

Monday, 15 September 2025

[Open session]

[The accused entered the courtroom]

--- Upon commencing at 9.00 a.m.

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

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

PRESIDING JUDGE SMITH: Good morning, everyone. I note that the accused are all present in court today.

We will today starting hearing the evidence of the Thaci Defence Witness 1DW-003.

Before we start hearing the evidence of the witness, there is one preliminary matter that the Panel would like to address -- actually, there are about six or seven, but so that we can get started, we'll do the rest of them at a later time because they aren't as urgent.

The Panel notes that F03462, that in that filing the Thaci Defence requested an expedited briefing schedule for F03462 and also to amend its exhibit list to add one item that it intends to use with 1DW-003.

In F03466, the SPO responded to the request, noting that the request was not timely but that it, nonetheless, does not oppose the request.

1 First, in respect of the request for an expedited briefing  
2 schedule, the Panel notes that on Thursday, 11 September 2025, it  
3 expedited the briefing schedule for F03462.

4 Second, in respect of the request to amend the exhibit list, the  
5 Thaci Defence request to add one document which is the complete  
6 original version of an article by 1DW-003. An incomplete version of  
7 this article was previously discussed in the witness statement which  
8 has been found appropriate for admission under Rule 154.

9 Regarding timely notice, the Panel notes that the Thaci Defence  
10 made the present request five days after the SPO disclosed the  
11 complete version of the article in Disclosure Package 1768.

12 The Panel therefore finds that the Thaci Defence has provided  
13 timely notice.

14 The Panel observes that the document relates to the witness's  
15 account of what he remembered about the Kosovo conflict, in  
16 particular the role of Mr. Thaci during the Rambouillet conference  
17 and his authority within the KLA. In addition, another version of  
18 this article has already been discussed with the witness and is  
19 included in his witness statement.

20 The Panel therefore finds that the material is *prima facie*  
21 relevant and of sufficient importance, and that there is good cause  
22 for its late addition to the exhibit list.

23 Lastly, regarding prejudice, the Panel observes that another  
24 version of the article is already on the exhibit list, and the SPO  
25 does not object to its addition. Given that the parties and

1 participants will have sufficient time to adequately review the  
2 document in question and prepare for 1DW-003's testimony, the Panel  
3 finds that no prejudice will arise from adding the document to the  
4 exhibit list.

5 The Panel therefore grants the request to add SP0E00397414 to  
6 00397417 and any corresponding translations to the Thaci Defence  
7 exhibit list. The Panel orders the Thaci Defence to file a revised  
8 exhibit list as soon as possible.

9 This concludes the Panel's oral order.

10 We will now start hearing the evidence of the Thaci Defence  
11 Witness 1DW-003.

12 First, as a reminder, in filing F03468, the Panel authorised  
13 certain measures under Rule 107 for the present witness, including  
14 that the witness's testimony be limited to certain topics as are  
15 listed in paragraph 18 of F03468; that the witness may decline to  
16 answer questions on the ground of confidentiality; and that  
17 representatives of the Rule 107 provider be present in court during  
18 the witness's testimony.

19 The Panel will not entertain questions that cannot be shown to  
20 be clearly linked to the matters authorised by the Rule 107 provider  
21 and relevant to the case. Where queried on that point, the  
22 questioning party should be ready to state how certain lines of  
23 questioning fall within the scope of Rule 107 authorisation.

24 Madam Court Usher, please bring the witness in.

25 [The witness entered court]

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1           PRESIDING JUDGE SMITH: You can remain standing. You can remain  
2 standing. We'll both be speaking the same language, but you can hear  
3 better with these.

4           Witness, the Court Usher will now provide you with the text of  
5 the solemn declaration which you are asked to take pursuant to  
6 Rule 141(2) of our rules of procedure. Please proceed to look at it  
7 and then read it aloud.

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

12                       WITNESS: JAMES RUBIN

13           PRESIDING JUDGE SMITH: Thank you, Witness. Now you can be  
14 seated.

15           First of all, regarding introductions, the parties and  
16 participants may have noticed that we have two representatives of the  
17 United States Government who are joining us this morning.

18           If each individual could please introduce themselves for the  
19 record.

20           MS. GEARHART-SERNA: Yes, my name is Terra Gearhart-Serna. I'm  
21 the Deputy Legal Counselor at the United States Embassy in The Hague.

22           MS. COYNE: And I am Joanna Coyne. I am with the Office of the  
23 Legal Adviser in Washington DC.

24           PRESIDING JUDGE SMITH: Thank you both, and welcome to the  
25 Court.

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1           Witness, today we will start your testimony which is expected to  
2   last approximately two to three days.

3           As you may know, the Thaci Defence will ask you questions first  
4   and then the remaining Defence teams. Once they are finished, the  
5   SPO has the right to ask questions of you and members of the Panel  
6   might also have questions for you.

7           The Thaci Defence estimate for your direct examination is four  
8   hours. The remaining Defence teams will take approximately 3.5  
9   hours, and the SPO estimates that it will need approximately four  
10   hours. As regards each estimate, we hope that the counsel will be  
11   judicious in the use of their time. The Panel may allow redirect  
12   examination if conditions for it are met.

13          Witness, please try to answer the questions clearly with short  
14   sentences. If you don't understand a question, feel free to ask the  
15   counsel to repeat the question or tell them you don't understand and  
16   they will clarify. Also, please try to indicate the basis of your  
17   knowledge of facts and circumstances that you will be asked about.

18          In the event you are asked by the SPO to attest to some  
19   corrections made during your statement, you are reminded to confirm  
20   on the record that the written statement, as corrected by the list of  
21   corrections, accurately reflects your declaration, and that goes for  
22   any person that wants to remind you of your statement.

23          Please also speak into the microphone and wait five seconds  
24   before answering a question, and speak at a slow pace for the  
25   interpreters to catch up.

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1           During the next days while you are giving evidence in this  
2   Court, you are not allowed to discuss with anyone the content of your  
3   testimony outside of the courtroom. If any person asks you questions  
4   outside the Court about your testimony, please let us know  
5   immediately.

6           Please stop talking if I ask you to do so and also stop talking  
7   if you see me raise my hand. These indications mean that I need to  
8   give you an instruction.

9           If you feel the need to take breaks at any point or wish us to  
10   repeat anything, please make an indication and an accommodation will  
11   be made.

12          For everyone's sake, we will take a break at 10.00, just a  
13   comfort break for five to ten minutes, and then proceed on till  
14   11.00, and at that time there will be a half-hour break, and then  
15   we'll continue on after that. So there's ample opportunities to have  
16   a short break.

17          Finally, I note that you are accompanied in the courtroom today  
18   by two representatives of the US Government. In this regard, the  
19   Panel has made a prior ruling that your testimony will be limited in  
20   scope, and the representatives are in court today to help us with  
21   that. Please, if you have any doubt about the scope of your  
22   testimony, you may ask the Panel or the representatives.

23          Mr. Misetic.

24          MR. MISETIC: Thank you, Your Honour.

25                       Examination by Mr. Misetic:

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1 Q. Good morning, Mr. Rubin.

2 A. Good morning.

3 Q. Good morning. We have met before. But for the record, my name  
4 is Luka Misetic, and I am Specialist Counsel for Hashim Thaci.

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

6 A. James Phillip Rubin.

7 Q. And what is your date of birth?

8 A. March 28, 1960.

9 Q. And what is your nationality?

10 A. American.

11 Q. Did you give a statement to the Thaci Defence which you signed  
12 on 22 August 2025?

13 A. Yes.

14 MR. MISETIC: If the Court Officer could please call up DHT11879  
15 to DHT11892, please.

16 Q. Mr. Rubin, do you recognise the document on the screen?

17 A. I do.

18 Q. And what is it?

19 A. It's the document we prepared based on all of my knowledge of  
20 the subject.

21 MR. MISETIC: And if we could turn to the last page, please,  
22 DHT11892. If we could scroll to the bottom, please.

23 Q. Is that your signature on the bottom?

24 A. Yes, it is.

25 Q. Is this an electronic signature?

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1 A. I believe it is, yes.

2 Q. Did you authorise the placement of the electronic signature?

3 A. I did.

4 Q. Just one instruction. You and I speak English, so we'll tend to  
5 want to speak at a fast pace, but there are interpreters in the booth  
6 who are interpreting this in both Albanian and in Serbian, so we'll  
7 have to pause between my question and your answer.

8 Did you have a chance to review this document before you signed  
9 it?

10 A. Yes, I did.

11 Q. And did you have another chance to review this document last  
12 week?

13 A. Yes, I did.

14 Q. Did you have an opportunity to meet with me and my colleagues  
15 last week via video-conference?

16 A. Yes.

17 Q. And in those meetings, were you given an opportunity to make  
18 corrections and clarifications to this document?

19 A. Yes.

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

22 A. Yes, I do recall that.

23 MR. MISETIC: For the record, Preparation Note 1 is DHT12022 to  
24 DHT12024.

25 Q. And subject to those clarifications and corrections that you



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1 gave us last week and that we recorded in the note, is the  
2 information you provided in the statement to the Thaci Defence  
3 accurate and truthful to the best of your knowledge and belief?

4 A. Yes.

5 Q. And subject to those corrections and clarifications recorded in  
6 the note, does the information provided in your witness statement to  
7 the Thaci Defence accurately reflect what you would say if you were  
8 asked the same questions again in court as you were asked when you  
9 provided the witness statement?

10 A. Yes, it does.

11 MR. MISETIC: Your Honour, we move for the admission of the  
12 witness statement, DHT11879 to DHT11892, and the associated exhibits  
13 that were provisionally admitted by the Trial Panel in decision  
14 F03452. And we also tender Preparation Note 1, DHT12022 to DHT12024,  
15 for admission.

16 PRESIDING JUDGE SMITH: Any objection by the SPO?

17 MR. PACE: No.

18 MR. DIXON: No, Your Honour.

19 PRESIDING JUDGE SMITH: No one else to be heard.

20 DHT11879 to 11892 is admitted.

21 THE COURT OFFICER: Your Honours, that will be assigned  
22 Exhibit 1D262. And if we can confirm classification.

23 MR. MISETIC: It can be public.

24 PRESIDING JUDGE SMITH: This will be reclassified as public.

25 Also admit Preparation Note 1, which is DHT12022 to 12024.

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1 THE COURT OFFICER: It will be assigned Exhibit 1D263. And,  
2 again, same question for classification.

3 MR. MISETIC: It can be [Microphone not activated].

4 PRESIDING JUDGE SMITH: It is reclassified as public.

5 Plus the associated exhibits, all admitted.

6 THE COURT OFFICER: Associate Exhibit DHT01462 to DHT01464 will  
7 be assigned 1D264.

8 DHT05121 to DHT05124 will be Exhibit 1D265.

9 DHT05125 to DHT05125 will be 1D266.

10 DHT05126 to DHT05133 will be 1D267.

11 DHT05134 to DHT05139 will be Exhibit 1D268.

12 DHT05144 to DHT05149 will be Exhibit 1D269.

13 DHT05150 to DHT05153 will be Exhibit 1D270.

14 DHT05154 to DHT05155 will be Exhibit 1D271.

15 DHT05156 --

16 THE INTERPRETER: Interpreter's note: If the speaker could  
17 kindly read the numbers a bit more slowly. Thank you.

18 THE COURT OFFICER: Apologies.

19 DHT05156 to DHT05164 will be Exhibit 1D272.

20 DHT05165 to DHT05169 will be Exhibit 1D273.

21 Pages DHT05170 to DHT05173 from item DHT05170 to DHT05177 will  
22 be assigned Exhibit 1D274.

23 MR. PACE: Sorry to briefly interrupt, but the witness's  
24 microphone is on, so when he consults with the 107 providers, we can  
25 hear. So perhaps --

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1 THE WITNESS: Thank you for telling me that.

2 THE COURT OFFICER: DHT05180 to DHT05189 and pages from there  
3 DHT05180, DHT05186, and DHT05189 will be Exhibit 1D275.

4 DHT05190 to DHT05191 will be Exhibit 1D276.

5 DHT05266 to DHT05281 will be Exhibit 1D277.

6 DHT05284 to DHT05289 will be Exhibit 1D278.

7 And, lastly, from SPOE00229708 to SPOE00229735, pages  
8 SPOE00229721, SPOE00229726, SPOE00229727 to SPOE00229728, and page  
9 SPOE00229733 will be assigned Exhibit 1D279.

10 And, Your Honours, for all the associated exhibits, the question  
11 for classification is on the table. Thank you.

12 PRESIDING JUDGE SMITH: I'm sorry. They are currently  
13 confidential, did you say? Madam Court Officer?

14 THE COURT OFFICER: Some of are, Your Honour.

15 PRESIDING JUDGE SMITH: They will all be reclassified as public.  
16 All right. Mr. Misetic, you may continue.

17 MR. MISETIC: Thank you, Mr. President.

18 On 8 September 2025, the Thaci Defence submitted, by e-mail, a  
19 proposed summary of this witness's now admitted Rule 154 statement to  
20 the Panel and all parties and participants. We have not received any  
21 objection to the proposed summary, so with your leave, I will read  
22 the summary now.

23 PRESIDING JUDGE SMITH: Go ahead.

24 MR. MISETIC: From 1997 to 2000, James Rubin served as Assistant  
25 Secretary of State for Public Affairs and chief spokesman reporting

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1 directly to Secretary of State Madeleine Albright. When the Contact  
2 Group decided to convene a peace process in January 1999, Mr. Rubin  
3 was directed by Secretary Albright to engage directly with the Kosovo  
4 Albanian delegation during the Rambouillet conference on Kosovo and  
5 then join the negotiations as special envoy on her behalf to secure  
6 the demobilisation of the KLA.

7 In this framework, Mr. Rubin had numerous interactions with  
8 Hashim Thaci and other KLA members. This allowed Mr. Rubin to  
9 understand that Mr. Thaci was worried that he did not have full  
10 authority to sign the Rambouillet agreement on behalf of the KLA  
11 without approval from the military wing.

12 Similarly, during the negotiations that led to the signing of  
13 the undertaking of demilitarisation and transformation by the UCK,  
14 Mr. Rubin observed that Mr. Thaci's role was limited since he did not  
15 engage in the technical talks. He observed that Mr. Thaci expressed  
16 to him from the beginning that he wanted a democratic Kosovo, free  
17 from interethnic violence, and operating under Western democratic  
18 values to the extent possible.

19 Mr. Rubin explained that in June 1999, Secretary Albright met  
20 with Mr. Thaci, Ibrahim Rugova and Rexhep Qosja and encouraged them  
21 to have a unified structure on the ground to work towards a civil  
22 administration, which Mr. Rubin understood to be an implicit  
23 reference to the Provisional Government of Kosovo.

24 And that concludes the summary, Mr. President.

25 Q. Again, Mr. Rubin, I'm going to give us both a second reminder.

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1 I think the speed of our pace will be quick unless we're conscious of  
2 trying to keep a pause for the benefit of the interpreters in the  
3 booth.

4 Now, I'd like to start with some background questions,  
5 Mr. Rubin. You say in your witness statement that early in your  
6 career you spent 1989 to 1993 working for US Senator Joseph Biden; is  
7 that correct?

8 A. Yes.

9 Q. And did you have occasion to visit any of the countries of the  
10 former Yugoslavia when you were working for Senator Biden?

11 A. I did. In 1991, 1992, and 1993 period, I visited probably three  
12 or four times during the war, both the war between Croatia and Serbia  
13 first and then later the siege of Sarajevo and the attacks and  
14 warfare throughout Bosnia. I went to several cities, and ultimately  
15 brought Senator Biden to all of those countries in the spring of  
16 1993.

17 Q. And did you have an opportunity on those trips to meet with any  
18 Kosovo Albanian leaders?

19 A. Yes. The wars at that time were primarily between, first,  
20 Croatia and Serbia, and later in Bosnia, so those were the focus of  
21 the trips. But knowing of the risk of conflict spreading, which was  
22 a primary interest of the United States to prevent that, we  
23 understood that what was going on in Kosovo was extremely important.  
24 So I visited Prishtine, I'm guessing, two or three times during which  
25 I met with Ibrahim Rugova at least once or twice and other Kosovar

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1 Albanian individuals.

2 Q. In your statement at paragraph 1, you say that between 1993 and  
3 1996, during President Clinton's first term, you served as Senior  
4 Adviser and Spokesman for the US Permanent Representative to the  
5 United Nations, Madeleine Albright. And you conclude by saying that  
6 you had gotten to know each other by bonding over Bosnia during the  
7 run-up to the election in 1992. Could you please explain to the  
8 Court how you bonded with Madeleine Albright over Bosnia before the  
9 1992 election?

10 A. Well, the Democratic Party had been out of office for three  
11 terms, two Reagan administrations and one Bush administration, so  
12 that's 12 years. Those of us in the Democratic Party who sought to  
13 adjust, change, pursue different policies got to know each other.

14 Madeleine Albright was, at that time, a leading official in the  
15 Democratic Party's foreign policy community and had done a lot of  
16 work on Eastern Europe. And I believe our first real experience was  
17 when she did an extensive polling survey of East European countries  
18 after the fall of communism, and then I believe she testified about  
19 that to the foreign relations committee. She also ran a think tank,  
20 and I spoke to the think tank, and we met and talked.

21 When I say "bonded," what I mean by that is, you've got to  
22 remember at the time, 1992, 1991, the Democratic Party was mostly  
23 filled with those who were reluctant to see America act  
24 internationally. Madeleine Albright was different. There were  
25 several officials who were different. And I was different, having

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1 visited the war zone. I was urging action through my work at the  
2 committee, through my work with Senator Biden, and I wanted to bring  
3 together those who were advocating an American effort to stop the  
4 war. So she was a prominent advocate of that.

5 And also, to be frank, the Bosnia cause was a very emotional  
6 thing for me as a Jewish American who had grown up under the  
7 knowledge -- I was born in 1960, and it's funny to remember now that  
8 was only 15 years after the Holocaust. So I was very conscious of  
9 that issue of mass murder. And so being in a position -- I always  
10 wondered what you would do if you had power in a time of horror. And  
11 so being able to work with her on a subject that was very powerful to  
12 me meant that we bonded at an emotional level beyond just the  
13 substance of the policy. And that's how we bonded.

14 Q. Thank you.

15 A. I hope that wasn't too long.

16 Q. Thank you. Mr. Rubin, did you have any involvement in the  
17 creation of the United Nations International Criminal Tribunal for  
18 the former Yugoslavia in 1993?

19 A. Well, yes, I did. Madeleine Albright was the US ambassador to  
20 the UN along with one of her counsels, David Scheffer. She was a  
21 strong advocate of creating this tribunal. And I worked very, very  
22 closely with her and David Scheffer. And she was very, very proud,  
23 and I was therefore proud with her, of helping to create the first  
24 tribunal of its kind on the former Yugoslavia and Rwanda. And I  
25 think it took some time to get up and running. And we visited here,

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1 I think it was around 1994, 1995, I can't remember precisely the  
2 date, and they would call her the mother of the tribunal.

3 PRESIDING JUDGE SMITH: I don't mean to cut you off, but this is  
4 going to be a lot easier if you listen to the question. The question  
5 called for a "yes" or "no" answer. And if he wants you to answer  
6 more to fill in the gaps afterwards, he will. It'll just make it  
7 work easier if you will --

8 THE WITNESS: Sure.

9 PRESIDING JUDGE SMITH: -- please do that.

10 THE WITNESS: Let's try again.

11 PRESIDING JUDGE SMITH: Thank you.

12 MR. MISETIC: That's okay. Thank you.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. MISETIC: Yes.

15 Q. In paragraph 2 of your statement, you say that from 1997 to  
16 2000, during President Clinton's second term, you served as Assistant  
17 Secretary of State for Public Affairs, as the Chief Spokesman for the  
18 State Department. In paragraph 11 of your statement, you say that  
19 you not only had to know the issues, but you had to know where  
20 Secretary Albright stood on the issues, and that to do your job, you  
21 would read all relevant media reports as well as intelligence reports  
22 and diplomatic cables from US missions and embassies; correct?

23 A. Yes.

24 Q. And you say at paragraph 3 that as part of your  
25 responsibilities, Secretary Albright tasked you to go to Rambouillet



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1 and to engage with the Kosovo Albanian delegation during the  
2 Rambouillet conference; correct?

3 A. Yes.

4 MR. MISETIC: If the Court Officer could please call up  
5 SPOE00397414 to SPOE00397417, please.

6 Q. Mr. Rubin, do you recognise the document on the screen?

7 A. Yes.

8 Q. And what is it?

9 A. It's an article that I authored shortly after I left the  
10 government in 2000 that was intended to be a kind of mini memoire of  
11 the Kosovo war.

12 Q. And does this account constitute a memoire of your own personal  
13 experiences during the Kosovo war?

14 A. Yes, which is why it was called "Countdown to a Very Personal  
15 War."

16 Q. And in this account, were you trying to be as accurate as  
17 possible with respect to your recollections?

18 A. Yes.

19 MR. MISETIC: Mr. President, I tender this document into  
20 evidence, both parts of it, SPOE00397414 to SPOE00397417.

21 PRESIDING JUDGE SMITH: Any objection by the SPO?

22 MR. PACE: No.

23 PRESIDING JUDGE SMITH: SPOE00397414 to 00397417 is admitted.  
24 Please assign a number.

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

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1 Exhibit 1D280. And if we can confirm classification.

2 MR. MISETIĆ: It's public. It should be public.

3 PRESIDING JUDGE SMITH: [Microphone not activated] ... already  
4 is public. It's reclassified as public.

5 MR. MISETIĆ: Thank you.

6 Q. Mr. Rubin, my next background question is, after this was  
7 published in 2000, did you have any subsequent interactions with  
8 Hashim Thaci?

9 A. Yes.

10 Q. Could you tell us when you interacted with Hashim Thaci and why?

11 A. So I don't remember every interaction. I do remember the first  
12 one afterwards. He had been a young man I met during a very  
13 difficult time, without any office or power, and, like me, was  
14 youngish. And then the first time I believe we met after this was  
15 published was in New York City when he became prime minister. And he  
16 showed up at a restaurant as prime minister, and I was struck by that  
17 because he had gone from being a young man who was, like me, working  
18 in a difficult time and suddenly he had become a prime minister.  
19 This would have been probably several years afterwards, maybe four or  
20 five years to the best of my recollection, and it was in a restaurant  
21 in New York. That was the first time.

22 Q. And it when was the last time?

23 A. I believe the last time would have been around 2018 when I was  
24 working in Washington and he was then president of Kosovo.

25 Q. And why did you meet at that time?

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1 A. I left London in 2018 and had -- actually, I may want to -- I  
2 think it was 2019 when I saw him again. So if we add a year to that.  
3 So in 2018, I returned to Washington to work for a prominent lobbying  
4 firm. When I arrived there, they already had a contract with the  
5 Kosovo government before I arrived. When the partners realised that  
6 I knew him very well, they thought it would make sense for me to work  
7 with him on that contract, which was about representing him in an  
8 effort to make peace with Serbia. So we worked very closely during  
9 that period on an effort to end the conflict, to bring a final peace  
10 to Kosovo and Serbia. I was very happy to see maybe we could end  
11 this conflict with a mutual recognition, and that's what I worked  
12 with him on, the effort to end the conflict, to bring peace to the  
13 region, and recognise Kosovo and recognise Serbia as two countries in  
14 peace and security, which would have been a nice ending to a rather  
15 horrible story.

16 Q. Mr. Rubin, going back to 1999, do you recall when you arrived in  
17 Rambouillet for the talks?

18 A. Yes, I recall arriving after they had been going on for some  
19 number of days. It was -- Madeleine Albright, as Secretary of State,  
20 considered this an issue of prime importance to her, and things that  
21 were important to her were important to me. And she knew that I --  
22 she and I had the closest understanding of each other's views. So  
23 she sent me on ahead of her trip by about a week to go to the site to  
24 meet with the negotiators and to begin to formulate the policy. That  
25 was a dramatic thing, to try to bring peace and prevent what we

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1       feared was an upcoming mass slaughter of Kosovar Albanians through a  
2       peace conference.

3       Q.     And by the time of your arrival, do you know whether the Kosovo  
4       Albanian delegation had already chosen its chairperson?

5       A.     I do know, yes.

6       Q.     And had they?

7       A.     Yes.

8       Q.     And who was that?

9       A.     That was Hashim Thaci.

10      Q.     And did you know at the time or do you know now why Hashim Thaci  
11      was chosen by the Kosovo Albanian delegation as its chair?

12      A.     No, not for sure. We just knew that they had picked him.

13      Q.     At paragraph 21 of your statement, you say that  
14      Secretary Albright immediately wanted to talk to Mr. Thaci when she  
15      arrived.

16             MR. MISETIC: Madam Court Officer, may I please call up DHT05848  
17      to DHT05854, which is now admitted as an exhibit through the bar  
18      table decision of F03467.

19             PRESIDING JUDGE SMITH: Is it possible to just refer to its  
20      exhibit number, or did you give the exhibit number?

21             MR. MISETIC: I don't think we have an exhibit number yet.

22             PRESIDING JUDGE SMITH: Oh, you wouldn't on that. You're right.  
23      Go ahead.

24             MR. MISETIC:

25      Q.     Mr. Rubin, this is a United States code cable dated 15 February

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1 1999.

2 MR. MISETIC: If we could zoom in on the subject line, please.

3 Q. We see that the cable concerns a meeting that Secretary Albright  
4 had with the Kosovo Albanian delegation on 14 February 1999. Do you  
5 see that?

6 A. Yes.

7 Q. And this would have been the day after she arrived in  
8 Rambouillet?

9 A. Yes.

10 MR. MISETIC: If we go to page 2 of the document. If we scroll  
11 down a bit to the middle.

12 Q. We see a list of the attendees of this meeting with the Kosovo  
13 Albanian delegation. Do you see yourself listed as one of the  
14 attendees?

15 A. Yes.

16 Q. Do you recall this meeting?

17 A. Yes.

18 MR. MISETIC: If we could please go to page DHT05852 of this  
19 document. If we scroll down to the bottom, please.

20 Q. We see there, on the screen, that it records Hashim Thaci as  
21 having spoken and outline four key objectives for the Kosovo Albanian  
22 delegation. One is reaching a political agreement; two is ensuring  
23 that an agreement is guaranteed by NATO and the United States; three  
24 is creating democratic institutions in Kosovo following an agreement;  
25 and four is ensuring that Kosovars - if we could go to the next page,

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1 please - ensuring that Kosovars have the right to decide their own  
2 futures at the end of the interim period.

3 Now, is what is recorded here consistent with your recollection  
4 of what Hashim Thaci said at this meeting?

5 A. Well, this is 26 years ago. I went to a lot of meetings, and I  
6 can't precisely remember those words, but it's consistent with what I  
7 remember him saying during the course of those talks about.

8 Q. Okay. And the next passage reports - if we scroll down a bit -  
9 on the words of Ibrahim Rugova during this meeting. And it says that  
10 Mr. Rugova:

11 "... emphasized that the Albanian delegation had come to  
12 Rambouillet to reach a political agreement. Rugova noted that  
13 Kosovars wanted an agreement which contained an open door to the  
14 future. Acknowledging problems with sovereignty, Rugova remarked  
15 that Kosovo should have sovereignty first and integration into the  
16 international community later. The Kosovar Albanian demand for  
17 independence was not just for independence but for the security of  
18 its people. The discussion centred on the SFRY, a country which no  
19 longer existed. Their hope was to go forward, and not back."

20 Is this passage consistent with your recollection of  
21 President Rugova's position on Kosovo independence?

22 A. Yes.

23 MR. MISETIC: And if we can go now to the last page of this  
24 document, DHT05854, paragraph 13.

25 Q. Secretary Albright is recorded as having told the KLA members of

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1 the Kosovo Albanian delegation, it says as follows:

2 "Referring to Kosovo Liberation Army (KLA), the Secretary noted  
3 that other armed groups had turned into political parties and  
4 encouraged the KLA to do the same. There was as much honour in being  
5 a great political leader as a great fighter. The Kosovo Albanians  
6 should look at Northern Ireland as a model. Sinn Fein separated  
7 itself from the IRA. It became part of the solution, not the  
8 problem."

9 Do you recall Secretary Albright encouraging the KLA members of  
10 the delegation to turn the KLA into a political party like Sinn Fein  
11 had emerged from the Irish Republican Army?

12 A. Yes, I recall that first being said by her at that time with not  
13 only the reference that was written in this cable -- and I should  
14 point out, for the first time here, which is very important, cables  
15 are not verbatim. They're impressions from a political officer who  
16 will tend to emphasize what he chooses or she chooses to rather than  
17 verbatim transcripts.

18 And so what I remember about that was the word Gerry Adams and  
19 not Sinn Fein. So I remember her saying to him that he could be the  
20 Gerry Adams of the Kosovo liberation movement the way Gerry Adams was  
21 a member of the IRA who became a political leader. So rather than  
22 Sinn Fein, I definitely remember her using Gerry Adams in reference  
23 to Hashim Thaci.

24 Q. Okay. On that point, if we could please -- let me just check.

25 MR. MISETIC: If we could please call up 1D277, please.

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1 Q. And, Mr. Rubin, this is a different version of your *Financial*  
2 *Times* piece.

3 MR. MISETIC: If we could, in this document, please turn to page  
4 DHT05278. And if we scroll where it says "Albright" in the second  
5 paragraph from the bottom.

6 Q. And in the *Financial Times*, here's what you wrote in 2000:

7 "Albright gave him a pep talk, saying: 'I hope you will become  
8 Kosovo's Gerry Adams and choose peace over continuing war and  
9 terrorism.'"

10 That's what you were referring to as your recollection?

11 A. Yes. I'm glad I wrote it the way I remembered it.

12 Q. Good. Can you tell us in your own words what did you understand  
13 Secretary Albright to be suggesting to Hashim Thaci when she told him  
14 she hoped he would become the Gerry Adams of Kosovo?

15 A. This will require more than a word or two.

16 PRESIDING JUDGE SMITH: Go ahead.

17 THE WITNESS: Thank you.

18 We arrived and we didn't know the Kosovo Albanians very well,  
19 the way we knew the Bosnians. We knew a few of them. We had never  
20 met any KLA leaders, Madeleine Albright or I. Other members of the  
21 administration had. We had not. We were unaware of the KLA in  
22 general. It was a very small and, in our minds, not well understood  
23 or very significant force. And so when we heard that the leading  
24 member of the delegation, the one they chose as chairman, was from  
25 the KLA, she was trying to achieve peace at Rambouillet to stop the



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1 war that was ongoing.

2 And to stop a war, you have to motivate those who have a role in  
3 the military side of the equation as opposed to the -- Mr. Rugova who  
4 was a peaceful advocate of independence but had no role with the KLA.  
5 Hashim Thaci was identified with the KLA. We didn't know him. So we  
6 were trying to encourage him to see this peace conference as an  
7 opportunity to transform a small group of people who had finally  
8 reached the point that they were using military or violence to  
9 achieve their objectives to not do so. And so she was trying to make  
10 the point that this was how Nobel Prizes are won, this is how peace  
11 is made, by people transforming themselves. And since we didn't know  
12 him, we were trying to motivate him.

13 Q. Thank you, Mr. Rubin.

14 MR. MISETIC: Mr. President, the US code cable, as I mentioned,  
15 has already been admitted in the bar table motion, and I would ask  
16 that it be given an exhibit number at this time. That would be  
17 DHT05848 to DHT05854.

18 PRESIDING JUDGE SMITH: Yes, please give it a number.

19 THE COURT OFFICER: Your Honours, that will be assigned  
20 Exhibit 1D281.

21 MR. MISETIC: Thank you.

22 Q. Mr. Rubin, if you could, in your own words, tell us how you  
23 interacted with Mr. Thaci during the Rambouillet conference.

24 A. Again, it will require a few words. So I remember their first  
25 meeting, which I believe was the one you just referred to and that

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1 was recorded in a cable. And immediately I recall that he recognised  
2 me from television. Because I was the spokesman of the  
3 State Department, I received a lot of TV time, especially for those  
4 who were interested in the former Yugoslavia. So he recognised me.  
5 And I noticed in those days when someone recognises you, they sort of  
6 move towards you and sort of wave to you or shake your hand or  
7 otherwise signal they know you, and Madeleine Albright noticed that  
8 he did that. And she was very good at human relations and so she  
9 immediately said, "Jamie, you should talk to him. Get to know him."  
10 We didn't know him. Nobody knew him really in the US Government that  
11 I was aware of. And so we wanted to know who -- more about the  
12 leader of the delegation that we needed to be in favour of a peace  
13 agreement. So she asked me, kind of like assigned me to him and  
14 said, "Get to know him. Figure him out. Help him come to the right  
15 decision."

16 And so I did. Over those, I guess it was a couple of weeks, I  
17 tried to spend time with him. We met in the eating places, in the  
18 outdoor spaces. I smoke cigarettes now and then, so we went outside  
19 a lot, we took walks. And I was trying to get to know him. You  
20 know, in government you often are said, okay, you're going to work  
21 with this person, because she thought it was useful. And she knew  
22 that I knew her views, and I knew her views better than anybody else  
23 in the government at that time and still, and so she wanted me to  
24 really get to know him, almost like, you know, be his colleague,  
25 friend, diplomatic work that you would do.

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1 Q. Okay.

2 A. And that's why I spent so much time with him there.

3 Q. And how did you communicate?

4 A. At that time, Hashim Thaci did not speak English. You know,  
5 when people don't speak your language, in that circumstance you often  
6 use body language. You use words that are known throughout  
7 languages. And then to communicate properly, diplomatically, you  
8 have an interpreter. And I believe there were times when a State  
9 Department interpreter would be with me or some other person who I  
10 knew spoke both languages and could interpret.

11 MR. MISETIC: Madam Court Officer, if we could please call up  
12 DHT05870 to DHT05874. This has also now been admitted as part of our  
13 bar table motion in the Trial Panel's decision F03467. And if we go  
14 to the subject line again.

15 Q. This is a code cable, a US code cable reporting on -- it's dated  
16 25 February 1999, but the subject line indicates that it's a report  
17 of Secretary Albright's meeting with the Kosovo Albanian delegation  
18 at the chateau on 20 February 1999.

19 MR. MISETIC: And if we go to page 2. If we scroll down to the  
20 list of attendees.

21 Q. Do you see yourself listed as an attendee of that meeting?

22 A. Yes.

23 MR. MISETIC: And if we go to page 3 of this document at  
24 DHT05872, beginning at paragraph 4.

25 Q. The document reports on Secretary Albright pressing the Kosovo

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1 Albanian delegation to accept the terms of the Rambouillet agreement,  
2 and, I quote:

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

7 And then paragraph 5 says:

8 "The Secretary informed the Albanian delegation that the Contact  
9 Group expected its decision on the proposed interim settlement by  
10 4:30 p.m. She expressed hope that the decision would be a positive  
11 one. She warned that if it were not, then the Albanians would be the  
12 losers because the Serbs were about to turn down the agreement. She  
13 emphasized that the Albanians - and the world - understood the effect  
14 of such an action."

15 MR. MISETIC: If we go to the bottom of page 3, please.

16 Q. We have Mr. Thaci's response. 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 always  
21 will 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 Now, is the summary contained in this code cable consistent with  
25 your own recollection of what transpired in this meeting on

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1 20 February 1999?

2 A. Yes.

3 Q. Thank you.

4 MR. MISETIĆ: Mr. President, I'd ask that an exhibit number be  
5 given to this document as well.

6 PRESIDING JUDGE SMITH: Please give a number to 05870 to 05874.

7 THE COURT OFFICER: Your Honours, that will be Exhibit 1D282.

8 MR. MISETIĆ: Thank you.

9 Madam Court Officer, if we could please have on the screen  
10 DHT04047 to DHT04051.

11 Q. Mr. Rubin, this is a *New York Times* article of 23 February 1999.  
12 My first question is the author is a journalist named Jane Perlez.  
13 Do you know the author?

14 A. Yes.

15 Q. And how do you know her?

16 A. She was the diplomatic correspondent for *The New York Times*  
17 covering the Secretary of State, and it was my job to know her.

18 Q. Did you communicate with her while you were in Rambouillet?

19 A. Yes. Not very often.

20 Q. The article reports that the Kosovo Albanian delegation had  
21 refused the exhortations of Secretary Albright and General Clark.

22 MR. MISETIĆ: And if we go to page 2, that second paragraph on  
23 your screen.

24 Q. It says:

25 "The guerillas' main objection appeared to be the absence of the

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1 word 'referendum' in the political document of the peace proposal,  
2 even though the draft calls for an international conference to assess  
3 the 'will of the people' at the end of a three-year interim period.  
4 A referendum on independence has been a rallying cry of the guerilla  
5 group."

6 Is this account consistent with your recollection of what had  
7 transpired in the talks up until that point?

8 A. Yes, but remember that she is just getting impressions. She's  
9 not in the talks. She's not always accurate. She's trying to be  
10 accurate, but we're not communicating exactly what's going on to *The*  
11 *New York Times* because these are peace talks, and so they are trying  
12 to obtain information.

13 That description was part of the problem, but she probably  
14 overstated it.

15 Q. The article also reports that Mr. Thaci did not speak Serbian.  
16 Do you know whether Mr. Thaci speaks Serbian or spoke Serbian at the  
17 time?

18 A. I don't know, but I knew he didn't speak English.

19 MR. MISETIC: Mr. President, I tender this article into  
20 evidence.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. PACE: No.

23 PRESIDING JUDGE SMITH: DHT04047 to 04051 is admitted. Please  
24 assign a number.

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

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1 Exhibit 1D283.

2 MR. MISETIC: Mr. President, I'm about to turn into a longer  
3 topic. I don't know if you want to take the break right now.

4 PRESIDING JUDGE SMITH: We'll take a ten-minute break at this  
5 time. We'll be back in ten minutes. Please do not speak with anyone  
6 about your testimony outside the courtroom. I have to remind you of  
7 that several times, so just be patient.

8 That's all. You may leave.

9 [The witness stands down]

10 PRESIDING JUDGE SMITH: We're adjourned until 10.10.

11 --- Break taken at 9.58 a.m.

12 --- On resuming at 10.10 a.m.

13 PRESIDING JUDGE SMITH: Madam Court Officer, please bring the  
14 witness in.

15 Did you have something else, Mr. Misetic?

16 MR. MISETIC: Just to continue with my direct.

17 PRESIDING JUDGE SMITH: I thought maybe you might want to make  
18 a --

19 MR. MISETIC: No, no, thank you.

20 PRESIDING JUDGE SMITH: Make a speech.

21 MR. MISETIC: No, thank you. I try to avoid speeches. Thank  
22 you.

23 PRESIDING JUDGE SMITH: Thank you.

24 [The witness takes the stand]

25 THE WITNESS: Thank you.

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1           PRESIDING JUDGE SMITH: All right, Witness, Mr. Misetic will  
2 continue with his questions now.

3           Go ahead.

4           MR. MISETIC: Thank you, Mr. President.

5           Q. Mr. Rubin, at paragraph 24 of your statement, you say that at  
6 some point Mr. Thaci shared with you his worries that he did not have  
7 full authority to sign on behalf of the KLA without approval.

8           MR. MISETIC: Madam Court Officer, could we please have  
9 Exhibit 1D279 on the screen, please.

10          Q. And, Mr. Rubin, this is the book version of your *Financial Times*  
11 article and which you discuss in your statement.

12          MR. MISETIC: And if we could please go to page SPOE00229721,  
13 please.

14          Q. And on this page, at the top, and this is now Secretary Albright  
15 speaking at the top:

16                "'You personally will be responsible'" --

17                And she's speaking to Mr. Thaci:

18                "'You personally will be responsible for the death of your own  
19 people, if you do not change your mind. Leadership means making  
20 difficult decisions. I know it is very difficult for you to give up  
21 independence. But if you do not accept, you will not have the  
22 support of the West. You will endanger the friendship with me and  
23 Mr. Rubin. You do not have better friends than myself and Rubin in  
24 the West. However, we cannot help you to despair your own people.'"

25                And then you write:



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1 "Thaci was on the brink of tears. He had never met foreign  
2 ministers, let alone an angry US Secretary. He said that he himself  
3 had witnessed the death of his closest friends and the crimes  
4 committed against women, children, and old people. He was aware of  
5 the consequences. For a few moments he could not speak. Then,  
6 adjusting his posture somehow, he said that he was sorry but the  
7 answer was 'no' ..."

8 My first question is, is this account of your interaction with  
9 Mr. Thaci true and accurate to the best of your knowledge and belief?

10 A. Yes.

11 Q. And is it correct that Mr. Thaci was on the brink of tears in  
12 this discussion with Secretary Albright?

13 A. That was my impression.

14 Q. If we continue on the page, it says:

15 "When Hashim Thaci left the room the last night at Rambouillet,  
16 Madeleine Albright gathered her team for a meeting. She was pale.  
17 The conference was turning into shambles. After analysing the  
18 hopeless situation, Albright returned to Paris by car to sleep for a  
19 few hours. That night, I went on a long walk with Thaci. It was  
20 cold outside but he refused to take my coat. He was worried. He  
21 said he was under the pressure of the KLA commanders in Kosovo and  
22 its financiers from Europe. They would consider him a traitor. He  
23 felt that if he lost Albright as a friend, this would be a real  
24 catastrophe for his cause."

25 Is this account of your interaction with Mr. Thaci true and

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1 accurate to the best of your knowledge and belief?

2 A. Yes.

3 Q. Specifically, did Mr. Thaci tell you he could not sign the  
4 agreement because he felt he was under pressure from KLA commanders  
5 in Kosovo and financiers from Europe, and that they would consider  
6 him a traitor if he signed the agreement?

7 A. Yes.

8 Q. Can you explain a little bit in your own words how that  
9 conversation went?

10 A. Right. The idea of deferring rather than making explicit the  
11 independence declaration was the heart of the diplomacy going on in  
12 Rambouillet. We wanted to gather the world together, not just the  
13 United States but European countries and Russia, which was part of  
14 these negotiations. This was a unique moment in history where the  
15 great powers, such as they were, were trying to prevent a slaughter.  
16 To do that, we wanted all of the great powers to be working together,  
17 not just the United States, which some people would have had us just  
18 try to do it ourselves. But Madeleine Albright wanted as much  
19 unanimity among the great powers as possible.

20 Russia was very sympathetic to the Serbian desire not to have an  
21 independence declaration in any formal document. We had no real  
22 position yet on independence, so we needed a compromise, a diplomacy,  
23 a vagary to get us to the next phase where we could get all the world  
24 to convince the Serbs to agree to the peace agreement. To do that,  
25 we needed the Kosovar Albanians to say yes. He was saying he

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1       couldn't say yes without an explicit declaration for independence  
2       because there were those in his movement, the KLA commanders, the  
3       ideologues behind Kosovo independence were maximalists wanting to get  
4       everything.

5               Diplomacy is the art of the possible, not the perfect. And so  
6       we were trying to get a possible, which was not to say yes to  
7       independence or no in the document so that we said they could have an  
8       expression of the will of the people without making clear that it was  
9       independence. He was saying if he didn't use the word "independence"  
10      and agree to that, he was being perceived as giving up independence.  
11      And so it was a really hard moment.

12             And he was explaining that he wasn't in charge of anything. He  
13      was the person who was dealing with us because he had a political  
14      role in the KLA but not a leadership role. He didn't have power. He  
15      was a reflection of a movement, and many people in that movement  
16      wanted independence now or at least in the document confirmed there  
17      would be a vote on independence.

18             So the idea here was how do you achieve everybody's goals? And  
19      the only way to do that was to have the document be vague on  
20      independence. He couldn't accept that because he was told that he  
21      would be, as he put it, seen as a traitor. So we tried to figure out  
22      a way around that, and he and I did that.

23             MR. MISETIC: Madam Court Officer, could we please have on the  
24      screen DHT05884 to DHT05884, please.

25      Q.     And, Mr. Rubin, this is a video from the BBC, the documentary

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1 "Fall of Milosevic." And I would like to ask you just to listen to  
2 this excerpt from that documentary.

3 MR. MISETIC: If we could play the video, please.

4 [Video-clip played]

5 "... at a long table as if we were in judgment or something.  
6 And first Thaci was brought in, with a couple of other members of the  
7 Albanian delegation. The question was basically do you agree with  
8 the framework, yes or no, and we were expecting a yes, or I was. I  
9 said, 'Look, I don't understand what just happened in there, but you  
10 have let us down. It is an impossible situation now. How could you  
11 do this? We expected you to be a leader.'

12 "[Interpretation] Mrs. Albright declared if you sign and the  
13 Serbs don't, we will bomb. NATO will activate. If you don't sign,  
14 our hands are tied.

15 "[In English] You could see that he was just shocked. I mean,  
16 he looked like a high school student that I had dressed down."

17 MR. MISETIC:

18 Q. Mr. Rubin, is what Secretary Albright and Mr. Thaci say in this  
19 video about the meeting they had consistent with your own  
20 understanding of the atmosphere when Mrs. Albright addressed  
21 Mr. Thaci after he refused to sign the agreement?

22 A. Yes.

23 MR. MISETIC: Mr. President, I tender the video into evidence,  
24 DHT05884 to DHT05884.

25 PRESIDING JUDGE SMITH: Any objection?

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1 MR. PACE: I'm sorry, maybe I wasn't paying attention. Was the  
2 whole clip played, or what are we tendering?

3 MR. MISETIC: It was the whole clip.

4 MR. PACE: Then no objection.

5 PRESIDING JUDGE SMITH: DHT05884 to 05884 is admitted and will  
6 be assigned a number.

7 THE COURT OFFICER: Your Honours, that will be assigned  
8 Exhibit 1D284.

9 MR. MISETIC: Thank you.

10 Q. Mr. Rubin, in your statement at paragraphs 26 and 27, you  
11 explain that there was a second round of negotiations in Paris and  
12 that the Kosovo Albanian delegation eventually signed the agreement  
13 on 18 March 1999.

14 I would like to show you a document which has now been admitted  
15 by the Trial Panel in our bar table motion in its decision F03467.

16 MR. MISETIC: And that document is DHT05883 to DHT05883.

17 Q. Mr. Rubin, what does this picture depict?

18 A. This is Paris. This is the signing by the Kosovar Albanian  
19 delegation of the Rambouillet Accords.

20 Q. And do you recognise any individuals in the picture?

21 A. I recognise most of the -- all of the people at the table. I  
22 recognise Chris Hill, I recognise the Russian negotiator and the  
23 European Union negotiator.

24 Q. Thank you.

25 MR. MISETIC: Mr. President, I'd ask for an exhibit number for

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1 this document which has already been admitted.

2 PRESIDING JUDGE SMITH: It's been admitted already. Please  
3 assign a number.

4 THE COURT OFFICER: Your Honours, that will be Exhibit 1D285.

5 PRESIDING JUDGE SMITH: Thank you.

6 MR. MISETIC: Thank you.

7 Q. Mr. Rubin, during the second round of negotiations in Paris and  
8 the signing, did you get a chance to speak again with Hashim Thaci?

9 A. Yes.

10 MR. MISETIC: I would like to show you again Exhibit 1D279,  
11 please. And if we could please go to page SPOE00229726, please. If  
12 we go to the second paragraph from the bottom in the English.

13 Q. Here you write, and this is your *Financial Times* article, the  
14 book version:

15 "During the luxurious French lunch and a stroll in the gardens  
16 of the residence of the ambassador near Champs Elysees, Thaci told me  
17 his version of what had really happened in the Rambouillet castle.  
18 In that three-week interval, there was a split in the KLA leadership,  
19 since a small group of extremists insisted on independence, whereas  
20 the overwhelming majority wanted to embrace NATO and the West. The  
21 majority won, whereas those who opposed it were deprived of decision  
22 making in the future."

23 Is your account there of your discussion with Mr. Thaci in Paris  
24 an accurate reflection of what Mr. Thaci told you at the time to the  
25 best of your knowledge and belief?

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1 A. Yes.

2 Q. During your interactions with Mr. Thaci during the Rambouillet  
3 conference and in Paris, did you form an impression as to the extent  
4 of Mr. Thaci's authority within the KLA?

5 A. Yes.

6 Q. And what was your impression?

7 A. Two things I would say about that. One, this was an extremely  
8 high-pressure environment. I've been in a lot of high-pressure  
9 environments in my life on many, many issues. This was about as  
10 intense as I can remember because the fate of potentially a million  
11 people were at stake. If NATO embraced the West -- I'm sorry, if the  
12 Kosovar liberation movement or the Kosovar Albanians embraced the  
13 West, they would have the West with them. If they didn't, it would  
14 be a slaughter. We predicted a slaughter of hundreds of thousands of  
15 people were predicted. So that created intense emotions.

16 My impression was that he was a person assigned the job of  
17 interacting with us by the Kosovo leadership such as it was. We  
18 didn't understand their leadership structure very well, but it was  
19 clear that he did not have authority or the capability to dictate  
20 anything but rather could reflect decisions made by that amorphous  
21 thing called the Kosovo Albanian leadership, which was making  
22 decisions as a group who were not always present, and so he had to go  
23 get authority. He had no capability, no ability to dictate. And so  
24 when we wanted to do something important, he needed others to tell  
25 him it was okay.

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1 And that high-pressure moment I'm describing caused this  
2 division, because there were those, who I would call extremists, who  
3 wanted to get everything now and put at risk all of their people for  
4 a few words in a document, while there were those who were practical,  
5 like Hashim Thaci. And they lost a battle, because we persuaded the  
6 Kosovar Albanian delegation that if they deferred the clarity and the  
7 explicit call for independence, they could well get independence but  
8 first they could save their people.

9 And Hashim's -- my impression of Hashim Thaci's power was he  
10 could only reflect this decision-making. So when the majority  
11 decided to embrace NATO and the West, those extremists were  
12 sidelined, and then he could come and join the others in signing the  
13 document. And so my impression was he was a reflection of the  
14 leadership of that movement and not in charge of that movement.

15 Q. Thank you.

16 Mr. Rubin, I'd like to turn to paragraphs 68 and 69 of your  
17 witness statement, where you explain that, in June 1999, Secretary  
18 Albright met in Germany with Hashim Thaci, Ibrahim Rugova, and  
19 Rexhep Qosja, and encouraged them to get their political structure  
20 organised and to work towards a civil administration. You say in  
21 paragraph 69 that it is implicit that Secretary Albright was  
22 referring to the Provisional Government of Kosovo.

23 Quoting from your statement:

24 "While we needed to work with a unified power, we did not want  
25 it to be recognised as a sovereign state, which is why her wording



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1 was vague."

2 MR. MISETIC: I'd like to show you a document, SITF00011863 to  
3 SITF00011870, please.

4 Q. Mr. Rubin, this is an OSCE report of 1 June 1999.

5 MR. MISETIC: And if we could go to page SITF00011866, please.  
6 And in the section II, "International Relations," beginning at the  
7 paragraph that starts "On 19 May ..."

8 Q. It says:

9 "On 19 May, British [Prime Minister] Blair, having met Krasniqi  
10 and other KLA representatives in Tirana, appealed to all political  
11 forces in Kosovo to unite on the basis of their Rambouillet agreement  
12 as credible interlocutors for the international community. KLA  
13 leader Thaci arrived in Tirana on 21 May, and issued an open letter  
14 of invitation to Rugova to join him and other Kosovo political  
15 leaders for talks."

16 My question to you is are there similarities in the message  
17 delivered by Prime Minister Blair on 19 May to Kosovo Albanian  
18 political forces and the message delivered by Secretary Albright in  
19 Germany to Messrs Thaci, Rugova, and Qosja?

20 A. Yes.

21 Q. And what are those similarities?

22 A. That, again, we were not -- we, meaning the UK, the  
23 United States, we were the primary leaders of this, Prime Minister  
24 Blair working with President Clinton, and Robin Cook working with  
25 Madeleine Albright, his foreign minister, we were in sync, and we

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1 wanted them to make it easier for us to work with them, and we were  
2 trying to get them to act in as unified a way as possible. That's  
3 why the talk of joining together or working together. But we didn't  
4 want to signal support for independence, signal support for the idea  
5 that this was an independent nation with a government. One, because  
6 that would undermine the unity of the international community which  
7 hadn't agreed on that; and two, because it wasn't possible, because  
8 it wasn't independent and it didn't have a government, and we were  
9 concerned that it had no authority and leadership structure in which  
10 a single leader or a group of people had the capability or authority  
11 to execute decision-making.

12 In the West, we're used to dealing with one interlocutor who can  
13 then achieve something. We didn't have that. So he was trying to  
14 say the same thing as her: Work together, be unified, be consistent  
15 with the Rambouillet Accords that you've signed, but never use the  
16 words, Blair or Clinton or Albright, that signal explicit support for  
17 independence.

18 Q. Understood.

19 MR. MISETIC: Mr. President, this document has already been  
20 admitted by the Panel in the bar table motion decision, and I would  
21 ask that it be given an exhibit number.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 THE COURT OFFICER: Your Honours, that will be assigned  
24 Exhibit 1D286.

25 PRESIDING JUDGE SMITH: Thank you.

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1 MR. MISETIC: Thank you.

2 Q. In your statement, beginning at paragraph 28, you explain that  
3 you returned to Kosovo in June 1999 to participate in the  
4 negotiations over the demilitarisation of the KLA; correct?

5 A. Yes.

6 Q. And was there an issue that had come up that required your  
7 participation in the discussions?

8 A. Yes.

9 Q. And what was that issue?

10 A. At that time, the war was drawing to a close. The British  
11 General Mike Jackson had negotiated the withdrawal plan of Serbian  
12 forces from Kosovo. He was the commander of a new force called KFOR,  
13 which had been negotiated by the highest level. I think Yeltsin and  
14 Bill Clinton negotiated it personally, again, so that Russia,  
15 United States, and Europe were all unified in a position to have a  
16 unified force. It was very complicated to get the Russians involved.  
17 I say that as an explanation for Mike Jackson, General Jackson,  
18 managing to arrange the Serb withdrawal but then saying, "I want to  
19 only deploy my forces" in what was called "a permissive environment."  
20 That permissive environment required the KLA to demilitarise. He  
21 didn't want to have international forces interacting with the Kosovo  
22 Liberation Army such as it was.

23 What was unique about that was that is they, in their minds, had  
24 just won a war. In our minds, they weren't as significant to the  
25 winning of the war as they thought they were. We thought they were a

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1 minor player. But we understood that they thought they were the  
2 victorious army. We'll never know who's more responsible. The fact  
3 is Milosevic agreed to the withdrawal. Now we had to get the KLA  
4 demilitarised to meet the demands of the commander on the ground.

5 We were told that there were negotiations that had been ongoing  
6 between the British military and these KLA representatives, that they  
7 were nearing the end of the talks, but they couldn't achieve the  
8 agreement until the -- they finished negotiation, and then there  
9 was -- a new name popped up to the British, was that the KLA  
10 commanders wanted their political representative to sign it. The  
11 name Hashim Thaci was reported. And Madeleine Albright, Secretary  
12 Albright did what she did in Paris and Rambouillet, and say,  
13 "Where is Jamie? Let's get him to work with Hashim Thaci because  
14 he's now had a decent track record."

15 And so she asked me as a special duty, because, remember, I  
16 wasn't formal -- that wasn't my normal job. I was the spokesman  
17 working on everything for her - Iraq, Middle East, Russia, China.  
18 And she said, "No, stop what you're doing. Go to Kosovo and make  
19 sure that this agreement is signed so that the force commander's  
20 goals can be met," Mike Jackson, "and make sure again that  
21 Hashim Thaci signs the agreement." That's what she told me. That's  
22 why I went to the region.

23 Q. And how long did you stay in Kosovo?

24 A. I can't remember precisely, but I would say four days, three  
25 days. I didn't actually stay in Kosovo. I was housed in a hotel in

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1 Skopje in Macedonia. And then every morning I was brought through  
2 special means into the mountains to meet with Hashim Thaci and the  
3 actual commanders of the KLA in their mountain hideaway retreat  
4 location.

5 Q. Do you recall the dates that you were there?

6 A. It was late June 1999.

7 Q. Mr. Rubin, I'd like to show you a video.

8 MR. MISETIC: Madam Court Officer, this is 087008-01, beginning  
9 at the 08:58 mark to the 09:18 mark. And the transcript is  
10 087008-01-TR Revised-ET for the English, and 087008-01-TR Revised in  
11 the Albanian as well. And this has already been admitted through the  
12 bar table motion as well. But for now, we can just play the video.

13 [Video-clip played]

14 "And then it's my understanding that Hashim will sign it,  
15 right?"

16 MR. MISETIC: You can stop there.

17 Q. Mr. Rubin, did you recognise anyone in that video?

18 A. Yes.

19 Q. And who did you recognise?

20 A. Myself and Hashim Thaci.

21 Q. Yes. And did you hear what your voice said on the video?

22 A. I did.

23 Q. And I believe the transcript says you said:

24 "... it's my understanding that Hashim will sign it ..."

25 Do you know what you're referring to?

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1 A. Yes, the demilitarisation agreement.

2 MR. MISETIC: If we could just go back a couple of seconds to a  
3 shot of the video with Mr. Rubin in it. Yes.

4 Q. The date there on the video is 19 June 1999. Do you have any  
5 knowledge as to whether that date is accurate?

6 A. It strikes me as precise, yes.

7 Q. Okay.

8 MR. MISETIC: Mr. President, I ask that an exhibit number be  
9 given for this video. It's been already admitted.

10 PRESIDING JUDGE SMITH: This is from the bar table. Please give  
11 it a number.

12 THE COURT OFFICER: Your Honours, that will be assigned  
13 Exhibit 1D287.

14 MR. MISETIC: Thank you. And that will include the video and  
15 the transcripts? Yes, thank you.

16 Q. Mr. Rubin, can you describe in your own words how the  
17 negotiations of the demilitarisation undertaking took place from the  
18 time you arrived in Kosovo until the undertaking was signed?

19 A. Yes.

20 Q. Please go ahead.

21 MR. PACE: Objection, Your Honour. This matter is covered in  
22 the Rule 154 statement that has been admitted. Several other matters  
23 actually that we're covering in direct are also there. So if this is  
24 a matter of repeating the same thing, then that's not permissible.  
25 That's the scope of saving time, having the statement admitted. If

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1 counsel wants to ask for something more specific in relation to what  
2 is said in that statement, that would be a permissible question.

3 MR. MISETIC: Mr. President, I believe Preparation Note 2 has  
4 additional information that we did disclose, and I'm asking the  
5 witness to give that information.

6 PRESIDING JUDGE SMITH: The objection is overruled.  
7 Go ahead.

8 THE WITNESS: This was an unusual negotiation because the  
9 decision-making of the other party was very unclear when I arrived,  
10 and we had to reflect the views of all the members of NATO and all  
11 the members of the world who were participating in KFOR. So we had  
12 on one side dozens of countries and, on the other, this amorphous  
13 thing called the KLA, which we didn't understand very well, nobody  
14 did, and we didn't think was a very organised structure, but we  
15 needed to meet the demands of the commander on the ground who -- when  
16 you're in a military situation, the commander on the ground has a lot  
17 of authority, and when he asks for something, you try to give it to  
18 him. And what he asked for was the demilitarisation of the KLA.

19 So when I arrived, the British military had been working with  
20 the KLA, that is, the commanders in the room. I'd never met these  
21 people before. There were, I guess, about 12, 15, maybe 16 people in  
22 the room of various kinds who appeared to be the sector commanders,  
23 or I was told were the sector commanders. And they were older men,  
24 in their 50s or above. Hashim was a young man, like me in that  
25 picture, looking awfully young. And so it was clear to me that he

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1 was not in charge. He didn't have the knowledge, the capabilities or  
2 the authority to make decisions in any way, shape or form, to my  
3 experience. What he did have was their desire for him to be the  
4 signer, and I took that as a kind of a foreign minister's role, a  
5 political role. That's what was my impression.

6 So when -- we were there for three days, and words had to be  
7 changed, ideas had to be implemented into language. They wanted the  
8 maximum degree of a military force. We wanted to minimise the  
9 military force because that's what our commander asked us to do. So  
10 whenever words needed to be changed, that was done by the commanders  
11 in conjunction with the British military on many occasions when words  
12 needed to be changed. Or sometimes, Hashim Thaci would bring to me  
13 their latest views and I would look at it with my guys, and we'd say,  
14 "This works," "This doesn't work," and he'd go, "Okay. Let me try to  
15 go back and get the commanders," who were in charge, "to agree to  
16 it." But it was absolutely clear to me that he didn't have the  
17 capability or the authority to make decisions for the KLA in terms of  
18 practical questions: Giving up weapons, directing forces, wearing  
19 uniforms. All the things that militaries do were decided by other  
20 people. What he could do was be the -- what we would consider the  
21 frontman in a kind of a situation like this, a man -- like a foreign  
22 minister, like Madeleine Albright would do by getting her military  
23 and her commanders-in-chief in the United States to agree to things  
24 and then she could be the signer.

25 And so that went on for three long days, to figure this all out



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1 so that he could sign it, and the NATO countries would be happy, the  
2 commander on the ground, General Jackson, would be happy. And we had  
3 reason to believe these commanders from the various units would  
4 follow the rules of this demilitarisation agreement which specified  
5 specific actions had to be taken by that military unit given the fact  
6 that we didn't think it was very organised.

7 And so I met the commanders, and I absolutely saw the  
8 relationship between those commanders and Hashim, and they told him  
9 what to do. He didn't tell them what to do.

10 Q. I'd like to show you again the *Financial Times* -- the book  
11 version of the *Financial Times* article.

12 MR. MISETIC: And if we could have 1D279, please. And if we  
13 could go to page SPOE00229733, please. Yes. If we could look at the  
14 paragraph that begins "Jackson took me ..."

15 Q. And here you write:

16 "Jackson took me to one of his field tents and told me that his  
17 signature had to be described as 'taking' KLA commitment and not as  
18 his 'acceptance' of it. He explained that some European countries  
19 feared that without the change of this single word, they would be  
20 considered as supporters of an independent army for Kosovo. This did  
21 not make any sense. The document was at least presenting an  
22 aspiration of the Albanians; NATO was not promising anything.  
23 Frustrated, I said I was going to talk to Thaci. The only card I was  
24 left to offer Thaci was a phone call from Clinton. So I asked  
25 Jonathan Prince, an aide in the White House, who was charged to work

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1 in Jackson's staff, to connect us to the hotel room of the  
2 President who was in Germany. Then I told Thaci that if he would  
3 accept this single change and accept to sign it then and there, the  
4 US President himself would call him to congratulate him. He looked  
5 at me for a few seconds and then said, 'Yes, yes, we can sign it  
6 right now.' The agreement was signed in a tent a few minutes later.  
7 The last piece of the puzzle fell into place. Thaci talked with the  
8 President - and within a few months, NATO commanders proved that ..."

9 And then it goes on.

10 Now, my question to you is did Mr. Thaci agree to this  
11 last-minute change on his own?

12 A. Yes.

13 Q. And how do you reconcile this account with your recollection  
14 that he had to consult with military commanders before he could sign  
15 anything?

16 A. This was an agreement between the KLA and the NATO force, KFOR  
17 force. In the agreement, the KLA had made certain commitments of  
18 things they would be prepared to do, schedules for demobilisation  
19 essentially, how to change from a unit to a protection force we  
20 called them. So they made these commitments. They agreed to them.  
21 The commanders agreed to them. The so-called commander-in-chief such  
22 as he was, Ceku, agreed to them. The leaders of the Kosovo  
23 Liberation Army military to the extent that, well, they'd agreed to  
24 them.

25 The word change didn't change what they'd agreed to. It was a

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1 detail for the West to distinguish between "accept" or "receive," and  
2 frankly it didn't make any sense, as I wrote. And I argued to him, I  
3 said, "This doesn't matter, it's meaningless." Foreign ministers,  
4 political leaders, have the ability to decide when something is  
5 meaningless or meaningful. And it was my experience, in all the  
6 discussions leading up to that moment, that when it was a meaningful  
7 change, a significant change, when it mattered, he had to get  
8 approval from the actual commanders of the KLA, who were up in the  
9 mountains, or from Ceku, who was so-called commander-in-chief of the  
10 KLA.

11 But since this was not meaningful, not significant, it was a  
12 detail in the mind of General Jackson, frankly. I don't personally  
13 think it reflected the views of NATO members, but he said that  
14 because that's what he could say. He just didn't want to have his  
15 name associated with anything that had legal significance in his  
16 mind. But he wasn't a lawyer. He was just a military guy who wanted  
17 to minimise his -- what his signature meant. All the obligations  
18 fell on the KLA side whether the word was "accept" or "receive."

19 So having explained all that to Thaci in maybe not as many words  
20 as I just did, and saying I could offer him a call with the president  
21 of the United States, he saw this was a non-significant change. It  
22 was a trivial change of wording, trivial, in exchange for finishing  
23 the war, ending the conflict, bringing peace to his people. And so,  
24 yeah, he saw that it was not significant; therefore, he didn't need  
25 authority from the commanders, and he could agree to it and, in turn,

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1 get a call with the president of the United States, which is a very  
2 big deal for a foreign minister-type of a small group of KLA-led  
3 forces that he was representing. It was an easy decision, I think,  
4 for him.

5 Q. Thank you.

6 MR. MISETIC: Madam Court Officer, I have some time left before  
7 the break. It's DHT04107 to DHT04110, please.

8 Q. Mr. Rubin, this is a *New York Times* article from 22 June 1999  
9 authored by a journalist named Carlotta Gall. Do you know Carlotta  
10 Gall?

11 A. Yes.

12 Q. And did you work with Carlotta Gall in -- at the time you were  
13 spokesman for the State Department?

14 A. Yes.

15 Q. And did you speak to Carlotta Gall during this trip to Kosovo in  
16 June 1999?

17 A. I believe so, yes.

18 Q. The article is about -- it's titled: Crisis in the Balkans: The  
19 Separatists; Rebel General Planning A New Army for Kosovo." And it  
20 discusses the rebel official being General Agim Ceku.

21 MR. MISETIC: And if we could go to the third page of this  
22 document, which is DHT04109, please. And we go to the paragraph that  
23 begins "A Western official ..."

24 Q. It says:

25 "A Western official who had seen General Ceku in [the] mountain

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1     headquarters said rebel commanders had appeared deferential to the  
2     general."

3             Do you know who the Western official might be who spoke to  
4     Carlotta Gall?

5     A.     It probably was me.

6     Q.     And had you seen the mountain headquarters of General Ceku?

7     A.     Yes.

8     Q.     And can you tell us when you saw the mountain headquarters of  
9     General Ceku?

10    A.     Yes.

11    Q.     Please go ahead.

12    A.     I'm trying to be as --

13    Q.     Yes.

14    A.     -- respectful of the Judges' request here.

15             At the end of the talks when it was all pretty much done and we  
16     were waiting around, which is what you do a lot in these things, the  
17     General Reith, who was the NATO General who -- or I guess he was in  
18     the British military at the time, thought it would be wise to meet  
19     with the actual commander of the KLA who was located at another  
20     location about, I don't know, half a mile away or a quarter of a mile  
21     away from where these talks had taken place.

22             So we left the site, some of us, and went over to General Ceku's  
23     house/headquarters. It was hard to know which it was. It was sort  
24     of where he lived. And we had a drink of whiskey with him to  
25     celebrate the decision to transform the KLA into the Kosovo

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1 Protection Force. And it was my impression through that process,  
2 having observed in the Balkans power relationships, leaders of  
3 militaries, in my professional career of many decades, when somebody  
4 was in charge and how people behaved towards someone who was in  
5 charge, and it was my impression that people behaved as if Ceku was  
6 in charge, and that's what I communicated to Carlotta Gall.

7 Q. Did you ever notice the KLA commanders being deferential to  
8 Mr. Thaci?

9 A. No.

10 Q. Was Mr. Thaci, did you ever observe him being deferential to the  
11 KLA commanders?

12 A. Yes.

13 Q. In what way did you observe him to be deferential?

14 A. Again, during those three days, probably six to ten times we had  
15 to change things, and we also had sort of social interaction of some  
16 kind. I don't remember his exact age, but I think he was around 30,  
17 Thaci, and I was 39 -- yes, 39, and we were the youngsters in the  
18 group, and they were much older. And so I observed both socially him  
19 being deferential to them in our interactions and substantively, when  
20 some information or knowledge was needed about the way the KLA  
21 operated, when the capabilities of the KLA needed to be understood  
22 better or when a decision had to be made by the KLA, that  
23 Hashim Thaci had to defer to these group of commanders, for  
24 information, knowledge, decisions. And thus I observed him being  
25 deferential to them on the substantive questions of the KLA, and I

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1 observed him being deferential to them socially. And, frankly,  
2 because of the age gap in that culture, I felt that he was the  
3 demander, he was the one asking them for things, and they were kind  
4 of telling him what to do.

5 MR. MISETIC: Mr. President, I recognise it's the break, I would  
6 just like to tender this document into evidence, DHT04107 to  
7 DHT04110.

8 PRESIDING JUDGE SMITH: Any objection?

9 MR. PACE: No.

10 PRESIDING JUDGE SMITH: DHT4107 to 4110 is admitted. Please  
11 assign a number.

12 THE COURT OFFICER: That will be assigned Exhibit 1D288.

13 MR. MISETIC: Mr. President, I believe it's time for a break.

14 PRESIDING JUDGE SMITH: All right. We'll take a half-hour break  
15 at this time. You may walk out of the courtroom now. Please do not  
16 speak with anybody about your testimony.

17 [The witness stands down]

18 MR. MISETIC: Just in terms of timing, I will definitely finish  
19 in the next session.

20 PRESIDING JUDGE SMITH: Thank you very much.

21 We're adjourned until 11.30.

22 --- Recess taken at 11.02 a.m.

23 --- On resuming at 11.31 a.m.

24 PRESIDING JUDGE SMITH: Please bring the witness in,  
25 Madam Court Officer.

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1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: All right. Mr. Misetic, you may  
3 continue.

4 MR. MISETIC: Thank you, Mr. President.

5 Q. Welcome back, Mr. Rubin. I'd like to show you now a video.

6 MR. MISETIC: Madam Court Officer, this is Exhibit P2519,  
7 please, beginning at the 02:13 mark.

8 [Video-clip played]

9 "There is a new beginning for the people of Kosovo which  
10 guarantees freedom, peace, democracy, and prosperity. Thank you.

11 "I'm just going to make a brief statement. As all of you know,  
12 we're going to have another event. Secretary Albright spoke to  
13 Hashim Thaci a few moments ago after he signed the agreement. She  
14 expressed her pleasure at his courage in making the decision that he  
15 made and that his organisation made to transform itself. The  
16 President of the United States also spoke to Mr. Thaci a few moments  
17 ago and similarly expressed his congratulations for the decision to  
18 sign this document, and was particularly pleased by the expressions  
19 of support for democracy and tolerance that Mr. Thaci made in his  
20 conversation."

21 MR. MISETIC:

22 Q. Mr. Rubin, first, can you identify the people in the video you  
23 saw.

24 A. I saw myself, I saw Hashim Thaci, and at the beginning I saw  
25 General Jackson.



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1 Q. And is what you said and what Mr. Thaci said on the video  
2 consistent with your recollection about what was said at the time?

3 A. Yes.

4 Q. And in the video, you say that the President of the  
5 United States was pleased with Mr. Thaci's support for tolerance and  
6 democracy. Did you believe at the time that Mr. Thaci's support for  
7 tolerance and democracy was genuine?

8 A. Again, we're 26 years ago, so I was reflecting what I believed  
9 he said. But in our business, words are important, but actions are  
10 more important. So I would only say that we were going to judge all  
11 of our interlocutors by their actions, but the words were a great  
12 start.

13 MR. MISETIĆ: Now I'd like to show you another video, which is  
14 103211-09.

15 [Video-clip played]

16 MR. MISETIĆ:

17 Q. Mr. Rubin, my first question is you've seen the video. Is that  
18 video a video of the same press conference as the video we just saw?

19 A. It appears to be, yes.

20 Q. Okay. There are a couple of what appear to be slight  
21 differences. You can see the text of the translation in the second  
22 paragraph of words attributed to Mr. Thaci that are not on the first  
23 video. For example, it records that Mr. Thaci at the press  
24 conference said:

25 "We consider the signing of the agreement for the transformation

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1 of the KLA as a continuation of the Rambouillet agreement."

2 And then:

3 "The KLA and the Provisional Government of Kosovo will  
4 resolutely fulfil the obligations placed before them."

5 And then that he answered a question about prisoners that:

6 "Many Albanian intellectuals are held in Serbian prisons," and many  
7 others whom he said should be released as soon as possible.

8 Do you recall any of that discussion at that press conference?

9 A. I think there is a conflation here of those two events. There  
10 is the statement made in the tent of General Jackson, with the maps  
11 around us. And then later that day we flew into Prishtine, which is  
12 why it says, "I'm glad to meet you in Prishtine," and we had a press  
13 conference in which we took some questions. And I think this report  
14 is a conflation of the two events so that's why there is more in this  
15 report than there was in the other, because in the first, we were  
16 just moments before President Clinton had spoken to Hashim Thaci and  
17 Secretary Albright had spoken to him. Then there was I don't know  
18 how many minutes between going from the tent of the KFOR headquarters  
19 into the city of Prishtine itself where we had an actual press  
20 conference. The first was more like a couple of sentences uttered by  
21 each of us in a military environment where there wouldn't have been  
22 journalists.

23 Q. Okay. Thank you.

24 MR. MISETIC: Mr. President, this video and transcript has  
25 already been admitted as part of our bar table motion in the

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1 Trial Panel's decision F03467, and I would ask that it be given an  
2 exhibit number.

3 PRESIDING JUDGE SMITH: Yes, it can be given an exhibit number.

4 THE COURT OFFICER: Your Honours, the video and accompanying  
5 transcripts will be assigned Exhibit 1D289.

6 MR. MISETIC: Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 MR. MISETIC: Madam Court Officer, could we please have on the  
9 screen DHT01460 to DHT01461, please.

10 Q. And you can see on the first page, Mr. Rubin, that this is a  
11 record of hearings at the Committee on Foreign Relations of the  
12 United States Senate. That is, in fact, the committee that you  
13 worked on in the late 1980s and early 1990s; is that correct?

14 A. Yes.

15 Q. And that is the committee that you've said you worked on for  
16 Senator Biden; correct?

17 A. Correct.

18 MR. MISETIC: If we could turn the page, please, and if we could  
19 scroll towards the bottom, please, to see the remarks of  
20 Senator Biden. There we go.

21 Q. Senator Biden's remarks at the committee hearing are -- he  
22 says -- we start with the sentence in the fourth line from the top of  
23 that paragraph: "Bombing did not work."

24 He says:

25 "Bombing did not work. It seems to me bombing worked and even

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1     though Mr. Thaqi tells me as I met with him for several hours how he  
2     did anything - that is a bunch of crap. The incremental impact of  
3     the KLA on this process was just that, incremental. No evidence,  
4     none. You may be talking about 1.500 fighters, not 10.000.  
5     Mr. Thaqi asked me, he said, you are 29, like I am, when you took  
6     office. Do you have any advice? I said, well, if you are asking, I  
7     am happy to tell you, although very different circumstances. He  
8     said, what is your advice? I said No. 1, do not take yourself so  
9     seriously and, No. 2, understand that I know ... you do not control  
10    the KLA."

11           Now, Senator Biden says here that he told Mr. Thaci that he  
12    knows that Mr. Thaci does not control the KLA. Can you tell the  
13    Panel what was Senator Biden's position at this time on the Senate  
14    foreign relations committee?

15    A.    As I recall, he was the ranking Democrat on the committee.

16    Q.    And given your knowledge of the committee, I would like to ask  
17    you a few questions about how the ranking Democrat on the Senate  
18    foreign relations committee receives information on matters such as  
19    who does or does not control the KLA.

20           Did you ever travel with Senator Biden to the Balkans?

21    A.    I did, in 1993, the spring of 1993. We went to all the Balkan  
22    countries, I think.

23    Q.    Does the State Department have a protocol for when a US senator  
24    goes to a foreign country?

25    A.    Yes, they do.

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1 Q. And what is that protocol?

2 A. There's a control officer at each site. So normally this  
3 senator would have a -- in this case, going to the Balkans, you would  
4 have a government military plane with a military officer on the plane  
5 who was making sure the plane got to the next place. And then when  
6 you arrived in each country, a control officer from the  
7 State Department would meet the plane, describe the latest situation  
8 on the ground, and who you're likely to meet and what rank they are,  
9 and protocol and kind of background to each of the countries would be  
10 provided by that control officer or by intelligence reporting which a  
11 senator would have access to from the intelligence community.

12 Q. That will take me to my next questions. During the Kosovo  
13 conflict, would the ranking Democrat on the Senate foreign relations  
14 committee receive any briefings from the State Department or other  
15 agencies about what was happening in the conflict in Kosovo?

16 A. Yes.

17 Q. And from whom would the ranking Democrat receive briefings?

18 A. It would be a mix of his staff, and that as a staff member we  
19 like to think we have important roles in briefing senators, and so  
20 the staff members would be receiving all source information from the  
21 intelligence community, from the State Department, from the Defence  
22 Department.

23 In this case, I know that Senator Biden was extremely involved  
24 in the war in Kosovo because he was the most -- the highest-ranking  
25 Democrat in the Senate on foreign affairs. Having travelled to the

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1 Balkans, he was probably -- he was the most influential Democratic  
2 senator on the Balkans in general. And the war was very  
3 controversial politically, in the Democratic Party, in the Republican  
4 Party. And so, therefore, a senator like Senator Biden would have  
5 been briefed by everybody - the CIA, other intelligence agencies, and  
6 the State Department extensively. And I know that Secretary Albright  
7 talked to Senator Biden a lot during the Kosovo war, again, because  
8 it was the most important thing the United States was doing at the  
9 time, and because President Clinton was a Democrat, and because  
10 President Clinton and Senator Biden were close, and because  
11 Senator Biden had a special interest in the Balkans.

12 So he would have been as well briefed as any senator of the  
13 hundred senators on this subject.

14 Q. Okay. And just as a follow-up to an earlier answer you gave, a  
15 control officer would be what kind of official?

16 A. Would be a State Department diplomat based in the region in that  
17 state that would meet the plane. It would be a State Department  
18 officer, a foreign service officer.

19 Q. Thank you. Taking you back to paragraphs 65 and 66 of your  
20 witness statement, there you explain that the United States State  
21 Department had written to Senator Mitch McConnell, the chairman of  
22 the Senate foreign operations committee, and reported to him that  
23 there was no effective command and control of the KLA. And you say  
24 in your statement that this assessment would have been cleared by  
25 numerous agencies of the US Government, including the State

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1 Department, Pentagon, and the intelligence community.

2 My question is whether you know if the assessment provided by  
3 Senator Biden during this Senate hearing, namely that Hashim Thaci  
4 did not control the KLA, was consistent with the assessment of the  
5 United States Government at the time?

6 A. Yes, it was consistent because both statements reflected the  
7 fact that Hashim Thaci wasn't in control because we weren't -- we  
8 didn't believe there was a controlled system, what we would call an  
9 orderly system, in the KLA. It was not an organised unit as we would  
10 define that, where someone at the top had the authority or  
11 information or capabilities to dictate or know what was going on, and  
12 specifically that Hashim Thaci wasn't that -- even at the top of that  
13 organisation. That was General Ceku.

14 And so the combination -- and Senator Biden would have known  
15 about Ceku. And the statement by McConnell -- to McConnell would  
16 have been transmitted as a formal answer to a question that everybody  
17 would have touched, meaning -- you know, I worked in the government  
18 for several occasions, and something like that would have been  
19 cleared extensively by multiple offices in every building, including  
20 the White House, including the CIA, including the Defence Department,  
21 including the State Department. You know, 250 people probably  
22 cleared that statement who were considered experts on the Balkans.

23 Q. Thank you.

24 MR. MISETIC: Mr. President, I tender DHT01460 to DHT01461.

25 PRESIDING JUDGE SMITH: Any objection?

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1 MR. PACE: No.

2 PRESIDING JUDGE SMITH: DHT01460 to 01461 is admitted. Please  
3 assign a number.

4 THE COURT OFFICER: Your Honours, that will be assigned  
5 Exhibit 1D00290.

6 PRESIDING JUDGE SMITH: Thank you.

7 MR. MISETIC: Thank you, Mr. President.

8 Q. Mr. Rubin, at paragraphs 81 to 83 your statement, you discuss a  
9 *New York Times* article authored by Chris Hedges.

10 MR. MISETIC: And if we could please pull up DHT11910 to  
11 DHT11916.

12 Q. This article was published only a few days after your trip to  
13 Kosovo to negotiate the demilitarisation of the KLA. *The New York*  
14 *Times* article alleged that KLA senior commanders carried out  
15 assassinations, arrests, and purges within their ranks to thwart  
16 political rivals in a campaign directed by Hashim Thaci, Azem Sylja,  
17 and Xhavit Haliti.

18 MR. MISETIC: And then if we can go to page DHT11911 of this  
19 article, please. And if we could scroll to the paragraph that begins  
20 "But the State Department ..."

21 Q. And this is published on 25 June 1999. The article then quotes  
22 you as saying as follows:

23 "But the State Department yesterday challenged some aspects of  
24 these accounts. 'We simply don't have information to substantiate  
25 allegations that there was a KLA leadership-directed programme of



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1 assassinations or executions,' James P. Rubin, the State Department  
2 spokesman, said.

3 "Mr. Rubin said he could not rule out the possibility that the  
4 rebel [commanders] were somehow tied to the killings. But he said  
5 department officials had checked a wide range of sources and could  
6 not confirm the [allegations].

7 "A senior State Department official and a Western diplomat in  
8 the Balkans, citing intelligence reports and extensive contacts with  
9 rebel officials inside and outside Kosovo, said they were aware of  
10 executions of middle-grade officers suspected of collaborating with  
11 the Serbs, but said they had no evidence to link those killings with  
12 Mr. Thaci."

13 My question to you is do you -- does what is recorded here  
14 accurately reflect your statements at the time?

15 A. Yes.

16 MR. MISETIC: Mr. President, this is a different version of the  
17 article that is discussed in his witness statement, so I would tender  
18 this newer, fuller version into evidence. It's again DHT01460 to  
19 DHT01461.

20 PRESIDING JUDGE SMITH: Different numbers than you just gave me.

21 MR. MISETIC: Sorry, my fault.

22 PRESIDING JUDGE SMITH: I've got the numbers.

23 MR. MISETIC: Yeah. You're better than I am.

24 PRESIDING JUDGE SMITH: DHT11910 to 11916.

25 MR. MISETIC: That's the one. Yes.

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1           PRESIDING JUDGE SMITH: All right. Any objection?

2           MR. PACE: No.

3           PRESIDING JUDGE SMITH: All right. It is admitted. Please  
4 assign a number.

5           THE COURT OFFICER: Your Honours, that will be Exhibit 1D291.

6           MR. MISETIC: Thank you.

7           PRESIDING JUDGE SMITH: Thank you.

8           MR. MISETIC: Madam Court Officer, if we could please have  
9 Exhibit 1D275 on the screen, please.

10          Q. Now, Mr. Rubin, you explain in paragraph 82 your statement that  
11 later that same day when *The New York Times* article was published,  
12 you held your regular State Department press briefing when you were  
13 asked a question about *The New York Times* article.

14          MR. MISETIC: And if we could go to page DHT05186 of the  
15 transcript of your briefing that day. The paragraph that begins  
16 "Well, again ..." in the middle of the page. Yes.

17          Q. You're quoted as saying:

18               "Well, again, I'm regularly asked about is the KLA involved in  
19 drug dealing, and I regularly tell you that we don't have any  
20 independent confirmation of that. I'm now being asked is the KLA  
21 leadership responsible for executions, and I'm telling you we don't  
22 have any information to confirm that. We've gone to pretty  
23 significant lengths and we have very, very good contacts in the  
24 region. So we haven't been able to substantiate, after a pretty good  
25 faith effort, what are essentially anonymous allegations. The only

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1 quoted person, really, was a political opponent who didn't even  
2 specifically refer to a specific allegation but just said that this  
3 leader was capable of that behaviour."

4 Now, you said at the press briefing that the United States went  
5 to "pretty significant lengths" to investigate the allegations  
6 against Mr. Thaci and the KLA leadership and were not able to  
7 substantiate, after a pretty good faith effort, what are essentially  
8 anonymous allegations. Do you recall what those pretty significant  
9 lengths were to investigate these allegations?

10 A. Yes, I do. I would say that this was a pattern with this  
11 particular reporter, Chris Hedges, who would often be misled by  
12 Serbian sources. We found over and over again this particular  
13 reporter would repeat hearsay, with no evidence, but because he  
14 worked for *The New York Times* we had to go to great lengths to  
15 investigate it, because *The New York Times* was a significant news  
16 organisation.

17 And I recall this issue coming up over and over again during  
18 that period, where Mr. Hedges seemed to repeatedly malign the Kosovo  
19 people's leaders, including the KLA. And I would ask the  
20 intelligence community, I would ask outside experts, I would ask  
21 military officials, all the people that could possibly -- criminal --  
22 or experts in international crime, over and over again, and never  
23 received any confirmation of these slanderous comments made over and  
24 over again by Mr. Hedges. Eventually, he was fired by *The New York*  
25 *Times* for making repeated mistakes.

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1 I know that's not what you asked me, but I think it's directly  
2 relevant to the question, because I found it irritating to have to  
3 constantly find answers to questions from a reporter who had a  
4 reputation for mistake after mistake.

5 MR. MISETIC: Just one second, Mr. President.

6 THE INTERPRETER: The interpreters kindly ask the witness and  
7 the counsel to slow down, please.

8 MR. MISETIC: Yes, we will.

9 Q. Mr. Rubin, within the State Department, who would investigate  
10 such allegations of crimes like this, alleged crimes?

11 A. Well, during the time I was there, there was a war crimes  
12 office. I believe it was led by David Scheffer at the time. And  
13 that was a period when we were providing enormous support to the  
14 International Criminal Tribunal for the former Yugoslavia and Rwanda,  
15 and we had units specifically assigned these tasks. And so I would  
16 regularly get press guidance from those war crimes units to answer  
17 these regular, or often, charges.

18 And so we had lawyers, we had intelligence officials, we had  
19 experts on international crime, and legal advisers office, the war  
20 crimes unit, dozens and dozens of people would make their -- spend  
21 their days trying to figure out whether there was any substance to  
22 these repeated claims, again, because the Kosovo issue was one of the  
23 primary foreign policy issues of the President of the United States  
24 and the United States Government at the time. And any suggestion  
25 that we were acting on behalf of criminals would have been something

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1 we'd want to get to the bottom of.

2 And I should add here that I continued to investigate this  
3 personally because of my personal involvement with Madeleine Albright  
4 and the KLA, and I wanted to know whether any of these allegations  
5 were true, and they came up again and again. And I drew the  
6 conclusion that they were the work of very successful efforts to  
7 smear them, and none of the allegations related to his role or the  
8 KLA leader's role or other crazy charges were true.

9 Q. At paragraph 83, you say that the issue of war crimes was  
10 probably one of the most important foreign policy issues during the  
11 Clinton presidency, and if you had heard anything concrete to believe  
12 that Mr. Thaci was ordering murders or doing anything of that type,  
13 the United States would have withdrawn its support instantly.

14 Was this message conveyed to Mr. Thaci, that United States  
15 support depended on him not engaging in such behaviour?

16 A. Absolutely. Again, we wouldn't say it every time we met him,  
17 because it's rather insulting, but any time we thought there was a  
18 reason for him to be -- you know, we had helped the Kosovar Albanian  
19 people. They were very, very, very thankful to our effort to save  
20 them from being slaughtered. Their leaders, therefore, were very  
21 responsive to statements, requests from the President of the  
22 United States, the Secretary of State, and their representatives,  
23 including me, and so we knew we had a lot of influence over them.

24 And so when we thought it was appropriate, whether it was the  
25 issue of some, you know, Islamic terrorism issues with --

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1 occasionally we'd hear a story about a -- you know, an Islamic  
2 fundamentalist, you know, trying to travel to the Balkans, we would  
3 bring that up. And whenever we heard other things of that nature,  
4 like the one you're describing, we would bring it up. But I don't  
5 think we did it every time, because we realised it was largely false  
6 and designed to undermine our support for people we were proud to  
7 have helped prevent from being slaughtered.

8 Q. What was your understanding of the value that Mr. Thaci placed  
9 on his relationship with the United States?

10 A. From the moment I met him till the last time I met him, I felt  
11 that America for him was a symbol and a substantive reflection of  
12 what he considered powerful, good leadership in the world, and he  
13 wanted the United States to trust and respect him. Whether that was  
14 under a Republican president or a Democratic president, he wanted the  
15 support of the United States leadership, the President, the US  
16 Government, the Congress, and the American people, to the extent he  
17 could do that. So that was, to my mind, his highest priority beyond  
18 his own respect and interest in protecting his own people.

19 Q. Did you see anything in Mr. Thaci's words or behaviours that led  
20 you to believe that he was willing to risk US support?

21 A. No, I think that the one time he had to risk it was at  
22 Rambouillet, and I saw the powerful effect it had on him when he had  
23 to say no to Madeleine Albright because he was not in charge, and I  
24 knew that he was so pained by having to say no that he almost broke  
25 down. And so I regarded his desire to make sure that America trusted

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1 and respected and supported the Kosovar people, Albanian people's  
2 goals to be free and safe, that that was his highest priority.

3 Q. I'd like to show you a document about a visit one month later to  
4 Prishtine.

5 MR. MISETIC: And this is, Madam Court Officer, 065913 to  
6 065915, please.

7 Q. Mr. Rubin, this is an *Associated Press* article from 29 July  
8 1999, so a little more than a month after *The New York Times* article  
9 was published, and it reports on a visit that Secretary Albright took  
10 to Kosovo. Were you with her on this trip?

11 A. Yes.

12 MR. MISETIC: And if we could scroll down, please. Yes. If we  
13 could continue to scroll down, please.

14 Q. It says Secretary Albright addressed the crowd about the need to  
15 avoid revenge.

16 MR. MISETIC: If we could go to the next page, please.

17 Q. And you see there it says:

18 "Albright emerged from the meeting with Kouchner and Jackson  
19 with a positive outlook regarding the future of the province.

20 "She then spoke to a large crowd of ethnic Albanians who had  
21 gathered to see her."

22 And then she's quoted:

23 "'Let there be no mistake. As long as you choose, Kosovo will  
24 remain your home.'"

25 Then she says:

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1            "'I hope that today we may pledge that here in Kosovo never  
2            again will people with guns come in the night, never again will  
3            houses and villages be burned, and never again will there be  
4            massacres and mass graves.'"

5            MR. MISETIC: If we scroll down more, please.

6            Q.    "But Albright also warned that support of the international  
7            community would falter if ethnic Albanians took the law into their  
8            own hands.

9            "'Democracy can not be built on revenge and you will not have  
10           the support of the world if you are intolerant and take the law into  
11           your own hands.'"

12           And if we scroll down a little bit more, it says:

13           "A tense moment followed Albright's speech as she met  
14           Hashim Thaci, head of the Kosovo Liberation Army and *de facto* leader  
15           of Kosovo's ethnic Albanians.

16           "A gunshot rang out as Thaci pulled up to the U-N headquarters  
17           to meet Albright."

18           Now, do you recall, first of all, the speech that Secretary  
19           Albright gave in Prishtine to the large crowd?

20           A.    Yes.

21           Q.    And are the words attributed to her in this document consistent  
22           with your recollection of what she said?

23           A.    Yes.

24           Q.    Do you recall that she met later that day with Mr. Thaci?

25           A.    Yes.



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1 Q. Would you have been present for any meeting that she had with  
2 Mr. Thaci?

3 A. Absolutely, yes.

4 Q. Okay. Do you have any recollection of the Secretary of State  
5 during this trip suggesting to Hashim Thaci that he was criminally  
6 responsible for crimes that were being committed in Kosovo after the  
7 entry of KFOR?

8 A. Absolutely not.

9 Q. Did she tell him, to the best of your recollection, that it was  
10 his job to investigate and prosecute crimes being committed?

11 A. I don't recall that. I should say that it was something she  
12 would want to communicate that -- the tolerance that she wanted him  
13 to pursue, not that legal detail you just asked.

14 Q. When you say "the tolerance she wanted him to pursue," can you  
15 explain?

16 A. I mean that she was someone who truly understood the importance  
17 of war crimes investigations so that individual guilt would be  
18 assigned and collective guilt would be expunged. That was the point  
19 of the war crimes tribunal that she believed in, that wars continue  
20 when collective guilt is allowed to continue, that people in general  
21 did something, that general crimes were committed, rather than the  
22 individuals who actually committed the crime.

23 And by using real legal procedures to assign individual guilt,  
24 you avoid the cycle of revenge and retribution that will allow these  
25 conflicts to continue. And when collective guilt is allowed to be

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1 generalised through statements or policies or legal procedures, the  
2 cycle of violence continues. And she communicated that to me. It's  
3 something I truly understood. Which is why she wanted the war crimes  
4 tribunal to exist, so that individuals would be convicted based on  
5 rules of procedure and law rather than collective guilt being allowed  
6 to be generally assigned. And that's what the purpose of the war  
7 crimes tribunal was. She gave speeches to that effect. I am -- that  
8 was bred into my understanding of this part of the world. And so she  
9 wanted to tell him: Be tolerant, do what you can to make sure your  
10 people are tolerant, and leave it to us to figure out how to make  
11 sure that individual guilt is properly assigned so that collective  
12 guilt can be expunged from the cycle of violence.

13 Q. Thank you, Mr. Rubin.

14 MR. MISETIC: Mr. President, this document on the screen was  
15 admitted through the bar table motion, but I would ask that it be  
16 given an exhibit number.

17 PRESIDING JUDGE SMITH: Please give 065913 to 065915 an exhibit  
18 number.

19 THE COURT OFFICER: Your Honours, that will be assigned  
20 Exhibit 1D292.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. MISETIC: Thank you very much, Mr. President.

23 Q. Mr. Rubin, thank you for answering my questions. That concludes  
24 my direct examination.

25 PRESIDING JUDGE SMITH: All right. The Veseli Defence, when

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Cross-examination by Mr. Dixon

1     you're ready. There's no rush.

2             MR. DIXON: Thank you, Your Honours.

3                     Cross-examination by Mr. Dixon:

4     Q. Good afternoon, Mr. Rubin. My name is Rodney Dixon. I act as  
5     Defence counsel for Mr. Kadri Veseli, and I have just a few questions  
6     to pose to you.

7             MR. DIXON: If we could go first of all to your statement.  
8     That's now Exhibit 1D262, paragraph 11.

9     Q. Where you explain your role as Assistant Secretary for Public  
10    Affairs and Spokesman to the Secretary of State, Madeleine Albright.  
11    You say in that paragraph:

12            "In order to do my job, each morning, I would read all relevant  
13    media reports, as well as intelligence reports and diplomatic cables  
14    from our embassies and missions. My office would seek responses from  
15    the Department's offices and bureaus asking them to explain or  
16    clarify situations, US policy and responses or reactions to subjects  
17    for expected questions."

18            It's right, isn't it, that before each of your press  
19    conferences, and, in fact, each day, irrespective of whether there  
20    was such a conference, you would be fully briefed from all of these  
21    sources on what was happening in the former Yugoslavia, including in  
22    Kosovo?

23    A. This was a subject of personal interest to Secretary Albright  
24    and me, and I considered it my -- one of my most important jobs to  
25    know everything that the US Government knew about Kosovo, Bosnia,

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Cross-examination by Mr. Dixon

1 former Yugoslavia, Serbia. And therefore, I went out of my way,  
2 beyond the minimum one could do as a spokesman, to have answers, to  
3 make sure I talked to -- I knew personally the experts in the CIA and  
4 the State Department and the Pentagon at the White House National  
5 Security Council, and they made sure -- plus, I read a lot. I was a  
6 younger person, I could really absorb a lot of material, and read  
7 from 6.00 to noon before I would brief, including having meetings  
8 with the individual experts from war crimes units, from Bosnia,  
9 Kosovo desk officers, and general -- more general experts. So short  
10 answer is yes, and the long answer I just gave.

11 Q. Thank you for the long answer because I was wanting to clarify  
12 what the process was. I mean, it's correct then that you had access  
13 and did consider a host of sources and materials to be fully informed  
14 each day?

15 A. Absolutely, yes.

16 Q. And that applied to the period in 1998 as well as what we  
17 focused quite extensively on so far, 1999, but it covered 1998 as  
18 well?

19 A. Absolutely, yes.

20 Q. Continuing with your statement then. "First contacts of the  
21 American authorities with the KLA" is the heading, and going over  
22 then to paragraphs 13, 14, 15. Just so we get the timeframe of this,  
23 you say:

24 "At the time, Ambassador Gelbard had been appointed as an envoy  
25 to the Balkans."

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1 Was that in the first half of 1998?

2 A. Yes. I believe so, yes. It was a bit of a blur with Gelbard  
3 and Holbrooke in my mind, but Gelbard was more the formal envoy and  
4 Holbrooke was more the informal envoy and sometimes they worked  
5 together.

6 Q. Yes. So in this role, Gelbard would meet with the KLA. Once  
7 again, we're looking at the period in the first half of 1998?

8 A. Correct.

9 Q. And you say here in paragraph 15:

10 "I learned that some American intelligence people were also in  
11 contact with the KLA, in particular Ramush Haradinaj, but at the time  
12 I was not aware of any specific conditions imposed by the CIA on KLA  
13 operations. Yet, like with any of our partners, I believe they were  
14 told not to engage in terrorist or war crimes activities, and,  
15 notably, not to promote Islamist fundamentalism. This was our  
16 steadfast policy at the time."

17 Once again in terms of the time period here, when you learned  
18 that some American intelligence people were in contact with, in  
19 particular, Ramush Haradinaj, that's in 1998, the first half of 1998  
20 up to the summer period as far as you can recall?

21 A. Yes, it's a little complicated the way I wrote it, and maybe I  
22 would write it differently if I could look at it again based on your  
23 question.

24 So I didn't learn about the CIA contacts with Haradinaj until  
25 1999, but I learned then that they went back to 1998. I knew that

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1 Gelbard had met with the KLA. [REDACTED] Pursuant to Post-Session  
Redaction Order F3503.

2 [REDACTED] Pursuant to Post-Session Redaction Order F3503.

3 [REDACTED] Pursuant to Post-Session Redaction Order F3503.

4 [REDACTED] Pursuant to Post-Session Redaction Order F3503.

5 And so what I'm reflecting there is the point that any CIA  
6 officer with any knowledge of the Clinton administration who he  
7 served would have known that there were two big issues for us at that  
8 time. This is before 9/11. This is before the China-Russia, you  
9 know, world that we're living in now. The two big issues at that  
10 time were things like Islamic fundamentalism in general and war  
11 crimes issues in general because those were hallmark issues for  
12 President Clinton's concerns. And so if they didn't communicate  
13 those words, they would not be doing their job. And that's the point  
14 that I'm trying to reflect there.

15 Q. And it's right, isn't it, that you certainly, as you say here,  
16 would not be going into a partnership with any organisation if there  
17 were any concerns about terrorism or war crimes, and that you would  
18 have been wanting to make sure you had as much information on that  
19 topic as possible?

20 A. Let me say very clearly there. After Bosnia, where we felt we  
21 stopped a war, and we helped a tolerant society prevent itself from  
22 declining into chaos and retribution and war, we were proud of that.  
23 And we saw a new situation arriving with Kosovo. And, again, we  
24 wanted to be sure we were, as we put it in government, on the side of  
25 the angels, that's what we would say to each other, that we were for

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1 the victims. And they wouldn't be victims if they were committing  
2 war crimes. They wouldn't be victims if they were committing --  
3 pursuing Islamic fundamentalism. And that was our strategy. This  
4 was a time when America was, you know, called the hyperpower. We  
5 wanted to be on the side of the oppressed and the victims, and  
6 anything that would change that would go against everything Madeleine  
7 Albright believed in and Bill Clinton believed in and I believed in.

8 Q. So it's right then, it follows from that, that you would have  
9 been going over all the information you had with some particular  
10 care, looking at it and the individuals named in it, to make sure of  
11 that before you embarked upon this course?

12 A. Absolutely. Because we did not want to find ourselves  
13 committing our nation to conduct military operations or spending  
14 billions of dollars for those who weren't at least expressing  
15 tolerance publicly. And remember, these were people who didn't have  
16 power. These were the victims. We were meeting them when they were  
17 the victims of an oppression. They were the people that were on the  
18 wrong side of power in Kosovo, and we wanted to make sure, as they  
19 were freed, that they didn't adopt the policies of the oppressors  
20 that they were being freed from.

21 And so we wouldn't want to be on the side of anyone who had  
22 those kind of associations, and we would have gone to extraordinary  
23 lengths to make sure. That would have been a real blow to us if  
24 there were some real substance to those charges.

25 Q. Yes. And continuing with the chronology, paragraph 16, you say:

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1 "Following the crackdown of the Serbs against the Kosovo  
2 Albanians in the summer of 1998 ..."

3 So there's a particular time period now. There was the  
4 agreement reached thereafter in October 1998 between Ambassador  
5 Holbrooke and Slobodan Milosevic. This period, the summer of 1998  
6 going into October 1998, from the information that you had, you were  
7 aware that there was a widespread offensive crackdown by the Serbian  
8 forces against Kosovo Albanians in various parts of Kosovo; is that  
9 right?

10 A. Yes. We were extremely troubled by the reports we were seeing  
11 that families were being slaughtered, their houses were being burned,  
12 and they were being killed just because they were Albanian, Kosovo  
13 Albanian. And this began to hark back to the Bosnia crisis, where  
14 people were murdered and killed and slaughtered because of their  
15 ethnicity, not because of anything they did. And we were starting to  
16 see the pattern re-emerge, and that's what made us decide to act on  
17 their behalf, because they were the victims not only of decades of  
18 oppression, but now were being slaughtered in large numbers by  
19 Serbian paramilitary and military forces. And we didn't want to see  
20 this horror of Bosnia repeated in Kosovo, and that was the purpose of  
21 our policy, to prevent that from being repeated.

22 Q. And just so we continue then up into Rambouillet, at paragraph  
23 17, you say that:

24 "The agreement," that we referred there, "worked for several  
25 weeks."



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1 But then there was another crackdown again by the Serbs against  
2 the Albanians in Kosovo in January 1999. And then thereafter, we  
3 move to the next stage, the Rambouillet conference. That's the right  
4 order as I've set out it there?

5 A. Yes. And paragraph 17 is extremely important, I should say,  
6 because that's when the world, as in the European nations, the  
7 Russians, the United States, decided to engage on a serious level and  
8 commit itself to using military power, as NATO, and as working with  
9 the Russians, to try to prevent another genocide. We thought there  
10 was a risk of another genocide. That was a real risk and we didn't  
11 want to see it happen. And we wanted to gather the world together to  
12 do something unique, to offer two sides a peace agreement, to be  
13 implemented with NATO forces, that was fair, that would achieve  
14 objectives for both parties and -- but make clear that a failure to  
15 agree would have consequences.

16 And this was a unique thing we had never -- the world had never  
17 done before, to my knowledge, and was something very unique and  
18 diplomacy backed by force.

19 Q. Yes, thank you. Mr. Rubin, I --

20 THE INTERPRETER: The interpreters kindly ask the speakers to  
21 slow down. Thank you.

22 MR. DIXON: Yes, we will do so. Sorry for that.

23 Q. I want to just focus on an aspect of August, September 1998, and  
24 this is to look at the way in which you were getting information and  
25 then relaying that in your press statement.

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1 MR. DIXON: If I could call up, first of all, DKV1783 to 1783.  
2 It'll come up on your screen, Mr. Rubin. It's a press statement by  
3 yourself as the spokesman dated 23 September 1998.

4 Q. Do you see that --

5 A. I do.

6 Q. -- there? Do you recall this one, if you skim through it, in  
7 particular?

8 A. Right. I should say here that this would be what I would call a  
9 formal statement of the State Department --

10 Q. Yes.

11 A. -- prepared by the bureaus involved here, the bureau of  
12 humanitarian response, the assistant secretaries of refugees and  
13 human rights, and then it would be about money. And I wouldn't have  
14 been involved so much in the preparation of this statement so much as  
15 the approval of it, if you see what I mean. This was a very  
16 bureaucratic document that I would just issue in my name once I'd  
17 read it and Secretary Albright had approved it.

18 Q. Thank you for that. So where in paragraph 3 it says here:

19 "The armed conflict in Kosovo has produced more than 300.000  
20 internally displaced persons ... refugees, and other conflict  
21 victims."

22 And this is now in September 1998. Where would have that  
23 information come from?

24 A. That would have come from the bureau of refugees in the State  
25 Department, and they would have most likely gotten that information

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1 from people on the ground, who were the NGOs or the international  
2 organisations who would be treating and taking care of and supporting  
3 the refugees. And they would have collected this information, passed  
4 it on to the bureaus, the assistant secretary collated it, added it  
5 up, and come up with this number of 300.000.

6 Q. Yes. So that would be information that you'd be reviewing as  
7 well --

8 A. Absolutely.

9 Q. -- as part of your daily briefing?

10 A. Yes. But, again, I want to be absolutely clear that that tended  
11 to be information that I would receive and try to make sure that it  
12 was as accurate as possible based on what I knew. But I wouldn't --  
13 I'd be getting it from the bureaus who would be getting it from the  
14 people on the ground, and the UN High Commissioner on Refugees  
15 *[REDACTED] Pursuant to Post-Session Redaction Order F3503.*

16 *[REDACTED] Pursuant to Post-Session Redaction Order F3503.* But the  
17 people on the ground tended to know more about  
18 numbers than anyone else.

18 Q. Yes. If you could look at another press statement made by James  
19 Foley, the acting spokesman.

20 MR. DIXON: And that's at DKV1781 to 1782.

21 Q. Mr. Foley would sometimes stand in and make these press  
22 statements; is that correct?

23 A. Again -- yes, but, again, he would be issuing them. So these  
24 were written statements as opposed to delivered statements. And so I  
25 might have been travelling and this statement came out of the

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1 department, and he was my deputy, and he would issue them in the same  
2 way that I would issue them, by checking them, confirming the facts,  
3 and putting them out.

4 Q. So once again, when we go down to the fourth paragraph:

5 "As a result of the ongoing conflict, there are some 250.000  
6 IDPs in Kosovo and another 26.000 in Montenegro, plus 14.000 refugees  
7 in Albania."

8 And it goes on to look at:

9 "It's estimated that between 60.000-100.000 of those displaced  
10 within Kosovo are without shelter, a situation that becomes  
11 increasingly grave as winter approaches."

12 Where would that information have come from?

13 MR. PACE: Objection, Your Honour, on the basis of relevance.  
14 In line with what the Panel has consistently said, this kind of line  
15 of questioning, if it's going to be allowed, needs a justification as  
16 to relevance. And I hear refer you, for example, to the oral order  
17 of 12 May 2023, from page 3746, and the 16 December 2022 Status  
18 Conference, from page 1725. These matters do not discuss anything  
19 relevant to the charges.

20 PRESIDING JUDGE SMITH: What is the relevance of these  
21 questions?

22 MR. DIXON: The relevance is the information that Mr. Rubin and  
23 others had from the ground, and that will be relevant to what they  
24 then knew about the KLA and the accused in this case. I don't need  
25 to here, surely, set out my full submission on it, but it's clearly

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1 relevant to information that was available at the time about what's  
2 happening on the ground.

3 PRESIDING JUDGE SMITH: Well, let's see where it goes. Your  
4 objection is over --

5 MR. DIXON: There are only a few more questions on this.

6 PRESIDING JUDGE SMITH: The objection is overruled. Let's see  
7 where it goes.

8 MR. DIXON:

9 Q. So my question was where would have that information have come  
10 from? If you could just answer that, please.

11 A. From the humanitarian organisations on the ground giving  
12 information to the relevant State Department bureaus, confirmed by  
13 intelligence sources, of the magnitude of the emerging humanitarian  
14 crisis. That's the purpose of putting out a statement like this: to  
15 say there's a humanitarian crisis emerging with winter coming. These  
16 are people who are going to need shelter and support, and we can't  
17 let this get worse, because look how many tens of thousands of people  
18 are at risk of starvation or freezing or lack of medicine or other  
19 humanitarian needs. That's where it would come from.

20 Q. Thank you. And then there's just one more document, a document  
21 from yourself, a press briefing.

22 MR. DIXON: And that's at DKV1776 to 1780. If that could be  
23 brought up, please.

24 Q. So this is a press briefing by you where it is a record of what  
25 you're saying with questions and answers. Is that the format that

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1     you recall?

2     A.     Yes.

3     Q.     And if we go over the page to DKV1777, third paragraph from the  
4     top, you are here setting out your answer to various questions. I'm  
5     not so concerned about the substance of that but more the procedure:

6             "What I am providing to you is real-time information that is  
7     observed by the verifiers. The monitors are making judgment of what  
8     they can see. I am not giving you a complete order of battle or  
9     giving you a snapshot of where every Serb unit is. I am providing  
10    you, as you ask each day, for information as best we can assess it.  
11    So, the head of our monitoring mission, Shaun Byrnes, has been  
12    providing this information to some of [our] colleagues on the ground,  
13    and I wanted to give you the same information that he has been  
14    providing."

15            So were you getting information directly from Shaun Byrnes, the  
16    head of US KDOM at the time?

17    A.     Yes. And this is because of the October agreement which gave  
18    the verifiers, in theory, more access. And so Shaun Byrnes was a guy  
19    I knew of, and well, and was well respected for providing accurate  
20    information, and he would be reporting this in either to me  
21    personally or to my team, either in writing or orally, and he would  
22    be providing information of what he could see about the movement of  
23    Serb forces, which was the subject of the October agreement. So it  
24    was about as verified on-the-ground information as you could get.

25    Q.     Yes. And this is October 27, 1998, so this is after the

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1 agreement, where information is coming from the ground directly.

2 Once again, is this the kind of information that you would have  
3 been receiving and reviewing on a daily basis?

4 A. Yes.

5 Q. Would this information include what the KLA structures or other  
6 structures were doing at the time?

7 A. I don't -- probably not, because the purpose of the agreement  
8 was to monitor the Serb forces, to get them out of the way. Now,  
9 there were obviously some incidents that would take place between  
10 Serb forces and KLA guerillas or whatever they were, we didn't really  
11 know then. And so when there was information about any non-Serb  
12 forces, they would give that to us as well. But the October  
13 agreement was specifically, as I recall, about how the Serb forces  
14 could be deployed, where they would go, how they would need to be  
15 removed, and the verifiers were verifying that the Serbs were  
16 complying or not.

17 Q. Yes, that's what the verifiers were giving you, that range of  
18 information. But were you not getting other information but they KLA  
19 as well from all of your other sources to ensure that you knew what  
20 you were dealing with?

21 A. Yes --

22 MR. PACE: Objection, asked and answered, Your Honour. The  
23 question was:

24 "Would this information include what the KLA structures or other  
25 structures were doing at the time?"

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1 The answer was:

2 "I don't -- probably not ..."

3 There's no need to ask the question again.

4 THE WITNESS: No, I'd like to --

5 PRESIDING JUDGE SMITH: Sustained.

6 THE WITNESS: Okay.

7 MR. DIXON: I'm just asking what the -- Your Honour, I was --

8 MR. PACE: The objection was sustained, Your Honour.

9 PRESIDING JUDGE SMITH: I sustained the objection.

10 MR. DIXON: Well, can I ask the question then in an open way?

11 Q. What information were you reviewing at the time?

12 A. Right. So at that time in 1998 --

13 Q. Yes.

14 A. -- the focus of our attention was on Serb forces, but we were  
15 starting to hear about a new development, a development called the  
16 emergence of the KLA. We didn't understand it very well, but we were  
17 starting to hear about it because incidents would take place, and we  
18 would have to get information about it. That information was  
19 provided by, by and large, intelligence sources and/or diplomatic  
20 sources on the ground who might have contact with Kosovar Albanians  
21 who might tell them stuff.

22 When it came to the October agreement, that was really about  
23 Serb forces. But meanwhile, we were learning more about this war,  
24 because the war occurred because the KLA stopped being willing to  
25 allow its people to be slaughtered, and so they responded. And thus



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1 the Serbs responded, and thus the slaughters got worse. And we  
2 needed to know who was doing what, and so we got multiple sources of  
3 information from multiple people, multiple verifiers on the ground,  
4 including [REDACTED] Pursuant to Post-Session Redaction Order F3503.  
other means of information.

5 Q. Yes, thank you. You said earlier on in testimony this morning,  
6 and this is at page 62 of the realtime transcript, that: "We  
7 didn't" -- we don't have to turn this up. I'll read it --

8 A. Thank you.

9 Q. -- onto the screen:

10 "... we didn't believe there was a controlled system, what we  
11 would call an orderly system, in the KLA. It was not an organised  
12 unit as we would define that, where someone at the top had the  
13 authority or information or capabilities to dictate or know what was  
14 going on ..."

15 This was an assessment that you were making in 1999. Would it  
16 be correct that it applied equally to the periods we'd been looking  
17 at, 1998, going into Rambouillet in 1999?

18 A. Yes, probably even more so because we had less information in  
19 1998. You know, we got better and better information. But in the  
20 early days, we were still trying just to assess what this was, but we  
21 knew it wasn't anything that we would regard as an organised army.

22 Q. Yes. And when you say you were getting better and better  
23 information over time, was that in relation to what the structures  
24 were, whether there were any structures or not?

25 A. Yes, because as we were -- as NATO, the United States, the world

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1     paid more and more attention to the problem, more and more people  
2     would be on the ground, more and more resources would be applied to  
3     the problem, and more and more contact would be had, and we'd try to  
4     learn more and more about it. But we still -- as I think I've made  
5     clear, up until well into the occupation by NATO of Kosovo, we never  
6     thought the KLA ever had a structure that we would regard as a  
7     military unit.

8     Q.    Yes, thank you, Mr. Rubin. Those are my questions.

9           MR. DIXON: Thank you, Your Honours.

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

11          MR. ROBERTS: Thank you, Your Honour. No questions at the  
12     moment. Thank you.

13          PRESIDING JUDGE SMITH: [Microphone not activated].

14          You may go ahead.

15                         Cross-examination by Ms. V. Alagendra:

16     Q.    Good afternoon, Mr. Rubin. I am Venkateswari Alagendra, and I  
17     represent Mr. Jakup Krasniqi.

18           Now, at paragraph 21 of your statement, and today, you say you  
19     arrived with Ambassador Albright at Rambouillet on 13 February 1999,  
20     after the talks began, and you were informed the Kosovo Albanian  
21     delegation had gathered and elected a chair. That was Mr. Thaci;  
22     right?

23     A.    Yes.

24     Q.    And the members of the Kosovo Albanian delegation included  
25     Mr. Jakup Krasniqi; correct?

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1 A. I believe so, but I don't know him as well, and I don't want to  
2 misremember things. He wasn't part of this three-person group we'd  
3 meet over and over again, but I believe he was part of the larger  
4 group.

5 Q. Right. But you were aware that Mr. Krasniqi was there in his  
6 capacity as the KLA spokesperson?

7 A. Yes, because he was the first KLA person I ever saw on  
8 television.

9 Q. Right. And would it be correct that Mr. Krasniqi remained with  
10 the Albanian delegation throughout the conference in Rambouillet?

11 A. I wouldn't know. I mean I --

12 Q. He didn't leave Rambouillet, did he?

13 A. As far as I know, nobody could leave.

14 Q. Right.

15 A. I think that was one of the things the French were insistent  
16 upon.

17 Q. Right. So judging by what you say, you had very little or  
18 minimal interaction with Mr. Krasniqi --

19 A. Correct.

20 Q. -- during the conference.

21 A. Correct.

22 Q. And your main interlocutor on the Kosovo Albanian side was  
23 Mr. Thaci.

24 A. My personal main interlocutor was Thaci, but the US team - and,  
25 remember, I was just a member of the US team - the US team interacted

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1 with all of the Kosovar Albanian delegation, particularly this group  
2 of four - Veton Surroi and Rugova and all of them. But my personal  
3 was more with Thaci, yes.

4 Q. And at paragraph 24 of your statement, and again today, you  
5 mention the worries that Mr. Thaci had shared with you, including not  
6 having full authority to sign on behalf of the KLA without approval.

7 A. Yes.

8 Q. And you go on to say in your statement that:

9 "All we knew was that it was the military that had to make the  
10 decision and ... they were not amongst those present at Rambouillet."

11 Do you recall saying that?

12 A. Yes.

13 Q. And at paragraph 25 of your statement, you state that Mr. Thaci  
14 was not ready to sign because the Albanian delegation present in  
15 Rambouillet had to engage in consultations back home. That's  
16 correct, isn't it?

17 A. Yes.

18 Q. And so I'm clear, the consultations with decision-makers, as you  
19 saw it or understood it to be, had to be conducted with the military  
20 leaders who were back home in Kosovo, not the members of the  
21 delegation that were with Mr. Thaci in Rambouillet; is that correct?

22 A. Almost. So as I understood that at the time, most of the  
23 members of the delegation were supportive of signing. And those who  
24 were part of the KLA, which was a small percentage, I don't know, 3  
25 or 4 or something like that, of the larger group, they had to get

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1 approval, meaning Thaci being the leader of that small group, from  
2 the leaders in Kosovo. It wasn't clear to me who they were at the  
3 time.

4 At one point, Madeleine Albright called one of the ideological  
5 leaders, Adem Demaci, because we weren't clear as to who they  
6 reported to. We just knew they reported to somebody, and those  
7 people were not supporting their signature then because of the issue  
8 of independence.

9 Q. Right.

10 MS. V. ALAGENDRA: We'll need to go into private session,  
11 Your Honours.

12 PRESIDING JUDGE SMITH: Into private session, please.

13 [Private session]

14 [Private session text removed]

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1 [Private session text removed]

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16 [Open session]

17 THE COURT OFFICER: Your Honours, we are now in public session.

18 MS. V. ALAGENDRA: Thank you.

19 Q. So back again. This is the cable of 10 March 1999. And at the

20 top of the page, in the first paragraph, you will see that

21 Mr. Krasniqi is described here as a member of the KLA political wing

22 and a moderate; yes?

23 A. Correct, yes.

24 Q. Is that consistent with your view?

25 A. Yes.

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1 MS. V. ALAGENDRA: And if we can go to paragraph 3 on page  
2 075396, please.

3 Q. And if you could just take a minute to read paragraph 3, please.

4 A. Right.

5 Q. You'll agree with me that the writer of this cable has  
6 identified Mr. Krasniqi as someone with a different political outlook  
7 from the military commanders. Do you agree with that?

8 A. Absolutely, yes.

9 MS. V. ALAGENDRA: If we could move to page -- it's a new  
10 exhibit, isn't it? Yeah.

11 If we could have P1069 on the screen, please. And if we could  
12 go to page 075328, please.

13 Q. So it's paragraph 11. If you could take a moment to read that,  
14 please.

15 A. Okay.

16 Q. And do you agree with me that the moderates within the KLA  
17 favoured a unified Kosovo Albanian negotiating position and were  
18 willing to accept an interim solution?

19 A. Yes.

20 Q. And if we could go to page -- well, in that same paragraph, it  
21 refers to the radicals, and the radicals are defined as those who  
22 believe no negotiated position is possible, that Kosovo can only be  
23 detached by force; correct?

24 A. Correct.

25 MS. V. ALAGENDRA: If we could go to page 075329, please. To

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1 paragraph 11. Again, here you will see that Mr. Krasniqi, Rame Buja,  
2 and Mr. Bashota are described as being moderates?

3 MR. PACE: Your Honour, is the question whether the witness can  
4 see what there is? I'm not understanding this line of questioning.  
5 What is being asked of the witness in relation to this document?

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MS. V. ALAGENDRA: Yes, Your Honours, because at page 39 of the  
8 transcript, Mr. Rubin has described what he would call extremists.

9 PRESIDING JUDGE SMITH: I'm asking you what's your question.

10 MS. V. ALAGENDRA: Yes. So I'm asking him if he can see and  
11 does he agree with the position that Mr. Krasniqi, Buja, and Bashota  
12 were moderates.

13 THE WITNESS: Yes.

14 MS. V. ALAGENDRA: Yes.

15 And if we look at page 075330, please.

16 THE INTERPRETER: Interpreter's note: If the counsel could  
17 please read out the numbers and excerpts a bit more slowly for the  
18 interpretation. Thank you.

19 MS. V. ALAGENDRA:

20 Q. If you could take a moment to read what's on the screen, please.  
21 Yes.

22 PRESIDING JUDGE SMITH: Which paragraph are you referring to?

23 MS. V. ALAGENDRA: The first paragraph.

24 PRESIDING JUDGE SMITH: Pardon?

25 MS. V. ALAGENDRA: The first paragraph, Your Honour.



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1 THE WITNESS: Okay.

2 MS. V. ALAGENDRA:

3 Q. The views of the radicals that are described in this paragraph  
4 as being prepared to sacrifice thousands of innocent lives, is that  
5 consistent with your evidence today at page 39, where you speak of  
6 the extremists "who wanted to get everything now and put at risk all  
7 of their people for a few words in a document"?

8 A. Yes, that is consistent with my -- now I'm happy to see what I  
9 had always assumed to be true, that there were those who were  
10 prepared to reject Rambouillet which is about to come, and they're  
11 talking about that idea, and risk the murder, slaughter of thousands  
12 of people, and very -- now it all fits together that, on the other  
13 hand, there were moderates, like Krasniqi, like Hashim Thaci, who  
14 urged the signing of Rambouillet so that that could be prevented, and  
15 those -- Kosovo could become free without the need to sacrifice all  
16 those people without the support of the West. And thank goodness  
17 they didn't listen to their extremists.

18 Q. And earlier in your evidence you spoke of investigations that  
19 the United States had undertaken to look into the repeated  
20 allegations that there was a KLA leadership-directed programme of  
21 assassinations or executions. And you've also testified that your  
22 conclusion was that these were successful efforts to smear the KLA  
23 leadership.

24 And at page 66 of the transcript, you go on to say that you had  
25 consulted the intelligence community, experts, and military officials

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1     when investigating those allegations, and you found no evidence  
2     linking those killings with Mr. Thaci; right? And would you agree  
3     with me that you also found no evidence linking those crimes to  
4     Mr. Jakup Krasniqi?

5     A.    Yes, because we couldn't find no evidence of those crimes being  
6     ordered by any leaders of the KLA. So any leaders of the KLA, which  
7     Mr. Krasniqi was a leader, as was Mr. Thaci, there was no evidence of  
8     it. And I should say here that over the 25 years after I left the  
9     government, I regularly asked those who would know if any evidence  
10    ever emerged to that effect, and they never told me that it did. So  
11    not only while I was in the government up through 2000 but in the  
12    decade after that, when my friends were still in a position to share  
13    all source intelligence with me, I never heard any proof for those  
14    allegations.

15   Q.    Thank you. Am I correct, Mr. Rubin, that in the last Biden  
16   administration, you were appointed by Secretary Blinken as Special  
17   Envoy and Head of the US Global Engagement Centre?

18   A.    Yes.

19   Q.    And in that role you had a particular focus on the providers of  
20   disinformation themselves?

21   A.    Yes.

22   Q.    And you've spoken in various interviews of the threats posed by  
23   the Russian Federation and China, and that this disinformation and  
24   the manipulation of information are one of the greatest threats of  
25   our time. And you went on to say that "it took the West some time to

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1 understand the scale of the information war that Russia and China had  
2 waged against us." Do you recall that?

3 A. I do.

4 Q. And that was in your interview with the *Voice of America* on 20  
5 June 2024; am I correct?

6 A. Yes.

7 Q. And you've also, in that interview, candidly stated that:

8 "Russia uses disinformation all over the world, but especially  
9 in the Western Balkans."

10 Correct?

11 A. Yes.

12 Q. And is it correct to say, from your long experience in the  
13 western Balkans, that Milosevic's Serbia adopted much of what we see  
14 ever more clearly today as the Russian playbook to disinformation?

15 A. In my two and a half years leading the Global Engagement Centre,  
16 I was provided access to all source intelligence on Russian  
17 disinformation. I knew everything you could learn from that.  
18 Combined with my experience as spokesman during the 1990s, and  
19 following the issue through the 2000s, 2010s, I drew the conclusion  
20 that many, if not all, of the charges of public smearing and the  
21 charges of criminality and murder and all sorts of such charges were  
22 largely well-organised Russian disinformation campaigns pursued by  
23 Russian-supported and Serb-sponsored organisations.

24 I could elaborate, but that was a judgment that I drew based on  
25 my 25 years in this business of figuring out where information comes

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1 from, who starts it, how it's promoted, how it's exaggerated, and how  
2 it damages, what I particularly point out for this appearance today,  
3 the idea of assigning individual guilt to people for what they  
4 actually did rather than collective guilt, which is how atrocities  
5 and criminalities by groups and mass murder gets repeated and  
6 repeated and repeated. That's why individual guilt has to be  
7 assigned.

8 Q. And you would certainly agree with me, Mr. Rubin, that  
9 propaganda and disinformation are extremely dangerous in peacetime  
10 and perhaps even more dangerous during conflict?

11 A. Yes.

12 Q. And false narratives can inflame violence and lead to grave  
13 injustices; right?

14 MR. PACE: Objection, Your Honour. These are very generic  
15 questions. If there is any relevance to it, it should be related to  
16 the conflict that we are addressing.

17 PRESIDING JUDGE SMITH: What is the relevance of this?

18 MS. V. ALAGENDRA: I'm coming to the relevance, Your Honour.  
19 I'm --

20 PRESIDING JUDGE SMITH: No, tell me what the relevance is.

21 MS. V. ALAGENDRA: I'm coming to specific incidents, and  
22 Mr. Rubin has testified that he had access to information on the  
23 ground.

24 PRESIDING JUDGE SMITH: The objection is sustained.

25 Go ahead. Ask your next question.

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1 MS. V. ALAGENDRA: I am moving to a specific example, the Panda  
2 café massacre in Peje on 14 December 1998.

3 Q. You may recall that in the Panda café, where the Pec high school  
4 students gathered on 14 December 1998, two masked persons with  
5 automatic rifles killed six innocent Serb students. Are you familiar  
6 with that incident?

7 A. To be as frank as I can, since I've committed to say what I  
8 remember, I don't specifically remember that incident, but it seemed  
9 to me there were incidents like that that I recall.

10 PRESIDING JUDGE SMITH: He doesn't have any information about  
11 that.

12 MS. V. ALAGENDRA: If we could have on screen P1070. Could we  
13 have 075379 on the screen, please. Right.

14 Q. Could you take a moment to read the first paragraph, please.  
15 It's the second paragraph, paragraph 5.

16 A. Okay. Okay.

17 Q. Were you aware of what's reported at paragraph 5, that the KLA  
18 had denied involvement in the murders and declared that none of the  
19 factions of the KLA took part in the Pec murders?

20 A. I have to honestly say I don't remember the incident.

21 Q. Fair enough.

22 PRESIDING JUDGE SMITH: You're asking him about something he  
23 does not know and he's already said he does not know about.

24 MS. V. ALAGENDRA: I'm moving on, Your Honour.

25 Maybe it's a good time to stop now, Your Honours.

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1           PRESIDING JUDGE SMITH: We'll break for lunch.

2           You are excused from the courtroom now. Please don't speak with  
3 anyone about your testimony. We will be back here at 2.30.

4                           [The witness stands down]

5           PRESIDING JUDGE SMITH: How much more do you have?

6           MS. V. ALAGENDRA: Probably another 20 minutes, Your Honour.

7           PRESIDING JUDGE SMITH: Thank you.

8           We're adjourned until 2.30.

9                           --- Luncheon recess taken at 1.00 p.m.

10                          --- On resuming at 2.30 p.m.

11           PRESIDING JUDGE SMITH: Madam Court Officer, please bring the  
12 witness in.

13           Ms. Alagendra, before you begin, the two representatives of the  
14 government of the US would like to make a short statement before you  
15 begin when the witness is present.

16                           [The witness takes the stand]

17           PRESIDING JUDGE SMITH: All right. Whoever wishes to make the  
18 statement, go right ahead.

19           MS. GEARHART-SERNA: Thank you --

20           PRESIDING JUDGE SMITH: Mr. Rubin, your representatives here  
21 wish to make a short statement.

22           MS. GEARHART-SERNA: Thank you very much. I just have a very  
23 brief intervention on behalf of the United States.

24           As you can no doubt tell from this morning's testimony, we do  
25 aim to take a light touch here and only intervene when necessary. We

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1 are helped in this aim by the fact that many of the documents  
2 Mr. Rubin has been referred to are either publicly available, such as  
3 news reporting, or are US internal documents that have already been  
4 formally declassified.

5 That said, we did want to put down a brief marker to the extent  
6 that Mr. Rubin is asked to provide information in any greater detail  
7 than this morning regarding specific sources or conclusions from  
8 others within the US Government and, in particular, from intelligence  
9 sources, we may need to intervene.

10 We just wanted to make that clear. Thank you.

11 PRESIDING JUDGE SMITH: Thank you very much.

12 All right, Ms. Alagendra, you may continue your  
13 cross-examination.

14 MS. V. ALAGENDRA: Thank you, Your Honours.

15 Q. Before the break, we were discussing an interview with *Voice of*  
16 *America*, Mr. Rubin.

17 MS. V. ALAGENDRA: Could we call up DJK2096, please. Yes.  
18 Thank you.

19 Q. Mr. Rubin, could you please confirm that this was the interview  
20 we were discussing earlier?

21 A. Yes.

22 MS. V. ALAGENDRA: I seek to tender the document, Your Honours.

23 PRESIDING JUDGE SMITH: Any objection to the document?

24 MR. PACE: Sorry, which interview was this and why was it not  
25 tendered when it was being discussed?

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1 MS. V. ALAGENDRA: My apologies. I'd overlooked that. I'd  
2 forgotten to put it up on the screen.

3 PRESIDING JUDGE SMITH: It's a *Voice of America* statement.

4 MR. PACE: No objection.

5 PRESIDING JUDGE SMITH: DJK2096 is admitted.

6 THE COURT OFFICER: Your Honour, just to confirm, the interview  
7 consists of four pages and it goes to DJK2099.

8 MS. V. ALAGENDRA: That's correct.

9 THE COURT OFFICER: And that will be assigned Exhibit 4D105.

10 MS. V. ALAGENDRA: Thank you.

11 PRESIDING JUDGE SMITH: Thank you.

12 MS. V. ALAGENDRA: Thank you.

13 Q. At page 97 of the transcript, when speaking of well-organised  
14 Russian disinformation campaigns pursued by the Russian-supported and  
15 Serb-sponsored organisations, you said you could elaborate.

16 Now, were there any specific instances that you wanted to  
17 elaborate?

18 MR. PACE: Objection, Your Honour. Counsel was already told  
19 that that subject matter is irrelevant unless it refers to a  
20 conflict. The question is again put broadly on what the witness  
21 wants to elaborate. We can't elaborate on matters deemed irrelevant  
22 by the Panel, so it could be a more specific question or [Overlapping  
23 speakers] ...

24 PRESIDING JUDGE SMITH: You're going to have to make this more  
25 specific.



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1 MS. V. ALAGENDRA: Your Honours, I'm asking if there are any  
2 specific instances that the witness in particular wanted to elaborate  
3 on.

4 Q. Perhaps Mr. Rubin could clarify if there were any specific  
5 instances.

6 A. It's a very simple answer. I'm referring in this case to the  
7 Sputnik and RT channels that operated in Serbian language, which is  
8 the only part of members who want to join -- countries that want to  
9 join the EU that allows RT and Sputnik to operate. And, therefore,  
10 Russia is enabled to present false information through Serbian-owned  
11 television stations that are in Serbian that can then be heard all  
12 over the Balkans.

13 I wasn't intending to refer to specific cases so much as the  
14 specific ways in which it was done and that it was very damaging to  
15 the West in general but not necessarily related to our specific case  
16 here in court.

17 Q. Thank you. Thank you for clarifying that.

18 MS. V. ALAGENDRA: If we could have on screen DJK2084 to 2095,  
19 please. And more specifically to page 2086, please.

20 If we can go down a page. Yes, that's where we are.

21 Q. Here in this -- this is one of your press briefings of 28 May  
22 1999. And here you say:

23 "This is new information, unrelated to the indictments. This  
24 particular incident at this town is not listed in the indictment.  
25 But the Tribunal has made clear they're going to continue their work;

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1 and what we're trying to show here is we're going to continue our  
2 work to help them. What this is about is evidence that the Serbs  
3 recognise that war crimes are being committed, and that there is a  
4 cover-up taking place by Serb forces to try to hide the evidence, mix  
5 it in with other graves at regular cemeteries, so that when there is  
6 a reckoning, after NATO forces do arrive in Kosovo, that they can  
7 limit the evidence that might be available to the War Crimes  
8 Tribunal."

9 Do you remember saying that?

10 A. More or less, yes. I remember this briefing, I remember the  
11 point I was trying to make, and so, therefore, I remember this point.  
12 But I -- yeah, I mean, it's 26 years ago. I do remember the  
13 briefing.

14 Q. And would you agree with me that what you were quite directly  
15 saying here is that the Serbs were engaging in coverup to hide  
16 evidence?

17 A. Absolutely, yes.

18 Q. And you'll agree with me that they were not operating according  
19 to any conventionally understood rules of warfare. They were  
20 operating as criminals, tampering with and trying to cover up crime  
21 scenes; is that right?

22 A. Yes, absolutely. This was a pattern we have seen in Bosnia and  
23 we were seeing it again in Kosovo.

24 Q. And by the same token, they were trying to falsely blame the  
25 KLA, weren't they?

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1 A. They were always trying to falsely blame the KLA, the Serb  
2 government.

3 Q. And it would be consistent with the *modus operandi* that the Serb  
4 regime was implementing at the time. Do you agree with that?

5 A. This was the way they tried to justify what they were doing, by  
6 blaming the other guys, yes.

7 MS. V. ALAGENDRA: If we could have 1D00148 on the screen,  
8 please. The page reference would be DHT01536, please.

9 Q. Where it says "Page 03," if you could take a minute to just read  
10 that paragraph, please.

11 A. Okay.

12 Q. Now, you encountered Mr. Krasniqi directly a bit later on, on  
13 12 April 1999, in Brussels, didn't you?

14 A. Right. If you'll notice -- I noticed that they didn't list me  
15 in that meeting. It doesn't mean I wasn't there. They didn't always  
16 list me. I was probably running in and out of the meeting doing  
17 other things. I remember her meeting with Mr. Krasniqi at the time  
18 in Brussels because this was at a very, very painful moment in the  
19 war, where we didn't know which way it was going, and Mr. Krasniqi  
20 was asking us for things we weren't prepared to do, like send in  
21 ground troops. And so we had to explain what we were prepared to do  
22 and could do and would do, and what we could and wouldn't do. And so  
23 it was, you know, a sensitive moment.

24 Q. Right. And during that meeting, Mr. Krasniqi made those three  
25 specific requests on behalf of Kosovo Albanians and the KLA, did he

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1 not?

2 A. Yes, that was what we assumed he was formally transmitting, the  
3 KLA and the Kosovo leaders' requests to NATO and the United States.  
4 Yes.

5 Q. Right. And his main concern was for the humanitarian plight of  
6 hundreds of thousands of displaced Kosovans; correct?

7 A. Absolutely. And, again, I need to point out here that we had  
8 the same concern. We felt the best way to save these people was to  
9 defeat Milosevic, and that's what ended up happening a few weeks  
10 later. But during those weeks, he was concerned about his people.  
11 We felt that he -- we understood that, and we showed what we could  
12 and couldn't do. We wanted to keep as many people in the region as  
13 possible, but we recognised people were fleeing all over the world.  
14 But we wanted to help them, but we weren't prepared to send in ground  
15 troops as requested.

16 Q. Right. He was pleading for the humanitarian support for these  
17 civilians who were suffering?

18 A. Absolutely, yes.

19 Q. Enormously as IDPs; yes?

20 A. Yes.

21 Q. Yes. And his primary concern was to request the United States'  
22 intervention or support to the KLA to stop Milosevic's ethnic  
23 cleansing, which is what's recorded in the cable; yes?

24 A. Yes. Again, this sensitive moment was about how to defeat  
25 Milosevic. There were those in various parts of the world,

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1 including, obviously, the KLA, who wanted us to move from an air war  
2 to a ground war, which was a very sensitive subject, that we were not  
3 prepared to do because we weren't -- President Clinton had ruled out  
4 at that time ground troops. He, for reasons as you state, of concern  
5 for the people of Kosovo, was pointing out that if the US sent in  
6 ground troops, the war might stop earlier and the people would be  
7 less damaged, but we couldn't respond to his request because it  
8 involved changing President Clinton's policy of not sending in ground  
9 troops.

10 Q. Right.

11 MS. V. ALAGENDRA: If we could move to page DHT05186, please.  
12 Sorry, I'll need to get the new document up. It's DHT05180 to 05189.

13 THE WITNESS: It looks like I was in that meeting after all. I  
14 saw the list.

15 THE COURT OFFICER: I apologise. I cannot find that document in  
16 the presentation queue with that ERN.

17 MS. V. ALAGENDRA: No problem. If we could have the previous  
18 document back on the screen, please. It's 1D00148. [Microphone not  
19 activated]. Yes, thank you. If you could move down to paragraph 14.

20 Q. Yes. If you could take a minute to read that, please.

21 A. Right.

22 Q. The cable records that his military request was ground troops or  
23 else arm the KLA to defend and protect the Kosovo people. That was  
24 Mr. Krasniqi's rationale, arming the KLA as a defensive necessity to  
25 protect civilians from Serbian atrocities; am I correct?

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1 A. Yes.

2 Q. There was nothing untoward in that request, was there?

3 A. No, I think we generally felt if we were in his shoes we would  
4 have said the same thing.

5 Q. Right. So you agree with me it was quite laudable that his  
6 first concern was the plight of IDPs and his second concern was to  
7 support the KLA so that it could defend civilians from further  
8 slaughter; correct?

9 A. It's correct that we understood his rationale, that it was a  
10 rationale we shared, defending, protecting the people. It was just  
11 not something we were prepared to do at that time.

12 Q. I'm on my last question --

13 THE INTERPRETER: The interpreters kindly ask the speakers to  
14 make a pause between a question and answer. Thank you.

15 MS. V. ALAGENDRA: Sorry.

16 Q. My last question, Mr. Rubin. Having the opportunity to engage  
17 with Mr. Thaci and the Kosovan delegation, would you agree with me  
18 that you saw nothing in the body language, conversations, or  
19 interactions that suggest that Jakup Krasniqi, the spokesperson, was  
20 anything other than a supporting voice of moderation who was trying  
21 to help Mr. Thaci and those in Rambouillet, with the help of the  
22 United States, to end the conflict?

23 A. That seems like a fair assessment to me, yes.

24 Q. Thank you.

25 PRESIDING JUDGE SMITH: Thank you, Ms. Alagendra.

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1 Mr. Pace.

2 MR. DIXON: Your Honour, sorry, before we move on to  
3 cross-examination, could I just, for good order, request the  
4 admission of the three documents that I referred to, the press  
5 statement and briefing. A number of these have been introduced  
6 already into evidence. I can give the numbers if there's no  
7 objection. They all come from Mr. Rubin or his office, so they're  
8 authenticated and relevant to both the facts that they cover but also  
9 the procedures that were followed.

10 MR. PACE: There are objections, Your Honour.

11 MR. DIXON: Your Honour, if I could then --

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. DIXON: Yes. So my application is to tender them, a number  
14 of Mr. Rubin's press statements and --

15 PRESIDING JUDGE SMITH: Please do it by identifying number.

16 MR. DIXON: The numbers are -- and I'll take it in date order.  
17 First of all, it's the press statement of 26 August 1998, and that's  
18 DKV1781 to 1782. Then there's the press statement of Mr. Rubin of  
19 23 September 1998, DKV1783 to 1783. And then, finally, the press  
20 briefing of 27 October 1998 of Mr. Rubin, DKV1776 to 1780.

21 Now, a number of these have already been admitted into evidence.  
22 They are Mr. Rubin's own documents.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 Why are we admitting them again?

25 MR. DIXON: I referred to them in cross-examination to highlight

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1 both --

2 PRESIDING JUDGE SMITH: But they're already in evidence you  
3 said.

4 MR. DIXON: No, they aren't in evidence yet.

5 PRESIDING JUDGE SMITH: That's what you just said.

6 MR. DIXON: I said documents like this, similar to this, have  
7 been admitted already. So it's an argument in our favour that  
8 there's no reason to distinguish these from exactly the same types of  
9 documents that have been admitted into evidence already. They come  
10 from the witness or his office. They are contemporaneous records of  
11 the time where various facts are recorded that we say are relevant to  
12 the circumstances. But most importantly, as I explained in  
13 cross-examination, they go through the procedure that was used to  
14 gather information from the ground, which we say is relevant to what  
15 information Mr. Rubin and others had at the time about the structure  
16 of the KLA, which is clearly a relevant issue in this trial.

17 PRESIDING JUDGE SMITH: Do you wish to object now or do you want  
18 to file a written objection to it?

19 MR. PACE: No, we can object now, Your Honour, and the basis is  
20 simple. It's lack of relevance.

21 As we saw earlier during the examination, the content of all  
22 three press statements goes to matters that are not relevant to the  
23 proceedings. They concern, for example, the number of IDPs in Kosovo  
24 and statistics. Counsel, in fact, in submissions when I objected,  
25 explained why he's using these documents. The documents themselves



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1 are not relevant to the case. The fact that other press statements  
2 by Mr. Rubin have been admitted into evidence does not move the mark  
3 at all in this regard.

4 So we object to admission of all three items.

5 PRESIDING JUDGE SMITH: All right. We'll issue a ruling, an  
6 oral ruling later.

7 Go ahead, Mr. Pace. It's your cross-examination.

8 MS. V. ALAGENDRA: Your Honours, my apologies. I had omitted to  
9 tender one document, if I may be permitted.

10 PRESIDING JUDGE SMITH: Go ahead.

11 MS. V. ALAGENDRA: It's DJK2084 to 2095, Your Honours.

12 PRESIDING JUDGE SMITH: Any objection to 2084 to 2095?

13 MR. PACE: Again, Your Honour, please maybe remind the parties  
14 that tendering should be done when the item is used --

15 PRESIDING JUDGE SMITH: I understand that.

16 MR. PACE: -- not after --

17 MS. V. ALAGENDRA: My apologies.

18 MR. PACE: -- because it's very hard to keep track. This is the  
19 second or third time today.

20 In relation to this particular item, we don't have an objection.

21 PRESIDING JUDGE SMITH: DJK2084 to 2095 is admitted.

22 I reiterate what he just said. You do this quite regularly.

23 MS. V. ALAGENDRA: I know. I know. It's my fault.

24 PRESIDING JUDGE SMITH: I would like to have you make the offer  
25 at the time you use the document.

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1 MS. V. ALAGENDRA: Certainly. My apologies again, Your Honours.

2 PRESIDING JUDGE SMITH: For both of you.

3 [Microphone not activated].

4 THE COURT OFFICER: Your Honours, DJK02084 to DJK02095 will be  
5 assigned Exhibit 4D106.

6 PRESIDING JUDGE SMITH: All right, Mr. Pace. Cross-examination.

7 Cross-examination by Mr. Pace:

8 Q. Good afternoon, Mr. Witness. My name is James Pace. I'm a  
9 Prosecutor with the SPO, and I'll be asking you questions for the  
10 next four hours or so.

11 As part of her role in 1998, the US Secretary of State covered  
12 the entire world in terms of US foreign policy; right?

13 A. Yes.

14 Q. I heard your answer yes, but once again --

15 A. Yes, yes.

16 Q. -- we need to respect the pause. Otherwise, the transcript  
17 won't catch it, and we'll have to do this all over again.

18 I take it that the same was expected of you given your role in  
19 the US government at the time; correct?

20 A. Yes.

21 Q. At paragraph 11 of your Defence statement, which you confirmed  
22 earlier today, you say:

23 "In order to do my job, each morning, I would read all relevant  
24 media reports as well as intelligence reports and diplomatic cables  
25 from our embassies and missions."

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1 Do you recall on any given day in 1998 how many media reports,  
2 intelligence reports, and diplomatic cables you would read?

3 A. I mean, trying to be responsive, I couldn't give you a specific  
4 number, but it might be a hundred.

5 Q. And do you recall how many countries this information would  
6 concern on your average day in 1998?

7 A. Well, if you took a look, as you saw with some of these  
8 briefings, it depended on the time. So during the Kosovo war,  
9 95 per cent of my questions might be about Kosovo and only a few  
10 questions about something else. When the war wasn't going on, it  
11 might be a more general ten topics, and so I would have to cover more  
12 area. But during those 78 days in particular and the three months  
13 leading up to it or several months leading up to it, Kosovo was the  
14 primary subject that Secretary Albright and her team were focused on.

15 And I should add, and this is relevant to your question, I had a  
16 unique relationship with her about the Balkans. So if the subject  
17 was China, I would tend to have a -- reading less about China because  
18 I knew that my views on China, my understanding on China was going to  
19 have to be more mechanistic and automatic for what the State  
20 Department's position was. But if it came to the Balkans and the  
21 Middle East, which were two areas I was heavily involved with, then I  
22 tried to read more and know more and make her and my role more  
23 comprehensive so that it wasn't so many topics. If that's -- I'm  
24 trying to be responsive to your question.

25 MR. PACE: I'd like to call up SPOE00397666-00397674, and we can

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1 stay on the first page, please.

2 Q. We see, Witness, that this is a US Department of State daily  
3 press briefing dated 25 June 1998. And we can also see that you're  
4 listed as the briefer. On the page on our screens, we see reference  
5 to Serbia and El Salvador. Now, is it correct that at the time  
6 issues to do with Kosovo fell under the heading "Serbia"?

7 A. Yes.

8 MR. PACE: And if we turn to the next page, please, the one  
9 ending in 667. And we can zoom out.

10 Q. And here we see this page refers to Guatemala, Saudi Arabia,  
11 Slovakia, Egypt, the Middle East Peace Process, which as I understand  
12 MEPP being referred to, China, Kuwait, Congo, Cuba, Syria, and Iraq.

13 Do I understand this page and the preceding one correctly to  
14 mean that on this day in June 1998, you updated the press on issues  
15 related to all these countries?

16 A. Yes.

17 MR. PACE: We can take the document down.

18 THE WITNESS: I should add, because I think this is responsive  
19 to your question, that as a briefer with a special expertise in this  
20 area and a special relationship, in many of those topics I'm just  
21 reading what's in front of me, like on El Salvador or Guatemala or  
22 Egypt. I might just get a question and read what's in front of me,  
23 and all I needed to do was go to the tab that responded.

24 When it came to the Balkans and a couple of other topics, not  
25 only was there much more pages about it as you saw, but I was more

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1 responsive to the questioners because I knew much more, and I was  
2 much more involved with her, and she was much more involved in the  
3 issue. So as a US spokesman, I did have to deal with all the issues  
4 you mention, the pages are accurate, but I should point out that as a  
5 briefer I had to choose what I would spend my time on every day.  
6 Time management is everything, and most of the subjects I would spend  
7 the minimum on and use my knowledge of where the book answers were  
8 and just read them. While the Balkans, especially in 1998 and 1999,  
9 I spent the bulk of my time, maybe Iraq a little bit depending on the  
10 crisis, and the Middle East depending on the negotiations. But those  
11 would be the topics that I would spend the bulk of my time on  
12 preparing and ideally giving more information to the reporters when  
13 they asked questions.

14 Q. Before you address the nations or the issues in the nations with  
15 which you were less familiar, would you have confirmed the accuracy  
16 of the information given to you to read out?

17 A. Yes and no. Not every time. You develop relationships with  
18 people in life and you learn to trust them. So there were people who  
19 would come into my office during the course of a morning from Latin  
20 America, which wasn't, say, particularly in the news for the whole  
21 two years I was there, with a couple of exceptions, like Cuba. And  
22 you test people the first 10, 20, 30 times they come in with  
23 information by quizzing them until you're satisfied that this guy is  
24 going to give you the straight scoop. Then the 31st, 33rd and 44th  
25 time you meet with them, you're not going to quiz him as much. So I

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1 learned to figure out who to trust as briefers to give me reliable,  
2 accurate information.

3 Q. Your statement makes no mention of you meeting any KLA members  
4 in 1998 or January of 1999; right?

5 A. Correct.

6 Q. So before Rambouillet, you had not attended any meetings  
7 involving KLA General Staff members; right?

8 A. Correct.

9 Q. Neither had you met with any of the KLA operational zone  
10 commanders before Rambouillet; correct?

11 A. Correct.

12 Q. At paragraph 13 of your statement, you note that you had very  
13 little appreciation of who the KLA leadership was or what they were  
14 about. And earlier today you testified that, at Rambouillet, in  
15 relation to the KLA, "we didn't understand their leadership structure  
16 very well." Even by the second half of 1998, the US administration  
17 still had limited information about the KLA leadership and its  
18 internal structuring; right?

19 A. Now, I need to distinguish between me as the spokesman of the  
20 United States of America, who is going to have a limited set of  
21 knowledge, and, say, [REDACTED] Pursuant to Post-Session Redaction Order  
F3503.

22 [REDACTED] Pursuant to Post-Session Redaction Order F3503.

23 [REDACTED] Pursuant to Post-Session Redaction Order F3503.

24 So when you say the US Government, I need to just amend that  
25 because I'm not the US Government. I'm trying to be that on a given

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1 day, but there are people in the US Government who would know more  
2 than me. Or even the ambassador in Belgrade would know more. Not  
3 necessarily even intelligence people. They would do that all day  
4 long, that's all they would do, and they would know everything we  
5 knew, and that might be more than I knew or even Madeleine Albright  
6 knew.

7 Q. Were you aware that US authorities who were in contact with the  
8 KLA in 1998 noted that it was secretive about its structure and  
9 leadership?

10 A. Yes.

11 Q. In your statement, you say that when you arrived in Rambouillet,  
12 Hashim Thaci was a very young man from the KLA whom no one knew.  
13 Similarly, in your *Financial Times* article, you said in relation to  
14 Mr. Thaci, when he got to Rambouillet: "We had no idea who he was."  
15 And earlier today you testified: "Nobody knew him really in the US  
16 Government that I was aware of."

17 So before Rambouillet, you yourself did not know whether  
18 Mr. Thaci was one of the founding members of the KLA; correct?

19 A. Myself? No, that's -- yes, I didn't know. Whatever way I need  
20 to say yes or no, I agree with your point.

21 Q. You did not know before Rambouillet whether Hashim Thaci was a  
22 member of the General Staff; correct?

23 A. I concur.

24 Q. Before Rambouillet, you did not know whether Mr. Thaci was a  
25 member of the KLA political directorate; right?

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1 A. Yes, because I didn't know him.

2 Q. And that also means that you didn't know whether he was the head  
3 of the political directorate of the KLA; right?

4 A. Yes.

5 Q. You weren't aware that in August 1998, the KLA General Staff had  
6 publicised the names of its political representatives including  
7 Hashim Thaci; correct?

8 A. I wasn't aware of that, yes.

9 Q. Do you know whether the BBC was aware of that in August 1998?

10 A. I have no idea.

11 MR. PACE: Let's call up 019584-019585, please. We can stay on  
12 the first page.

13 Q. We see this is a BBC report, and we see it's dated 15 August  
14 1998, titled "Kosovo Liberation Army names political  
15 representatives." And we also see that it says it's reproducing  
16 "Text of a report by the Kosovo Information Centre web site's Kosova  
17 Daily Report on 13 August."

18 I'm going to read from the top where it says "Pristina, 13th  
19 August," and then I'll ask you a question:

20 "Pristina, 13th August: The General Staff of the Ushtria  
21 Clirimtare e Kosoves (UCK, Kosova [Kosovo] Liberation Army [OVK in  
22 Serbo-Croat]) issued today (Thursday) afternoon [13th August] a  
23 statement, entitled 'Political Declaration, No. 7', in which it  
24 referred to its latest setbacks in Kosova as 'a tactical retreat',  
25 and publicised the names of six people, 'the political



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1 representatives of the UCK', while naming a seventh, Adem Demaci, as  
2 the man who should lead the work for the 'creation of the  
3 institutions of Kosova'.

4 "'The tactical retreat aimed at protecting the civilian  
5 population has proven to be successful,' the statement said, adding  
6 that the retaking of 'war positions is proof of this'.

7 "Having faced also what it calls a 'special warfare', the UCK  
8 has emerged out of this situation 'stronger than ever', the statement  
9 said. 'This is the best evidence of our determination to press ahead  
10 with the struggle till independence is achieved.'

11 "Speaking about the new political and military conditions in  
12 Kosova, the UCK said 'institutions that will represent a wide  
13 spectrum of the political scene' should be created.

14 "Against this background, and 'to bring an end to manipulation  
15 regarding the creation of these institutions', the General Staff  
16 publicised the names of its political representatives. They are  
17 Jakup Krasniqi, Xhavit Haliti, Bardhyl Mahmuti, [Hashim] Thaci,  
18 Faton Mehmetaj, and Sokol Bashota, the statement said."

19 I'll stop there. So this would not have been one of the media  
20 reports you were reviewing in relation to Kosovo at the time?

21 A. If it was, and I might have read it, I don't remember it 27  
22 years later.

23 MR. PACE: Your Honour, we seek to admit this item.

24 PRESIDING JUDGE SMITH: Any objection?

25 MR. MISETIC: I think there's a different version, but no

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1 objection.

2 PRESIDING JUDGE SMITH: No objection being heard, 019584 to  
3 019585 is admitted and will be assigned a ...

4 THE COURT OFFICER: Your Honours, that will be assigned  
5 Exhibit P04485.

6 MR. MISETIC: Since it's been tendered, Mr. President, I do wish  
7 to make one clarification, is that Mr. Pace read out the name  
8 Hashim Thaci and the report actually says "Haxhi Thaci." Thank you.

9 MR. PACE: I apologise for that. We can take the document down.

10 Q. Your statement mentions that Ambassador Gelbard, Ambassador  
11 Holbrooke, and members of American intelligence entities had met or  
12 were in contact with KLA members.

13 In relation to an October 1998 item shown to you by the Defence  
14 for Mr. Veseli earlier today, you also noted that you were getting  
15 information from Shaun Byrnes, and you said he was well respected for  
16 providing accurate information.

17 Were you aware of meetings between Shaun Byrnes and KLA  
18 representatives in 1998?

19 A. I might have been. I can't recall now, 27 years later.

20 Q. Do you recall whether in November 1998 Shaun Byrnes had  
21 identified Hashim Thaci as appearing to be the head of the KLA's  
22 political department?

23 A. As I think I testified at the beginning of your questions, I  
24 didn't really know the name Hashim Thaci, to my best of recollection,  
25 prior to Rambouillet in 1999. So the answer to your question is

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1     whatever that tells you, yes or no. I can't remember which way it  
2     went.

3     Q.    So you recall receiving accurate information from Shaun Byrnes  
4     but not necessarily about the KLA structure?

5     A.    What I recall is not receiving every single thing Shaun Byrnes  
6     said. I can't remember that. I remember he was one of those people  
7     that I identified as providing reliable information, but I didn't  
8     know everything he reported because I wouldn't be capable of  
9     absorbing that level of information from all such people.

10    Q.    Even if that were in a US cable to the Secretary of State?

11    A.    Every cable is to the Secretary of State from the region, so  
12    there are thousands and thousands of cables to the Secretary of State  
13    every day. I have to choose which to read. I chose which to read  
14    based on, one, my interest in the subject; two, who I was trusting to  
15    handle an issue, and I think this is very important in your  
16    questioning.

17           Richard Holbrooke was someone who we knew very, very well, and  
18    Madeleine Albright and he knew each other very well, and he and  
19    Gelbard were handling this issue. So I had a lot of trust and  
20    respect for them, and so that gave me confidence that this subject  
21    was in good hands, and that meant I would be less likely to know and  
22    look for and discover every detail related to it as compared to a  
23    subject of importance to her that we didn't think was in good hands,  
24    which is an explanation for why I might or might not have read  
25    anything Shaun Byrnes wrote at that time.

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1 Q. Were you aware of meetings between Lawrence Rossin and KLA  
2 representatives in 1998?

3 A. If he was with Gelbard, yes. If he wasn't with Gelbard, no. I  
4 remember Gelbard met with him. That's who I remember met with the  
5 KLA in 1998. And then Larry was a guy who met everybody as far as I  
6 knew at the time. So I guess in a way I did know that, because I  
7 knew Larry met with everybody, Larry Rossin. But the meetings with  
8 the KLA that were memorable in my head, 27 years later, were the ones  
9 with Gelbard.

10 Q. Did you know whether in December 1998 cables concerning Rossin's  
11 meetings with the KLA General Staff members referred to Hashim Thaci  
12 as the head of the political department of the KLA?

13 A. I suspect I probably read those cables, I just didn't remember  
14 them -- the name of Hashim Thaci particularly when we arrived in  
15 Kosovo -- sorry, in Rambouillet a month or two later. I would have  
16 read Larry's cables about Kosovo because, as I think I mentioned,  
17 this was the brewing crisis, and we were trying to learn everything  
18 we could. And although I trusted Gelbard, Holbrooke was not always  
19 involved, sometimes involved, sometimes not involved. He would go  
20 away for a month, be on a month. When he was not involved, I tried  
21 to read more. And I definitely read cables out of Belgrade or cables  
22 from Larry about every subject that I could remember at the time,  
23 that I could absorb, even if it wasn't going to be asked at the  
24 briefing, because it was a subject of great interest to Madeleine  
25 Albright and me.

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1 Q. Were you aware of meetings between Christopher Hill and KLA  
2 members, including Mr. Thaci and Jakup Krasniqi in November 1998?

3 A. No. Chris Hill at that time was more junior when Gelbard and  
4 Holbrooke were the primary representatives, so Chris and Larry Rossin  
5 were more junior officials, and I wouldn't have known every meeting  
6 they had. If it was reported in a cable out of Belgrade with  
7 significant information that actually affected our position as  
8 opposed to details of what their names were, some cables just tell  
9 you a bunch of names and you don't read those. Some cables tell you  
10 the KLA is going to launch a political, blah, blah, or the Serbs are  
11 going to do X, you read those. But a cable that just describes a  
12 bunch of names and that are about a level of detail that I wouldn't  
13 need to know, I would skim. So I probably skimmed those.

14 Q. And what about international media reporting on meetings between  
15 US diplomats or US authorities and KLA members in November 1998?  
16 Would you have read those?

17 A. Those I would have read.

18 MR. PACE: Let's call up 4D00040, please, and we can stay on the  
19 first page.

20 Q. We see this as a 9 November 1998 BBC report titled "US mediator  
21 initiates meeting with Kosovo rebels," and it says that it's  
22 reproducing text from the web site of Prishtine-based news agency  
23 ARTA from 6 November 1998. And I'm just going to read from the top.

24 "Dragobil [Dragobilje], 6th November: Upon his own request, as  
25 it was confirmed by the participants in the meeting, the US mediator

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1 for Kosova [Kosovo], Christopher Hill, met on Friday [6th November]  
2 with the representatives of the KLA [Kosovo Liberation Army; UCK in  
3 Albanian; OVK in Serbo-Croat] central headquarters, Hashim Thaci and  
4 Rame Buja, representatives of the KLA directorate for political  
5 issues, and with KLA spokesman Jakup Krasniqi."

6 Were you aware of that media report?

7 A. No, the BBC is not -- I'm sorry to report to my British friends,  
8 wasn't considered by me at that time international media with the  
9 same assurance that I would read it as I would of *The New York Times*,  
10 say, or CNN, which was an American-based international media  
11 organisation. But I would be aware that Richard Holbrooke and  
12 Ambassador Gelbard's subordinates like --

13 PRESIDING JUDGE SMITH: Excuse me, just a moment. Mr. Misetic  
14 is on his feet for some reason.

15 MR. MISETIC: Yes, Mr. President, I think there's an issue  
16 about, in fairness to the witness, being represented of what this  
17 actually is. He said it's a BBC report --

18 MR. PACE: Your Honour, we can make submissions outside the  
19 witness's presence, the witness having seen the document himself on  
20 the screen, if there is a need to. But it should be outside the  
21 presence before we influence anything he has to say.

22 MR. MISETIC: Well, I think he's been influenced and that's kind  
23 of what I think needs to be corrected. But I'm happy to say it  
24 outside his presence, but I think there's been a misrepresentation of  
25 what this is.

1 THE WITNESS: Because there's --

2 PRESIDING JUDGE SMITH: Witness, witness, can you step outside  
3 for just a moment, please.

4 THE WITNESS: Sure.

5 [The witness stands down]

6 MR. MISETIC: Yes. Mr. President, if we could scroll to the top  
7 of the page, please. Yes. It's not BBC. It's BBC Monitoring  
8 Service, right? So this is not something that would have been on the  
9 web page of the BBC. It's the service that you can get and you pay  
10 for, like on LexisNexis or something, that monitors regional news and  
11 translates it and it's access to people who want to get it, but it's  
12 not the BBC as this witness would understand what's been put to him.

13 PRESIDING JUDGE SMITH: Let's just start over and use the proper  
14 phrase. It's the BBC Monitoring Service. That's all you need to  
15 say, and then go ahead and ask your questions. Thank you.

16 You can bring the witness back in.

17 [Trial Panel and Court Officer confers]

18 PRESIDING JUDGE SMITH: We'll have a slight delay before we can  
19 bring the witness back in.

20 MR. MISETIC: Then, Mr. President, while there's a delay, could  
21 it be pointed out to the witness just what the title is actually?  
22 Thank you.

23 PRESIDING JUDGE SMITH: I think what we'll do is take the  
24 ten-minute break now, because it's going to take about -- by the time  
25 we get back, it'll be time for the break anyway.

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1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: Oh, no, never mind. All right. We'll  
3 go ahead.

4 Recall, Mr. Pace, that we will break in about six minutes.

5 MR. PACE: Yes.

6 Q. Witness, we're --

7 PRESIDING JUDGE SMITH: Just a second. Let me ...

8 Witness, we're going to have Mr. Pace start over with the  
9 question. There was a bit of a misunderstanding as to the title of  
10 this document. Mr. Pace will straighten that out right away.

11 MR. PACE:

12 Q. Yes, Witness. As you can see on your screen, we have BBC.  
13 Below that, "US mediator initiates meeting with Kosovo rebels, 336  
14 words, 9 November 1998, BBC Monitoring Service: Central Europe &  
15 Balkans," and then more information.

16 At the time of this in November 1998 --

17 JUDGE GAYNOR: The source of this is ARTA news agency. I think  
18 that's the point the Defence is worried about. It's ARTA. It's not  
19 BBC.

20 MR. PACE: Your Honour, with respect, if that's the point that  
21 the Defence is worried about, I specifically said that in my question  
22 earlier, that it's an ARTA. I was following the Presiding Judge's  
23 instruction to note BBC Monitoring Service. I actually don't have  
24 anymore questions about this item. I pointed it out to the witness  
25 as instructed to.



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1 JUDGE GAYNOR: Thank you.

2 THE WITNESS: Can I just make a brief point here? So when --

3 MR. PACE: Sorry, I don't have a question for you, Witness.

4 PRESIDING JUDGE SMITH: [Microphone not activated]. Wait for the  
5 next question, please.

6 MR. PACE: We can take this document down.

7 Q. Witness, when you arrived in Rambouillet, Secretary Albright  
8 encouraged you to form a relationship with Hashim Thaci; right?

9 A. Yes.

10 Q. And you focused most of your attention on him?

11 A. Yes.

12 Q. You developed a kind of friendship with Mr. Thaci at  
13 Rambouillet; right?

14 A. Yes.

15 Q. And at some point, you would also make recommendations to  
16 Mr. Thaci as to what combinations of suits and ties he should wear;  
17 right?

18 A. Not necessarily, no. That came out of other people's  
19 discussions. I became a kind of like mythology that I got involved  
20 in his clothing. I don't really remember doing that.

21 MR. PACE: Let's call up DHT08787-DHT09214, please. And if we  
22 zoom out.

23 Q. On this first page, we can see that this is the cover of a  
24 memoire by Christopher R Hill. And let's next please go to page  
25 DHT08925 where I will read from the penultimate paragraph.

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1 "Jamie Rubin" -- I'm now reading:

2 "Jamie Rubin was of the view that the real leader of the Kosovo  
3 delegation was Hashim Thaci and that Albright should focus her  
4 efforts on him. Jamie had begun to pay attention exclusively to  
5 Thaci, even going so far as to recommend combinations of suits and  
6 ties for him to wear."

7 Is Mr. Hill's recollection and writing here inaccurate?

8 A. Absolutely inaccurate. Christopher Hill had a bias that I  
9 noticed throughout his time as the leader, a bias in favour of the  
10 LDK and against the KLA. I had no bias. I was asked to work with  
11 the self-chosen leader of the delegation. Chris Hill inaccurately,  
12 and in a rather silly and juvenile way, is making it seem like I'm  
13 talking to Hashim Thaci about his clothing.

14 Christopher Hill was being biased here, was trying to diminish  
15 me, and did that repeatedly, and tried to diminish Secretary Albright  
16 to reporters by falsely claiming she indulged the leader of the KLA  
17 delegation at Rambouillet when it was the Kosovo Albanian delegation  
18 that selected him as the leader and his approval was required for us  
19 to achieve our objectives.

20 So I was seeking to achieve the objectives of Secretary  
21 Albright. Christopher Hill was trying to diminish me in this  
22 account, falsely inventing a story that isn't accurate, by trying to  
23 diminish my role as a diplomat and implying that he was a good  
24 diplomat, when he was the one who bungled some of the discussions  
25 there by not helping us to get a yes out of the KLA, and his

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1 subsequent behaviour is not relevant.

2 MR. PACE: We can take the document down and have the break if  
3 it's a convenient time.

4 PRESIDING JUDGE SMITH: We're going to have a ten-minute break  
5 now, Witness. Please do not speak with anyone about your testimony.

6 [The witness stands down]

7 MR. DIXON: Your Honours, if I could briefly, if you are going  
8 to consider the admission of my documents, note that Mr. Pace has  
9 now, in fact, referred to one of them in relation to contacts on the  
10 ground with Shaun Byrnes. And if that's not a complete answer to the  
11 relevance point, then I don't know what. I just wish to highlight  
12 that it reiterates the submissions that I made.

13 PRESIDING JUDGE SMITH: As I said, we'll rule on it eventually.

14 MR. DIXON: Thank you, Your Honours.

15 PRESIDING JUDGE SMITH: Thank you.

16 We are adjourned for ten minutes.

17 --- Break taken at 3.29 p.m.

18 --- On resuming at 3.42 p.m.

19 PRESIDING JUDGE SMITH: Madam Court Officer, you may bring the  
20 witness in.

21 [The witness takes the stand]

22 PRESIDING JUDGE SMITH: We'll continue now with your  
23 cross-examination. We will be going until 4.30, and then we'll be  
24 finished for the day.

25 MR. PACE: Thank you, Your Honour.

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1 Q. Witness, in March 1999, Secretary Albright referred to Mr. Thaci  
2 as "your guy"; right?

3 A. Sounds right.

4 Q. At Rambouillet, Hashim Thaci resisted immense pressure from  
5 Secretary Albright and others to sign the agreement presented; right?

6 A. Yes.

7 Q. At the end of Rambouillet, other members of the Kosovo  
8 delegation wanted to sign; right?

9 A. Yes.

10 Q. Throughout the negotiations at Rambouillet, it was  
11 Hashim Thaci's agreement that was needed in order to proceed.  
12 Otherwise, you would have to go back to square one on matters; right?

13 A. It was required to -- the goal -- so that's not quite right.  
14 The goal was to get both sides to agree so that we could get a peace  
15 agreement so that we could prevent this war from escalating in  
16 disastrous form.

17 We wanted at a minimum -- because we doubted the Serbian side  
18 would agree until they saw the pressure rise. In order to get the  
19 pressure to rise, we needed to get the Kosovar Albanian delegation as  
20 a whole to agree to it. As things evolved, he, representing the  
21 members of the delegation that were called KLA, wouldn't agree to  
22 sign then but agreed to sign several weeks later, which was a way to  
23 move forward and build the pressure in the hopes that would get the  
24 Serbs to sign so we could achieve peace. That was the goal.

25 MR. PACE: I'd like to call up SPOE00 -- sorry, it's actually

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1 now 1D280.

2 Q. Witness, as you can see this is the *Financial Times Weekend*  
3 article that earlier today during direct examination you testified  
4 that you were trying to be as accurate as possible when you wrote  
5 this.

6 MR. PACE: I'd like to turn to the second page, the one ending  
7 in 15, and there I'm going to read from the middle of the fifth  
8 column. So if we can zoom in on the fifth column. I think that's --  
9 if we can centre a bit more. Thank you.

10 Q. And the paragraph that I'm going to read from starts "Albright  
11 gave him ..." and I'm going to read from the end of that paragraph.  
12 Here it's written:

13 "Albright told me to work with Thaci. The rest of the Albanian  
14 delegation had already signalled they would most likely go along. If  
15 he agreed, we could proceed. If not, we were back to square one."

16 And my question is did you write this in 2000?

17 A. Yes, but I wrote --

18 Q. My question was whether you wrote it. Thank you.

19 MR. PACE: We can take this document down.

20 Q. During Rambouillet, KLA members told you privately that they  
21 were prepared to agree to the proposed document but that it was up to  
22 Mr. Thaci; right?

23 A. That would be not exactly the way I would put it with careful  
24 consideration. One didn't know what anyone would do until they did  
25 it. You often received signals, indications. Some people told you

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1     what somebody would do. But you never really knew what anyone would  
2     do when the time came until the time came.

3             So we had received some signals but nothing that we would regard  
4     as definitive, and there were objections from many of the members to  
5     the absence of clarity on independence, but we'd hoped that the  
6     language indicating there could be a -- I forget what the words were,  
7     a way of signaling their desires. I forget the words right now.  
8     They were in front of me of a moments ago.

9             Anyway, so we were hoping that the delegation would all sign.  
10     We were optimistic about many of them. Because of our meetings with  
11     Thaci, we thought he was the biggest challenge.

12             MR. PACE: I'd like to call up again, 1D280, please, the same  
13     document we had on our screens. And if we can turn to the second  
14     page of this item, where I will read from the last paragraph of the  
15     sixth column.

16             Actually, I lied. I'm going to read from the top of the seventh  
17     column. So we can just zoom in to the last column on the right-hand  
18     side of our screen, please.

19     Q.     So, Witness, once again this is the *Financial Times* article that  
20     you discussed earlier today, and here we see the following:

21             "In the end, it came down to Thaci and he would not budge. The  
22     other KLA members told us privately they were prepared to agree but  
23     it was up to him."

24             Once again, my only question is whether you wrote that in  
25     September or October of 2000?

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1 A. The answer to the question is contained in the question.

2 Obviously I wrote it. Yes.

3 Q. Thank you.

4 MR. PACE: We can take the document down.

5 Q. In your statement, you say the KLA was not ready to sign the  
6 proposed agreement at Rambouillet because it would not lead to  
7 immediate independence. That's paragraph 46. And that is consistent  
8 with your *Financial Times* article where you say:

9 "The KLA was holding out for a clear commitment on eventual  
10 independence."

11 Right?

12 A. Yes.

13 Q. Hashim Thaci and other KLA members made it clear well before  
14 February 1999 that they would never support a political solution  
15 without some explicit reference to independence in the final  
16 document; right?

17 A. I don't know the context. I need more specifics to answer that.

18 MR. PACE: Let's call up P01067, please.

19 Q. We see the document on our screen. It states it's a US  
20 Department of State document. We can see at the top - if we can zoom  
21 in a little bit, please - I think you can correct me better -- or you  
22 would know better than me, but is it correct that the date of the  
23 document would be 3 November 1998 based on what we see here?

24 A. Yes. There's a 08 which is a mistake there -- oh, no, that's  
25 the declassification date. Yes.

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1 Q. So it's a 3 November 1998 document. And we see that it's from  
2 AMEMBASSY BELGRADE to Secretary of State Washington DC immediate.

3 MR. PACE: And I'd like to turn to page 075306 in the same item,  
4 please. If we could scroll to the bottom of this page.

5 Q. I'm going to read from the paragraph starting 15:

6 "Thaqi and his colleagues not surprisingly demand independence  
7 and say that they will ultimately never support a political solution  
8 without some explicit reference to that event in the final document."

9 And my question is whether in November 1998 you had learned such  
10 information?

11 A. These cables are not -- these are judgments by an individual  
12 about what they will never do and they did it. So the writer is  
13 wrong. They did it. They agreed to a political solution without  
14 explicit reference to independence --

15 Q. I'm stopping you there because that's not at all responsive to  
16 my question.

17 MR. MISETIC: Mr. President, it is responsive and he should be  
18 allowed to answer.

19 MR. PACE: Sorry, Your Honour, that's not responsive. You can  
20 read --

21 MR. MISETIC: It is.

22 MR. PACE: -- the question and answer again.

23 PRESIDING JUDGE SMITH: Just listen to the question again and  
24 answer just the question. If somebody else wants to ask you  
25 questions, they will have an opportunity.



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1 MR. PACE:

2 Q. My question, and I'll repeat it, is whether in November 1998 you  
3 had learned the information I read out from this cable. A yes-or-no  
4 answer will do.

5 A. I can't give you a yes-or-no answer.

6 MR. PACE: We can take the document down.

7 Q. In October 1998, media quoted Hashim Thaci as a KLA  
8 representative, saying that the KLA will punish any individual or  
9 group which dare sign an agreement contrary to the will of the people  
10 expressed in a 1991 referendum. Is that right to your recollection?

11 MR. MISETIC: Mr. President, at this point I have to object.  
12 What is the foundation of the witness having knowledge of what  
13 Hashim Thaci said in 1998? He's said multiple times now when he  
14 first believes he heard the name.

15 PRESIDING JUDGE SMITH: Are you going to ask him how he knows?

16 MR. PACE: Your Honour, if I'm going to make anything in  
17 response to that, it needs to be in the witness's absence. I don't  
18 see how this is not relevant to my questioning, but if I need to say  
19 more than that, we will need to do it in the witness's absence.

20 PRESIDING JUDGE SMITH: No, we don't need to go into private  
21 session. Just tell me what --

22 MR. PACE: It's not a private session matter, Your Honour. I  
23 don't want to prejudice the witness's response by making submissions  
24 about relevance in this particular instance.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 MR. MISETIC: Mr. President, your mic was off and it doesn't  
2 have recorded that you sustained --

3 PRESIDING JUDGE SMITH: I sustained the objection.

4 MR. MISETIC: Thank you.

5 MR. PACE: I understand that the objection was to foundation,  
6 and so I will call up a document, and I'm going to call up P04141.  
7 If we could zoom in on to the top part of the document.

8 Q. And we see it reads "*Associated Press*," below that "Kosovo rebel  
9 army rejects US-sponsored Kosovo deal, by Ismet Hajdari, *Associated*  
10 *Press* writer, 280 words, 16 October 1998, 18:48, *Associated Press*  
11 *Newswires*, APRS, English."

12 And if we go towards the bottom of the document, I will read  
13 from the last paragraph:

14 "'The KLA will punish any individual or group which dares sign  
15 an agreement contrary to the will of our people expressed in the 1991  
16 (officially unauthorised) referendum,'" those words are in brackets,  
17 "Thaci said, referring to a vote in which Kosovo's Albanians  
18 overwhelming opted to secede from Serbia, Yugoslavia's dominant  
19 republic."

20 Now, my question, Witness, is are you familiar with this  
21 information or were you rather familiar with this information in  
22 October 1998?

23 MR. MISETIC: The same objection, Mr. President.

24 PRESIDING JUDGE SMITH: I'll overrule it. He's asking him if  
25 he's familiar with this.

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1           You can answer.

2           THE WITNESS: October was about not Rambouillet. October was  
3   about the October agreement.

4           PRESIDING JUDGE SMITH: The question is are you familiar with  
5   this document or with this statement?

6           THE WITNESS: No, I can't remember it about the October  
7   agreement. This is about the October agreement. I don't remember it  
8   that well then.

9           MR. PACE: We can take the document down.

10          Q. Another reason why Mr. Thaci didn't sign during Rambouillet is  
11   because the KLA did not want to disarm; right?

12          A. No.

13          Q. Let's go to P --

14          A. To the best of my recollection, no.

15          PRESIDING JUDGE SMITH: What did you say, Mr. Pace? Go where?

16          MR. PACE: Let's please go to P00811. If we can go to page --  
17   sorry, and yes, thank you for calling up the English version as well.  
18   If we can go to page SPOE00053983 in both. If I'm correct, in  
19   Albanian that would be PDF page 135. And I don't have it in English,  
20   but it should be the second page. Sorry, ET-47 is the English  
21   translation.

22          Here at the bottom of the page in English and corresponding  
23   Albanian, we see a reference to interview with Mr. Hashim Thaci given  
24   to a newspaper, *Kosova Sot*, which in English we have it explained as  
25   *Kosovo Today*. I'd now like to turn to the page ending in 85. I

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1 believe that's two pages further ahead. And I'm going to read from  
2 the third -- from the paragraph starting with the question "Milosevic  
3 is ..."

4 Q. So:

5 [As read] "Milosevic is stubbornly refusing to sign the  
6 agreement. But, even if he signs it, he is refusing the presence of  
7 international peacekeeping troops. Do you believe that NATO will  
8 start its attacks on the military bases of Serbia?"

9 Answer:

10 "I hope. But I do not think that it will go as far as the  
11 attacks. We should not be much concerned about this. We should rely  
12 on our own forces, in the will, organisation, and the strengthening  
13 of our military resistance. So, we need to gather around the Kosovo  
14 Liberation Army. Irrespective of what will happen after the  
15 conference, we are convinced that we can implement our rights only  
16 with our hard work, sacrifice, and knowledge. Having said that, any  
17 support coming from anyone is welcome. We have not even considered  
18 NATO as a peacekeeping force, which would contribute to peace,  
19 understanding and stability in Kosovo.

20 "The idea of disarming the KLA following the arrival of the  
21 peacekeeping troops in Kosovo, has been talked about?

22 "I do not know any army in the world which has handed in their  
23 weapons. The Kosovo Liberation Army will not do this either.  
24 Through its efforts during the war, it has been improving and become  
25 professional, so it is and will remain a state army."

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1           Were you aware of information of this nature having been  
2       reported?

3       A.     These are public statements by the KLA that may or may not  
4       reflect their real position. So sometimes we paid strong attention  
5       to them, but generally we waited till we saw what would happen, and  
6       they did disarm. So I don't even understand the question. They did  
7       exactly that. After the war, they disarmed.

8           MR. PACE: Let's take this document down. And I'd now like to  
9       call up SPOE00117083-00117090.

10          THE WITNESS: Who is writing this? I don't understand.

11          MR. PACE: Yes, we'll get there.

12       Q.     We see the document on your page. At the top, we see the date  
13       26 February 1999, and we see a reference to "Reflections on  
14       Rambouillet." And let's go to the last page of the document, please,  
15       which is 7090. And if we go to the bottom of this page, we see a  
16       signature, and below that signature, "David Wilson."

17           Now, let's go back to the first page -- sorry --

18       A.     I don't know who David Wilson is.

19          MR. PACE: Let's go back to SPOE -- let's actually go to  
20       SPOE00117085, and there I'm going to read from the middle of the  
21       page. I'm going to read from "KLA Control ..."

22           "KLA Control - The Albanians delegation was dominated and  
23       controlled by the KLA, who in turn were suspicious of everything and  
24       everybody in Rambouillet. Key KLA members had arrived at the talks  
25       with one or two firm ideas (referendum and the future role of the

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1 KLA) in their minds, all else was confusion and trickery. It was  
2 apparent that most, if not all, of the KLA members did not read or  
3 understand the text fully. This meant the entire military annex, for  
4 the academically challenged, was reduced to the small passage on the  
5 KLA that called for disarmament and disbandment. None of the KLA,  
6 inside or outside the Chateau, could understand or accept this  
7 option. The repeated response was 'how can we do this to the only  
8 organisation that has fought effectively for Albanian interests?'  
9 Nor were they able to understand that what was required was not their  
10 demise, but instead a transformation of their role. It is difficult  
11 to express how one-dimensional the KLA were on this subject or how  
12 reluctant they were to discuss it with non-KLA."

13 Does this reflect your impression of the negotiations at  
14 Rambouillet?

15 A. I would never use the words "academically challenged." So this  
16 strikes me as a very unusual, arrogant statement. "Academically  
17 challenged" is derogatory and strange. I don't know who this person  
18 is. They may or may not have been there. They may or may not have  
19 had one view of the talks. These things are really complicated, and  
20 I would never purport to try -- I tried my best to summarise it in my  
21 article, but I would never use those phrases, so I can't say this --  
22 I just wouldn't write like that, "academically challenged." To say  
23 that people there are stupid is weird.

24 MR. PACE: We can take the document down.

25 JUDGE GAYNOR: Mr. Pace, just for my own understanding of that

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1 exhibit, could you give us any information whatsoever as to who the  
2 author is or where that document came from?

3 MR. PACE: Yes, Your Honour. The author, as I put here, is  
4 David Wilson. I don't want to misstate his position at the time, so  
5 I won't say that now, but we can certainly get that information to  
6 you.

7 JUDGE GAYNOR: Do you know which organisation he worked for,  
8 which government, anything about him?

9 MR. PACE: I will get back to you.

10 JUDGE GAYNOR: Thank you.

11 MR. MISETIC: Judge, we know. And if you look at the  
12 preparation note for the next witness, I believe it's referred to  
13 there.

14 JUDGE GAYNOR: Thank you very much.

15 MR. PACE: We can take this document down.

16 Q. Whether to sign or not sign and the terms of the Rambouillet  
17 agreement were a very important matter; right?

18 A. Yes.

19 Q. It was an almost existential question for Kosovo and the KLA;  
20 right?

21 A. For the people of Kosovo, signing meant the support of NATO and  
22 NATO forces; not signing meant they were on their own. So for the  
23 people of Kosovo, it was very, very important. That's who we were  
24 focused on.

25 Q. In fact, you testified earlier that the fate of potentially a

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1 million people was at stake; right?

2 A. That's the people of Kosovo I'm referring to, yes.

3 Q. And as you've said publicly before, signing the agreement was  
4 not as simple as just getting a thumbs-up or a thumbs-down from a  
5 dictator; right?

6 A. Yes.

7 Q. So the bottom line is that the KLA delegation felt it needed  
8 more guarantees about Kosovo's fate; right?

9 A. "Guarantees" are a pretty tough word. You know, there's nothing  
10 in international affairs that's guaranteed. So I think they were  
11 looking for assurances that NATO would follow through on its promises  
12 to use military power if the Serbs cracked down. If the Serbs  
13 didn't -- forces didn't -- if the Serbian government didn't sign,  
14 they were looking for assurances that if everybody did sign, that  
15 NATO would implement the force rather than a weak implementation like  
16 happened in October. So they were looking for assurances from us  
17 that we were going to follow through on our promises.

18 And then when it came to the will of the people, we, as I think  
19 I testified earlier, couldn't guarantee them a, quote, "independence  
20 vote," but we could guarantee them we would seek such a will of the  
21 people expression as far as we could go, because we weren't at that  
22 time, in 1999, prepared to recognise the independence of Kosovo. So  
23 we had these boundaries of our policy: Air power, yes; ground  
24 forces, no.

25 If Serb forces -- Serbs and Albanians -- Kosovar Albanians sign,



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1 we send in NATO. If Serb side doesn't sign and the Albanians do  
2 sign, then we were prepared to use air power. So these were the  
3 parameters we had, these were the assurances we could provide. And I  
4 was very pleased in this case, which isn't always true, we were able  
5 to implement what we promised.

6 Q. I'm moving to paragraph 54 of your statement to the Defence  
7 where you say that your understanding was that Mr. Thaci was not at  
8 the top but was rather below other people, such as Demaci. And my  
9 first question on this is it correct -- it's correct, rather, that  
10 Adem Demaci was not a KLA General Staff member?

11 A. I think I was very, very clear in my meetings with the lawyers  
12 who prepared that statement that who was at the top making  
13 decisions --

14 Q. Could you just answer my question, please.

15 A. I'm trying to but you've made an assertion.

16 MR. PACE: Sorry, Your Honour, but the witness is not responding  
17 to my question --

18 THE WITNESS: I am trying.

19 MR. PACE: -- which is: Is it correct that Adem Demaci was not  
20 a KLA General Staff member?

21 PRESIDING JUDGE SMITH: You may answer that. Go ahead.

22 THE WITNESS: I wasn't familiar with all the members of the KLA,  
23 so I can't answer it.

24 MR. PACE: I'd like to call up P00763.5 -ET alongside  
25 P00763.5-AT. And we can stay on the first page for now.

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1 Q. And as we can see on this page, it reads 18 February 2020,  
2 The Hague, Netherlands. And then if we go a few lines below, we see  
3 you're resuming -- at lines 6 and 7, we're resuming the interview of  
4 Mr. Rexhep Selimi. And at the bottom, we can see this is an SPO  
5 transcription. So this is from the SPO interview with Rexhep Selimi.

6 MR. PACE: And I'd now like to turn to page 17 in the English,  
7 and page 18 in the Albanian.

8 Q. In the English, I'm going to read from line 8. In Albanian,  
9 that should correspond also from line 8:

10 "Q. When he assumed the role or when he was appointed to the  
11 role of developing a national assembly, who informed him of that duty  
12 and what his role would be?

13 "A. He came often. He came several times to the war zones and  
14 the General Staff together with his assistant at the time, and the  
15 current prime minister of our country Albin Kurti, and we had  
16 frequent contact, but it is important to know Mr. Thaci was appointed  
17 the political representative. All the political representatives  
18 were, whether in various countries in Europe or in the world, or  
19 whether in Prishtine had -- had this main line of communications with  
20 Mr. ... Thaci as the political representative.

21 "Q. Which is to say that Mr. Thaci was -- was the -- the  
22 superior to all of them?

23 "A. Yes."

24 And my question is were you aware of this information?

25 A. This information is incorrect to my understanding, so I wasn't

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1      aware of it.

2      Q.   Rexhep Selimi would know better about Mr. Thaci's position  
3      within the KLA than you; no?

4      A.   No. I observed Hashim Thaci being unwilling to act without the  
5      support of Adem Demaci, treating him as a superior. I observed that  
6      first-hand as an eyewitness, that there were several individuals  
7      whose opinions would decide whether Hashim Thaci felt comfortable  
8      signing Rambouillet. That is why Madeleine Albright called  
9      Adem Demaci after Rambouillet, because we thought Adem Demaci had  
10     influence over Hashim Thaci, not the other way around. Not the  
11     superior.

12           So they may -- he may have said this to you, and he may even  
13     believe that. But from our experience actually in the negotiations,  
14     at the moment of crisis, Hashim Thaci was looking to Adem Demaci for  
15     approval to do something. That's not what you do to someone who's  
16     below you. You do that to someone who's above you.

17           That is why we -- I didn't regard him as a subordinate but,  
18     frankly, more of an ideological superior, because these things aren't  
19     simple organisation charts. These are about independence or not  
20     independence. And so, therefore, I don't agree with this testimony.  
21     And in my experience, Mr. Thaci was looking for approval from  
22     Adem Demaci before agreeing to the Rambouillet Accords and, thus,  
23     treating him like a superior.

24     Q.   Could you clarify if your answer is, then, that you would know  
25     better than Mr. Rexhep Selimi about Mr. Hashim Thaci's role within

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1 the KLA?

2 A. I wouldn't know how to answer that question because there's no  
3 way to know. It's a kind of question that's not answerable. I don't  
4 know who knows better. Maybe Mr. Thaci does. But I -- my  
5 observations is -- all I can do in a courtroom is tell you what I  
6 know and what I observe.

7 MR. PACE: We can take this document down. And while that  
8 happens, I have an update from my helpful team.

9 David Wilson, retired UK Army brigadier, worked for the UK KDOM,  
10 OSCE KVM, also OMik, he was present at Rambouillet and at that time  
11 worked for OSCE KVM.

12 JUDGE GAYNOR: Thank you, Mr. Pace.

13 MR. PACE:

14 Q. Witness, Adem Demaci opposed the KLA signing of the Rambouillet  
15 agreement; right?

16 A. That's my understanding, yes. I never spoke to him, but he said  
17 that to Madeleine Albright.

18 Q. And Adem Demaci resigned from the KLA on 2 March 1999 in the  
19 period after Rambouillet and before Paris; right?

20 A. That's my understanding, but I didn't know whether he resigned  
21 or not. But if you say so, it sounds right to me.

22 Q. Changing subjects slightly. During the NATO bombing, Mr. Thaci  
23 used a satellite phone to call you at the State Department; correct?

24 A. Correct.

25 Q. In September or October 2000, your *Financial Times* article, you

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1 wrote this occurred "most mornings," which excerpt you also confirmed  
2 the accuracy of in your statement. And in your statement you say you  
3 believe that you spoke with Mr. Thaci somewhere between 10 and 14  
4 times throughout the 78 days of the bombing campaign. Which one is  
5 more correct? Was it most mornings or was it 10 or 14 times to your  
6 recollection?

7 A. I can't distinguish between the two.

8 Q. So you're not sure whether it was 10 or 14 times as in your  
9 statement or whether it was most of the 78 mornings as in your  
10 *Financial Times* article?

11 A. If we're going to do math, "most" would be 40. Obviously, I  
12 don't think it was 40. But when one speaks colloquially and writes  
13 colloquially, when you say "most mornings," that means a lot. You're  
14 not making a mathematical calculation of 78 divided by 2 is whatever  
15 that is, 38 -- oh, no, that would be 39, and then saying he spoke to  
16 me that number of times. "Most mornings" is a colloquial way of  
17 describing a lot of phone calls during the war, which is what  
18 happened.

19 Q. I'd like to turn to DHT05156-DHT05164.

20 MR. PACE: I apologise. This has now been admitted. I just  
21 don't have the exhibit number handy. If someone could assist.

22 THE COURT OFFICER: Your Honours, that is Exhibit 1D272.

23 MR. PACE: Thank you. We can stay on this front page for now.  
24 Thank you.

25 Q. We see this concerns your 1 April 1999 press briefing. And this

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1 is actually also addressed in your statement.

2 MR. PACE: Within the same document, I'd now like to turn to  
3 page DHT05159. And there I'll start reading from the last paragraph  
4 into the next page.

5 Q. And for context, what I'm going to be reading, you're referring  
6 to Mr. Thaci:

7 "He said that people in the outlying Pristina areas are being  
8 forced to leave. He said the KLA has been able to get some people  
9 out of Pristina. In Podujeve, he said that Arkan and Seselj forces  
10 are looting, torching and burning the city; that he said the KLA is  
11 working to try to protect the population there. In the mountainous  
12 area of Shala of Bajgora, a large concentration of civilians is being  
13 shelled, and they are coming down with diseases and suffering from  
14 the cold."

15 We can turn to the next page.

16 "He said that in Vucitrn, the 5.000 people that were previously  
17 held by the Serbs have been freed are now moving to the mountains.  
18 He said they still don't have any information on the 20.000 in  
19 Kenderaj who are being used by the Serbs, he thinks -- he's received  
20 information that's hard to be sure of -- to protect their ammunition  
21 factory there by locating them there. He said the fighting remains  
22 fierce in several regions, including the Malisevo region, and that  
23 increasing numbers of the civilian population are moving towards  
24 Macedonia and Albania.

25 "So the short answer to your question is clearly the KLA, the

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1     Kosovar Liberation Army, is having a tough time of it, but they  
2     continue to, according to Mr. Thaci, continue to do what they can in  
3     these difficult circumstances."

4             And my question, Witness, is: Was that typical of the  
5     information that Mr. Thaci would provide to you during your calls in  
6     this period of time?

7     A.    "Typical" is a tough word. This is not a typical moment. These  
8     are horrible things going on. And I'm trying to deal with a  
9     situation where very rarely there's an air conflict and nobody has  
10    information from the ground. There are no reporters there -- not  
11    many reporters there. The only on-the-ground information publicly  
12    provided is from the Yugoslav -- sorry, the Serbian authorities,  
13    which we regarded as false in large part.

14            So I'm trying to help the reporters do their job. And I'm very  
15    pleased to see that almost every sentence I say what he said rather  
16    than what we think, because we didn't have good information on the  
17    ground during the war. And so I was providing an alternative source  
18    of information by constantly attributing the information to him  
19    without making a firm judgment about the accuracy of the information.  
20    I couldn't say it's typical because no day was typical during the war  
21    in terms of the specific horrors going on that we were hearing about,  
22    the movement of people by trains, the gathering up of innocent  
23    civilians. I just don't know how to call that typical.

24            So I would say that this was similar to the words that I would  
25    use on other occasions, but I just have trouble with the word

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1 "typical."

2 MR. PACE: We can take this document down. Next, I'd like to  
3 call up 1D00148.

4 Q. And this is from a cable that you were shown earlier by counsel  
5 for Mr. Krasniqi. And we can see it refers to an April 1999 cable.  
6 And we see "Drafted by: EUR:LROSSIN," and below that, "Approved by:  
7 S:The Secretary."

8 And I'd now like to turn in the same document to page DHT01539.  
9 And I'm going to read from paragraph 14, which actually was already  
10 read to you by counsel for Krasniqi, but I'm now going to go into  
11 paragraph 15 as well:

12 "(S) Krasniqi urged we reconsider arming the KLA. Recent  
13 events, the Albanian signature of the Rambouillet accords and Serbian  
14 ethnic cleansing and massacres changed the calculus. Arming the KLA  
15 no longer implied the 'militarisation11 of Kosovor but rather meant  
16 enabling the KLA to defend the people. One way to get around the  
17 embargo problem would be to send arms to Kosovo through  
18 intermediaries. In any case, the Russians and other Slavs were  
19 arming Belgrade, so the embargo issue seemed passe.'

20 Next paragraph, "(S)" and then we see:

21 "The secretary acknowledged the difficulties this issue  
22 presents. It almost defied logic: People want to defend themselves,  
23 but how could they unarmed? In the end, practical reality had to  
24 prevail, which was that the confidence and friends the KLA had won in  
25 Europe by signing in Paris were one of the underpinnings of NATO's



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1 engagement, including its willingness to send ground forces in a  
2 permissive environment. Our estimate was that, were we to arm the  
3 KLA, that support would disappear. This did not mean not arming the  
4 KLA was right, but the priority had to be maintaining NATO resolve to  
5 carry on until its objectives were achieved. Ambassador Dobbins  
6 stressed that the NATO ministers, in their communiqué, had pledged to  
7 stay the course until Serb forces were out of Kosovo, and  
8 international security force was in and all Kosovars could return to  
9 their homes."

10 Now, Witness, it's a lengthy excerpt, I apologise, but my  
11 question relates specifically to what the Secretary of State is  
12 reported as having said here. And to your recollection, or to your  
13 knowledge, is what she said here correct in relation to the friends  
14 that the KLA had won in Europe and their willingness to send ground  
15 forces in a permissive environment, more importantly the sentence:  
16 "Our estimate was that, were we to arm the KLA, that support would  
17 disappear."

18 MR. MISETIC: Objection. It's compound, Mr. President.

19 MR. PACE: I can make it simpler. I apologise. That was indeed  
20 lengthy.

21 PRESIDING JUDGE SMITH: Please break it up, yes.

22 MR. PACE: Yes.

23 Q. And, Witness, actually, could you just focus on the sentence  
24 reportedly said by Secretary Albright here:

25 "Our estimate was that, were we to arm the KLA, that support

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1 would disappear."

2 Is that to your recollection correct?

3 A. I'll just try to be really brief. We were trying to keep  
4 everybody together. The European countries had differing views on  
5 the extent to which they were comfortable with the KLA receiving  
6 weapons. She is saying that we would lose the unanimity we had  
7 created behind support for Kosovo by arming the KLA. And so  
8 "disappear" is probably stronger than she intended, and, again, these  
9 cables are reflective, not precise. She's signaling that: We're  
10 going to go in and take control in a permissive environment as NATO.  
11 If we were to arm you, we might not be able to get all NATO countries  
12 to deploy or to be willing to deploy because differing European  
13 countries -- I could name some but those countries wouldn't like me  
14 very much, so I will just say that there were differing views on a  
15 willingness to arm the KLA even under these extreme circumstances of  
16 them facing wholesale slaughter. The idea of arming them was not  
17 something that some countries supported.

18 So she's saying we would lose the unanimity, not that it would  
19 -- the support would disappear, but the unanimity of support would go  
20 away.

21 MR. PACE: Your Honour, I'm about to start a new topic. Perhaps  
22 this would be a good time to ...

23 PRESIDING JUDGE SMITH: [Microphone not activated]. Excuse me.

24 Mr. Rubin, we will break for the day. I'm sure you could use a  
25 little rest. We'll see you tomorrow morning at 9.00. And with some

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1 help, maybe we'll be finished tomorrow with you.

2 THE WITNESS: Thank you.

3 PRESIDING JUDGE SMITH: Please do not speak with anybody  
4 overnight about your testimony.

5 [The witness stands down]

6 PRESIDING JUDGE SMITH: We're adjourned until 9.00 a.m.  
7 tomorrow.

8 --- Whereupon the hearing adjourned at 4.27 p.m.

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