authority for military affairs than had ever been the case before.
9 And so General Clark's relationship with Javier Solana, the
10 Secretary-General, became *de facto* the line of command in NATO to the
11 operations down below.

12 Q. Thank you. Now, you mentioned -- my final question before the
13 break, you mentioned a Mr. John Duncan who has given evidence in this
14 case being on your team. Did he have a subject matter or thematic
15 expertise on your team?

16 A. Because of his prior experience, John Duncan was frequently used
17 as the in-house expert on things related to the Kosovar Albanians,
18 both Albania Albanians and Kosovar Albanians, because, as he could
19 relate, there was a lot of interaction over the border.

20 Q. And did that include the KLA and the Provisional Government of
21 Kosovo?

22 A. Eventually it did, yes.

23 Q. And did he report directly to you?

24 A. He was part of my team. But on those matters, he sometimes had
25 direct relations, contact with General Clark --

Witness: Michael Durkee (Open Session)

Page 27989

Examination by Ms. Tavakoli

1 Q. Thank you.

2 A. -- who also valued his expertise.

3 Q. Now, I want to move on to the meeting that you had with
4 Mr. Thaci in early 1999.

5 MS. TAVAKOLI: Would you like to take a break now or shall I
6 start the meeting?

7 PRESIDING JUDGE SMITH: Go ahead and start. Might as well use
8 the time you have.

9 MS. TAVAKOLI:

10 Q. Now, in paragraph 12 of your statement, you describe
11 accompanying General Clark to a meeting with Hashim Thaci and the
12 Kosovar delegation to the Rambouillet negotiations in March or April
13 1999. Do you recall that?

14 A. Yes.

15 Q. Now, can I show you a press article to see if that is the
16 meeting that you describe in your statement or not.

17 MS. TAVAKOLI: Can we please bring up Exhibit 1D00360.

18 Q. If you could have a look at that please, Mr. Durkee. Is this
19 the meeting that you describe in your statement?

20 A. It seems to be correct as to the nature of the meeting that took
21 place. The content of the report is, I think, tactically slanted
22 towards Kosovar Albanian interests.

23 Q. Now, do you recall where that meeting was held? Is it right
24 here, it says that it was held at Mons?

25 A. It's often difficult to help people understand the difference

Witness: Michael Durkee (Open Session)

Page 27990

Examination by Ms. Tavakoli

1 between NATO headquarters and Brussels, which is a political body,
2 and the NATO military command SHAPE, which is near Mons. So it is a
3 NATO military command, but that phraseology would not be something
4 that we would use. And it was not at the headquarters. It was at
5 the little military airbase at Casteau just outside Mons which was
6 used by the SACEUR's aircraft.

7 Q. Thank you. Is the list of attendees there correct? That's in
8 the second paragraph -- or the first paragraph.

9 A. Of those names, I recognise as people that I saw only Mr. Thaci
10 and Mr. Krasniqi.

11 Q. Thank you. Now, apart from yourself and General Clark, was
12 there anyone else --

13 MS. TAVAKOLI: This can come down now. Thank you.

14 Q. Was there anyone else there from the NATO side?

15 A. At meetings like that, General Clark would normally be
16 accompanied by one or more of his military assistants, who were
17 generally at the colonel level, experienced military officers, often
18 US but not entirely, and they would be the note-takers. And they
19 would -- I would work with them following such a meeting to come up
20 with such a report and assessment for SACEUR of what we thought the
21 significance was.

22 Q. Thank you. Now, you said at paragraph 12 of your statement that
23 the purpose of the meeting was in part because General Clark wanted
24 to get a better understanding of KLA political intentions and
25 military capacities in the event that he was ordered to conduct a

Witness: Michael Durkee (Open Session)

Page 27991

Examination by Ms. Tavakoli

1 military operation there. Why was it important to better understand
2 the KLA's -- why was it important to better understand the KLA's
3 political intentions at this time?

4 A. As any military commander contemplating a mission would, he was
5 thinking ahead to what would be the operating environment on the
6 ground should he be ordered to undertake a military mission. So he
7 had not yet been ordered to undertake a military mission, but he was
8 preparing himself to think about who would be the actors, what would
9 be their capabilities, what would be their intentions, in what way
10 could they threaten or assist the mission that he was anticipating.

11 Q. And what was concluded about the KLA's political intentions
12 after that meeting?

13 A. I think at that point, General Clark was wondering to what
14 extent they could become cooperative supporters of the mission or --

15 Q. Who? Who? Who could become --

16 A. The KLA.

17 Q. Yeah.

18 A. Or opponents, enemies of the mission that -- for which we would
19 have to undertake actions against them. In other words, were they
20 going to be partners or were they going to be enemies.

21 PRESIDING JUDGE SMITH: Ms. Tavakoli, when it's convenient, you
22 can stop for the break.

23 MS. TAVAKOLI:

24 Q. And what did you conclude about that?

25 A. I think at that point it seemed that there would be the

1 potential for cooperation but too soon to tell.

2 Q. Why did you think there would be potential for cooperation?

3 A. Because they were very keen to find ways to get NATO support in
4 their campaign to resist Serbian oppression.

5 Q. How did they demonstrate that keenness?

6 A. Because they kept asking if we could bomb the Serbs, because
7 they were very much mindful of the experience in Bosnia in which NATO
8 air power was used to bomb the Bosnian Serbs.

9 Q. Thank you.

10 MS. TAVAKOLI: If we can take a break now.

11 PRESIDING JUDGE SMITH: We'll give you a ten-minute break,
12 Witness.

13 THE WITNESS: Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: We'll be adjourned for ten minutes.

16 --- Break taken at 3.03 p.m.

17 --- On resuming at 3.15 p.m.

18 PRESIDING JUDGE SMITH: We've been asked about whether we're
19 going to go until 4.00 or 4.30 today, and that sort of depends.

20 Ms. Tavakoli, can you be finished with this witness by 4.30?
21 That's the amount of time you asked for.

22 MS. TAVAKOLI: No, I asked for two and a half hours.

23 PRESIDING JUDGE SMITH: Yes.

24 MS. TAVAKOLI: And we started at 2.20, 3.20, 4.20 --

25 PRESIDING JUDGE SMITH: You're telling me no, you can't be

1 finished in --

2 MS. TAVAKOLI: I might be able to. I might need 20 minutes
3 extra for the two and a half hours.

4 PRESIDING JUDGE SMITH: Well, no, we're not going to go till
5 5.00.

6 MS. TAVAKOLI: I'll do my best to go by 4.30, but if I don't,
7 I've still got 20 minutes in my [Overlapping speakers] ...

8 PRESIDING JUDGE SMITH: It can't be that way. It's either
9 you're going to or you're not.

10 MS. TAVAKOLI: I don't know because it depends how long his
11 answers are.

12 PRESIDING JUDGE SMITH: So you're leaving it up to us? You
13 don't want to take part in the decision?

14 MS. TAVAKOLI: I'm happy to go to 4.30 because it would be nice
15 to wrap this witness up tomorrow.

16 PRESIDING JUDGE SMITH: If you can --

17 MS. TAVAKOLI: And I've spoken to my learned friend, and she
18 would like to go to 4.30 as well.

19 PRESIDING JUDGE SMITH: If you can be finished at 4.30, that's
20 fine with us, but you have to be finished.

21 MS. TAVAKOLI: I can't commit to that.

22 PRESIDING JUDGE SMITH: We'll go till 4.00 then. Thank you.
23 Bring the witness in.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: Mr. Durkee, we continue with your direct

Witness: Michael Durkee (Open Session)

Page 27994

Examination by Ms. Tavakoli

1 examination from Ms. Tavakoli. Please give her your attention.

2 MS. TAVAKOLI:

3 Q. Thank you. We were talking about the meeting when you met
4 Hashim Thaci, and you said that you were trying to work out what the
5 KLA's political and military intentions and capacities were.

6 Now, what did you conclude about the KLA's military capacities
7 at that time?

8 A. At that time, we did not have very good information and
9 therefore not a good assessment of their capabilities. We knew that
10 they had fighters in the field; but how many, where they were
11 stationed, what their capabilities were, we did not know.

12 Q. And in terms of what their political intentions, the KLA's
13 political intentions was, what did you conclude about that?

14 A. It was pretty clear that they were dead set on independence from
15 Serbia.

16 Q. Now, in paragraph 14 of your statement, you said that you "were
17 not able to gain any concrete information about KLA force levels,
18 arms or deployment plans. Based on the vagueness of their thinking,
19 General Clark and I ... left with the sense that KLA leaders wanted
20 independence for Kosovo but lacked a clear military strategy and
21 capability to achieve that goal."

22 What did you mean when you said "vagueness" of thinking?

23 A. Well, because they did not provide much information about how
24 many people -- how many fighters they had in the field, where they
25 were deployed, how they would be used, what supply levels they had,

Witness: Michael Durkee (Open Session)

Page 27995

Examination by Ms. Tavakoli

1 it would be very difficult to derive any sense of a clear strategy
2 behind what they were trying to do, other than their commitment to
3 achieving independence.

4 Q. And you said -- did you have information about those matters
5 from any other sources at the time?

6 A. We were getting some indications of how the KLA was getting arms
7 from over the border in Albania: the collection of funds through the
8 Kosovar Albanian diaspora in other countries in Europe and the
9 United States. So we knew that they were getting support, and that
10 that support was being translated into military capability, but it
11 was very hard to get a sense of how much and where.

12 Q. And you also said in that paragraph that the KLA "lacked a clear
13 military strategy and capability to achieve their goal." What did
14 you mean by that?

15 A. It was hard to understand how they thought they could defeat the
16 forces of Serbia with the capabilities that they had, bearing in mind
17 that their goal was independence. So could they have defeated the
18 Serbian forces on their own? Very hard to see that. And, therefore,
19 what would be the military strategy that could be conceived of to
20 gain that independence.

21 Q. And why did they want to defeat the Serbian military forces?

22 A. If they didn't, then Kosovo could not be independent.

23 Q. Now, in Preparation Note 1, paragraph 10, you said that that
24 assessment, that paragraph that I've just read out, wasn't just your
25 own personal opinion, but it was a broadly held opinion that was

Witness: Michael Durkee (Open Session)

Page 27996

Examination by Ms. Tavakoli

1 consistent with reports that you were receiving from staff at the
2 Supreme Headquarters Allied Powers Europe and other sources at that
3 time.

4 What did you mean by that?

5 A. I meant that the collective assessment of SHAPE staff at that
6 time and what sense we could gain through national reporting was that
7 while the KLA had the goal of independence, they did not seem to have
8 the force levels or other capabilities or strategy that it could
9 achieve that.

10 Q. And you said that that was the collective assessment of SHAPE
11 staff and other sources. Are you in a position to tell us what those
12 other sources were?

13 A. Broadly speaking, that would be a national reporting to which we
14 had some access.

15 Q. Now, in that meeting, and it's in your statement, you've made
16 comments about how Thaci came over. And you said that he didn't act
17 like a military commander or a fighter. "He seemed more like a
18 political figure, reasonable and willing to engage, but clear that
19 Kosovo had to be independent."

20 Now, what led you to conclude that Hashim Thaci seemed more like
21 a political figure than a military commander?

22 A. I think it was because that -- based on what I can remember of
23 the kind of conversation that went on, is that he spoke almost
24 entirely about political aspirations rather than what kind of
25 military objectives they might have. And in that sense, he was

Witness: Michael Durkee (Open Session)

Page 27997

Examination by Ms. Tavakoli

1 speaking as a political leader rather than as a military commander.

2 Q. In the course of 1999, did your view change or stay the same
3 about Mr. Thaci being a political rather than a military figure?

4 A. Over the course of that year, I believe that he focused almost
5 entirely on his political goals and activities because, of course, he
6 was engaged in a political competition for the future of Kosovo, of
7 an independent Kosovo, and there were other people in the diaspora
8 and in Kosovo who aspired to similar roles. So it was an active
9 political competition even in the midst of their efforts to resist
10 the Serbs.

11 Q. Who were the other competitors?

12 A. Largely Mr. Rugova in the LDK. But there were other factions
13 that formed, including those that took shape as political parties
14 later.

15 Q. Thank you. Now, I want to move on to the Military Technical
16 Agreement. In paragraph 9 your statement, as corrected by
17 paragraph 8 of Preparation Note 1, you describe how General Clark
18 sent you to Kosovo as his representative in negotiations for the
19 Military Technical Agreement; correct?

20 A. Yes.

21 Q. Now, in short, what was the purpose of that document, that
22 agreement?

23 A. A commander such as General Clark in dealing with a subordinate
24 commander such as General Jackson should be respectful of the roles
25 and responsibilities of that subordinate commander. So General Clark

Witness: Michael Durkee (Open Session)

Page 27998

Examination by Ms. Tavakoli

1 understood that he could not be in some way a direct participant in
2 those negotiations, which were between General Jackson and the Serb
3 representatives.

4 Q. And what were the negotiations for? What was the --

5 A. I'm sorry.

6 Q. -- MT --

7 A. This was for the withdrawal of the Serb forces from Serbia --
8 I'm sorry, from Kosovo. And therefore, it was a direct impact to the
9 mission that General Jackson had been assigned, to prepare for that,
10 and General Clark had an abiding and key interest in how that would
11 be developed and what would be agreed but did not have a direct role
12 in it.

13 Q. And you went on his behalf; is that right?

14 A. To be his eyes, ears, and if necessary his voice.

15 Q. And what was your role? Was it any more than that?

16 A. I can recall only a couple of times when General Jackson and I
17 had separate conversations about what was going on and what would be
18 needed to lay the basis for a successful military mission, some of it
19 having to do with how to word the terms of the agreement in terms of
20 withdrawal. In other words, what constituted Serb forces to be
21 withdrawn. That was one of the topics. Because Serb forces in
22 Kosovo included not just the regular Yugoslav Army, Serbian forces,
23 army forces, but also the forces of the Ministry of Internal Affairs,
24 the MUP and the SJO and some of the other non-military forces that
25 were used.

Witness: Michael Durkee (Open Session)

Page 27999

Examination by Ms. Tavakoli

1 Q. And it's right, isn't it, that the MTA provided a timetable for
2 the withdrawal of Serbian forces?

3 A. Yes.

4 Q. And did the Serbian forces withdraw --

5 A. Yes --

6 Q. -- according to the timetable?

7 A. -- they did. The organised Serbian forces.

8 Q. When did NATO consider that the war between the KLA and Serbia
9 had ended?

10 A. When the organised Serb forces were withdrawn from Kosovo, there
11 was no longer an enemy or opponent and, therefore, no longer a
12 conflict.

13 Q. And what date was that on?

14 A. The MTA set the date, I think, in late June.

15 Q. I think it was 20 June. Would you agree with that?

16 A. That seems correct.

17 JUDGE METTRAUX: Ms. Tavakoli, which conflict are you asking him
18 about, the international one between NATO and the Yugoslav forces, or
19 are you asking him about another non-international conflict?

20 MS. TAVAKOLI: Both, Your Honour.

21 JUDGE METTRAUX: Well, in that case you should specify. The
22 latter being, of course, an issue for this Panel to decide.

23 MS. TAVAKOLI: When did NATO -- I think I did ask that. When
24 did NATO consider that the war between the KLA and Serbia had ended.
25 That was my question, Your Honour. That was my question at 15:28.

Witness: Michael Durkee (Open Session)

Page 28000

Examination by Ms. Tavakoli

1 Q. Was the MTA -- just to be clear, you've told the Court already
2 when you considered NATO thought that the war between the KLA and
3 Serbia had ended. What war was the -- the Military Technical
4 Agreement, was that in relation to the same war or not?

5 A. The MTA had to do with the relationship between NATO and the
6 Serbs. The government of Serbia and Yugoslavia.

7 Q. And what was the relationship between the signing of the MTA and
8 the completion of that war between Serbia and NATO and the ending of
9 the war between the KLA and Serbia?

10 A. The conflict between the KLA and the Serb forces had to do with
11 the active use of Serb forces inside Kosovo. To my knowledge, the
12 KLA never attempted any actions against Serb forces in Serbia; that
13 is, across the border from Kosovo. So when there were no more Serb
14 forces in Kosovo, then I don't see how there could have been a
15 conflict.

16 Q. Thank you.

17 MS. TAVAKOLI: Now, can we bring up a document, please, which is
18 DHT12201 to DHT12205. And if we can start at -- yeah, that page
19 actually. Great.

20 Q. Now, can you have a look at that document, please, Mr. Durkee,
21 and we'll just read it. You can read the first page.

22 MS. TAVAKOLI: And if we could just flip through the other pages
23 and then come back to the first page so Mr. Durkee can read it.

24 THE WITNESS: Okay. Okay.

25 MS. TAVAKOLI: We can just skim, I think, through these. Thank

Witness: Michael Durkee (Open Session)

Page 28001

Examination by Ms. Tavakoli

1 you.

2 THE WITNESS: Okay.

3 MS. TAVAKOLI: Go to the end. Thank you. And if we can go back
4 to the first page, please.

5 Q. Now, this is said to be the Official Gazette of the Federal
6 Republic of Yugoslavia, Friday, 25 June 1999, Belgrade, "Decision on
7 Termination of the State of War":

8 "The state of war in the Federal Republic of Yugoslavia is
9 terminated."

10 "This Decision shall enter into force on 26 June 1999."

11 And then it says "Federal Assembly," and then it's dated
12 24 June 1999.

13 What is this document, Mr. Durkee?

14 A. This seems to be the formal process through which the government
15 of the FRY made a decision that the war had ended.

16 Q. And what date do they say that that war had ended?

17 A. 26 June.

18 Q. And what war do you think this is relating to?

19 A. It does not indicate who the enemy forces would have been, but I
20 assume it refers to the conflict with NATO.

21 Q. And then if you go down, this is -- and then there's a repeal of
22 various regulations in the state of war, would you agree with me, and
23 then that's the rest of the document?

24 A. Yes.

25 Q. Thank you.

Witness: Michael Durkee (Open Session)

Page 28002

Examination by Ms. Tavakoli

1 MS. TAVAKOLI: I'd like to tender this document for admission,
2 please.

3 MS. D'ASCOLI: No objections.

4 PRESIDING JUDGE SMITH: No objections are heard.

5 MS. TAVAKOLI: And can we also tender the corresponding pages in
6 the Serbian original, which are --

7 PRESIDING JUDGE SMITH: Can I finish this first?

8 MS. TAVAKOLI: Sorry, of course.

9 PRESIDING JUDGE SMITH: DHT12201 to DHT12205 is admitted.
10 Now, what else do you want?

11 MS. TAVAKOLI: There's a Serbian original, which is DHT1274 --
12 DHT12190, DHT12191, and DHT12195. Sorry, I didn't understand. The
13 Serbian is a larger document. We're just tendering those four pages
14 from that document.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 I already entered it into -- DHT12201 to 12205 is admitted.

17 MS. TAVAKOLI: Thank you.

18 PRESIDING JUDGE SMITH: Now, then you gave me four more numbers.

19 MS. TAVAKOLI: So that was the English translation of the
20 document --

21 PRESIDING JUDGE SMITH: Okay.

22 MS. TAVAKOLI: And then we're also tendering the Serbian
23 original document.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 In addition to the English, Serbian?

Witness: Michael Durkee (Open Session)

Page 28003

Examination by Ms. Tavakoli

1 MS. TAVAKOLI: Yes, please. The four pages that are relevant
2 from the Serbian translation.

3 PRESIDING JUDGE SMITH: Okay. Those are DHT12201 to 122 -- no,
4 I did that already. Okay. DHT1274, 2190, 12191, and 12195.

5 MS. TAVAKOLI: Yes, thank you, Your Honour.

6 PRESIDING JUDGE SMITH: All right.

7 THE COURT OFFICER: Thank you, Your Honour. The English
8 translation and four corresponding Serbian pages will receive
9 Exhibit 1D00429. Classification is public.

10 MS. TAVAKOLI: Thank you.

11 Q. Thank you, Mr. Durkee. I now want to go on to post-war Kosovo.

12 Now, in paragraph 15 your statement, you said that after the
13 Serb forces had left Kosovo, you "had ample opportunity to observe
14 realities on the ground in Kosovo." Did you visit Kosovo after the
15 end of the war in the summer of 1999; and if so, how many times?

16 A. I believe that I visited about four times.

17 Q. And who did you go with?

18 A. A couple of times I went with General Clark, a couple of times I
19 went on my own.

20 PRESIDING JUDGE SMITH: What was the length of your time there
21 in those four days?

22 THE WITNESS: I beg your pardon?

23 PRESIDING JUDGE SMITH: In those four trips, how much time did
24 you spend in Kosovo?

25 THE WITNESS: With General Clark, it probably would have been

Witness: Michael Durkee (Open Session)

Page 28004

Examination by Ms. Tavakoli

1 only an overnight, therefore part of two days. When I travelled
2 separately, it would have been longer, two, three days at a stretch,
3 maybe four.

4 PRESIDING JUDGE SMITH: So as many as six or seven days total?

5 THE WITNESS: Total.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MS. TAVAKOLI: Thank you.

8 Q. And when you travelled with General Clark as opposed to on your
9 own, what were the main differences?

10 A. In part because it always involved meetings with General Jackson
11 as KFOR commander, the UNMIK staff, Bernard Kouchner --

12 Q. Is this -- sorry to interrupt, is that when you were on your own
13 or when you were with General Clark?

14 A. Oh, I'm sorry, I thought you were asked about travelling with
15 General Clark.

16 Q. Yeah. My question was broader. What was the main -- actually,
17 let's scrap that. Okay. When you went with General Clark -- keep
18 going, sorry.

19 A. As I said, we would have those meetings with the senior
20 international representatives in Kosovo, including General Jackson
21 and Bernard Kouchner. We would also have meetings with people in
22 Kosovo to hear different views about what was going on, including one
23 time I recall with Mr. Rugova who had returned to Kosovo by that
24 point, so that we were trying to get a broad sense of what people on
25 the ground thought was happening and what needed to be done.

Witness: Michael Durkee (Open Session)

Page 28005

Examination by Ms. Tavakoli

1 When I travelled separately -- excuse me, I should add that I
2 had the advantage when travelling with General Clark that we could
3 fly by helicopter or by secure convoys to get -- motorcades to get
4 where we wanted to go. When I visited on my own, it was more
5 difficult to do that because I could not simply order up independent
6 transportation.

7 Q. Now, when you went to Kosovo, where did you go?

8 A. We would start in Prishtine. And then I recall at one time
9 General Clark wanted to visit Mitrovica because that seemed to be
10 emerging as a difficult area to achieve the purposes of the military
11 mission. By that time, it was clear that many of the people living
12 in that region were unwilling to recognise that Kosovo was no longer
13 part of Serbia and that there were tensions building, resulting in
14 direct violent incidents along the -- what was emerging as the line
15 of separation.

16 I don't believe at that time that General Clark visited the
17 mining and smelting complex at Trepca, because one of the concerns
18 was what would be the economic basis for Kosovo, how could the mine
19 and smelter go back into operation.

20 Q. If we can just focus on where you did go, that would be -- so
21 you went in Prishtine and then outside as well?

22 A. Yes. But my point was about the -- the travel is that when we
23 were travelling by helicopter as well as by motorcade, you could
24 observe some of the areas between Prishtine and the other areas about
25 what had happened in the intervening period.

Witness: Michael Durkee (Private Session)

Page 28006

Examination by Ms. Tavakoli

1 Q. And when you say "the intervening period," what period is that?

2 A. Prior to the conflict, after the conflict, and what was going on
3 on the ground in the towns and villages.

4 Q. Thank you. Now, I'd like to show you two letters from SACEUR to
5 Javier Solana.

6 MS. TAVAKOLI: But we'll need to go into private session for
7 these, please.

8 PRESIDING JUDGE SMITH: Into private session, please.

9 [Private session]

10 [Private session text removed]

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Michael Durkee (Private Session)

Page 28007

Examination by Ms. Tavakoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Michael Durkee (Private Session)

Page 28008

Examination by Ms. Tavakoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Michael Durkee (Private Session)

Page 28009

Examination by Ms. Tavakoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Michael Durkee (Private Session)

Page 28010

Examination by Ms. Tavakoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Michael Durkee (Private Session)

Page 28011

Examination by Ms. Tavakoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15 [Open session]

16 THE COURT OFFICER: Your Honours, we are now in public session.

17 MS. TAVAKOLI: Thank you.

18 Q. Now, earlier you said that when you were in Kosovo, you received
19 briefings from various people. Correct me if I'm wrong, but I think
20 this is what you said, that you had got daily KFOR briefings, you met
21 UNMIK staff, you met SRSG Bernard Kouchner. Did you also meet
22 Kosovan Albanian contacts when you were on the ground?

23 A. Yes, I did.

24 Q. Did you meet members of the diplomatic community?

25 A. I would meet the members of the diplomatic staffs that were

Witness: Michael Durkee (Open Session)

Page 28012

Examination by Ms. Tavakoli

1 developing at that time, including the US.

2 Q. Did you meet members of the KLA or Provisional Government of
3 Kosovo?

4 A. We would -- I mean, I would have meetings also separately from
5 General Clark with some of the emerging KPC structure as well as
6 people who were not directly involved in that, journalists, for
7 example.

8 Q. Who? Could you give us a few names, please?

9 A. Veton Surroi was one of them.

10 Q. Do you know any other Kosovan Albanians that you met with?

11 A. I do not recall the names.

12 Q. And did you --

13 A. Again, I was trying to cast the net widely and meet people with
14 different viewpoints.

15 Q. Did you meet General Sir Mike Jackson?

16 A. Yes.

17 Q. How often would you meet General Sir Mike?

18 A. As a practice, whenever I visited, I would at least have a
19 courtesy call. I did not like to, you know, have him think that I
20 was prowling around in his territory.

21 Q. And did these briefings and working relationships continue
22 throughout the summer of 1999 when you weren't in country?

23 A. Yes, there was a continuing flow of reporting from KFOR and
24 General Jackson.

25 Q. And did these interactions, not just from -- was the continuing

Witness: Michael Durkee (Open Session)

Page 28013

Examination by Ms. Tavakoli

1 flow just from KFOR and Mike Jackson?

2 A. No. We were also receiving regular reporting from UNMIK and
3 from some of the diplomatic missions that were forming in Prishtine
4 at the time.

5 Q. Now, did those interactions inform the views that you expressed
6 in your statement about the nature of the violence that engulfed
7 Kosovo, including who was responsible for it and why it was
8 happening?

9 A. Yes.

10 Q. Did those interactions inform your view, as expressed in your
11 statement, that this violence was not organised from the top but was
12 spontaneously generated at the local level, and the KLA leadership
13 couldn't control it?

14 A. While there may have been, you know, views that were more
15 suspicious of the KLA leadership, I don't recall ever seeing evidence
16 of KLA leadership trying to direct it. And in most cases, the views
17 that I was hearing and recording for General Clark were that it was
18 much more bottom-up and spontaneous than anything that looked like a
19 concerted campaign.

20 Q. And these sources of knowledge, your interactions with people
21 like General Sir Mike, Bernard Kouchner, et cetera, did they inform
22 this view that you held?

23 A. Yes.

24 Q. Now, apart from your physical visits to Kosovo in the summer of
25 1999 and the information that you've just described that you were

Witness: Michael Durkee (Open Session)

Page 28014

Examination by Ms. Tavakoli

1 also getting about the nature of the post-war violence, were you
2 getting any other information at that time; for example, from
3 government channels, NATO-collected intelligence, open-source
4 material, and so on?

5 A. Yes, there was a wide variety of reporting, including from the
6 NGOs that were becoming much more active, including Human Rights
7 Watch. We, of course, had the reports that came through from the
8 KVM --

9 Q. Yeah.

10 A. -- from OSCE, the International Crisis Group, and Western
11 journalists were then travelling more widely and reporting.

12 Q. And did all of that information inform the views as expressed in
13 your statement?

14 A. All part of the foundation, yes.

15 MS. TAVAKOLI: Your Honour, if you'd like to stop here. It's
16 4.00.

17 PRESIDING JUDGE SMITH: That's it for today. We'll have to be
18 back again tomorrow at 9.00. And hopefully, you can -- we can be
19 finished in a reasonable time tomorrow.

20 THE WITNESS: Thank you, Your Honour.

21 PRESIDING JUDGE SMITH: Thank you for being with us today.

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: We're adjourned until 9.00 a.m.
24 tomorrow.

25 --- Whereupon the hearing adjourned at 3.58 p.m.