

1 Tuesday, 16 September 2025

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.01 a.m.

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

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

10 [Trial Panel confers]

11 PRESIDING JUDGE SMITH: I note that the accused are all present
12 in court today. We will continue today to hear the evidence of the
13 Thaci Defence Witness 1DW-003.

14 Before we start hearing the evidence of the witness, there are
15 some preliminary matters the Panel would like to address in the
16 nature of oral orders.

17 First oral order. In filing F03437, the SPO notified that
18 filings F03316 and F03437 can be reclassified as public. Therefore,
19 pursuant to Rule 82(5) of the rules, the Panel orders that F03316 and
20 F03437, including any translations thereof, be reclassified as
21 public.

22 This concludes the Panel's first oral order.

23 Second, in filing F03445, the Thaci, Veseli, and Krasniqi
24 Defence requested that filing F03296 be reclassified as public, and
25 notified that it has no objections to filing F03445 being

1 reclassified as public. Therefore, pursuant to Rule 82(5) of the
2 rules, the Panel orders that F03296 and F03445, including any
3 translations thereof, be reclassified as public.

4 This concludes the Panel's second oral.

5 Third, in filing F03306, the Defence requested that F03306 be
6 reclassified as public. Therefore, pursuant to Rule 82(5) of the
7 rules, the Panel orders that F03306, including any translations
8 thereof, be reclassified as public.

9 This concludes the Panel's third oral order.

10 Lastly, yesterday the Veseli Defence sought to tender into
11 evidence three items - namely, number one, a press statement from the
12 spokesman of the US Department of State Office dated 26 August 1998,
13 which was DKV1781 to 1782; two, a press statement from 1DW-003 dated
14 23 September 1998, which is DKV1783 to 1783; and, three, a press
15 briefing from 1D-003 dated 27 October 1998, which is DKV1776 to 1780.

16 The SPO objected to their admission on the ground of lack of
17 relevance, and I refer to yesterday's realtime transcript at pages
18 108 to 110.

19 Having considered the parties' submissions, the Panel is
20 satisfied that the three items are marginally relevant to the extent
21 that they could contribute to establish some of the witness's
22 knowledge in relation to the context in Kosovo in August to October
23 1998 and could thus be relevant to establishing the existence of an
24 armed conflict at the time. The Panel is also satisfied that the
25 items are *prima facie* authentic and probative as they are

1 contemporaneous records issued by the witness or his office.

2 Finally, the Panel is satisfied that the probative value is not
3 outweighed by any prejudicial effect as they were used and discussed
4 in court, and the parties and participants can question the witness
5 about these items.

6 Therefore, the Panel admits these three items into evidence
7 pursuant to Rule 138.

8 Madam Court Officer, please assign an exhibit number to each of
9 the three documents.

10 And this concludes the Panel's fourth oral order.

11 THE COURT OFFICER: Your Honours, the first document, DKV1781 to
12 DKV1782, will be assigned Exhibit 2D49. The second document, DKV1783
13 to DKV1783, will be Exhibit 2D50. And the third document, DKV1776 to
14 DKV1780, will be assigned Exhibit 2D51.

15 PRESIDING JUDGE SMITH: We will now continue with the evidence
16 of the Thaci Defence Witness 1DW-003.

17 Madam Court Officer, please bring the witness in.

18 [The witness takes the stand]

19 PRESIDING JUDGE SMITH: You can be seated.

20 Good morning, Witness. Today we will continue with your
21 testimony. You were having cross-examination by the SPO at this
22 time. I remind you to please try to answer the questions clearly,
23 with short sentences. If you don't understand a question, feel free
24 to ask counsel to repeat the question or tell them you don't
25 understand and they will clarify. Also, please try to remember to

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1 indicate the basis of your knowledge of the facts and circumstances
2 upon which you will be questioned.

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

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

8 If you feel the need to take a break, please make an indication
9 and an accommodation will be made.

10 Lastly, as for the US representatives, thank you for -- or one
11 representative, thank you for joining us again this morning. I
12 remind you that if at any time you need a moment to speak with the
13 witness or wish to address the Panel, you can raise your hand in
14 order to be recognised and granted permission to do so by the Panel.

15 All right. We are ready to proceed.

16 Cross-examination by the SPO. Mr. Pace, you have the floor.

17 MR. PACE: Thank you, Your Honour.

18 WITNESS: JAMES RUBIN [Resumed]

19 Cross-examination by Mr. Pace: [Continued]

20 Q. And good morning, Witness. I'm going to start by showing you a
21 document that we already looked at yesterday.

22 PRESIDING JUDGE SMITH: One more thing, Mr. Pace. Can you give
23 us just an update of where you stand within the cross-examination
24 time-wise?

25 MR. PACE: Yes, I think I need one hour, maximum one and a half

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1 hours more.

2 PRESIDING JUDGE SMITH: Thank you for that.

3 MR. PACE: And the item I'd like to call up is P01067, please.

4 We can stay on this first page and slightly zoom out. That's okay
5 for now. Thank you.

6 Q. Witness, as I said, this is a cable we looked at yesterday, and
7 as we said then, it's dated 3 November 1998. And we see it's from
8 AMEmbassy Belgrade to Secretary of State Washington DC.

9 MR. PACE: And if we scroll down a little bit on our page, when
10 we look at the paragraph that starts with number 2, we see the
11 following.

12 Q. It says:

13 "The following is a lightly edited evaluation of the Kosovo
14 Liberation Army prepared at the request of the COM by the US KDOM
15 team leader, an experienced politico-military observer."

16 Now, yesterday you agreed with Mr. Veseli that in October 1998
17 Shaun Byrnes was the head of US KDOM. And in this cable, we see
18 Byrnes referred to as an experienced politico-military observer.
19 Yesterday, you also testified that Byrnes was someone you knew of and
20 was well respected for providing accurate information, and that
21 information he provided was about as verified on the ground
22 information as you could get.

23 Let's turn to page 075305 in this item, where I'm going to show
24 you an excerpt and then ask you a question. Here I'd like to read
25 from the penultimate paragraph.

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1 MR. PACE: If we can zoom in a little bit more. Thank you.

2 Q. We read here:

3 "Adem Demaci. Thaqi describes Demaci as the KLA's 'Pristina
4 spokesman' but takes care not to attribute to Demaci any political
5 authority. [Mahmuti] echoes that line as well."

6 Witness, my question is were you aware of that information in
7 November 1998?

8 A. I don't know. I was generally aware of discussions about the
9 KLA, but I wasn't aware, prior to Rambouillet, of these subtle
10 distinctions as described by individual leaders of their relative
11 authority.

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

13 Q. During the undertaking negotiations, there were sometimes
14 lengthy meetings among KLA commanders held in your absence; correct?

15 A. Yes.

16 Q. And during the undertaking negotiations, you never attended the
17 closed-session meetings among the KLA commanders; right?

18 A. I can't be sure that I wasn't in the general area, but I didn't
19 speak Albanian, so they might have been discussing things that I
20 didn't understand, but they weren't preventing me from coming into
21 this general room where it was taking place. It was a kind of
22 strange, big building room, and so things happened in different ways,
23 and so it is possible that I would have been in the corner of the
24 room while they were discussing things. So I might have -- well have
25 been there while they were discussing things.

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Cross-examination by Mr. Pace (Continued)

1 Q. Do you recall when you met counsel for Mr. Thaci for witness
2 preparation, I believe it was last week, saying that you never
3 watched them in closed session?

4 A. If it was a closed session, then I wouldn't have watched them.
5 What I'm indicating is that some of the sessions weren't closed.
6 Some presumably took place out of my visual area.

7 Q. Yes. Then let's just go back to the question I asked you, which
8 was: And during the undertaking negotiations, you never attended the
9 closed-session meetings among the KLA commanders; right? Is that
10 right?

11 A. Again, depending upon the definition of the word "closed," it's
12 -- by definition the answer to the question is yes. But the word
13 "closed" is a vague word because this wasn't a formal negotiation
14 with formal rooms with formal closed sessions. So some of the
15 sessions in which they were discussing things took place in the
16 corner of a room with a dozen people consulting, and I might have
17 been in the other corner of the room.

18 So it's not able to -- I'm not able to be -- precisely to answer
19 the question that I never attended a closed session because the
20 meaning of "closed session" doesn't apply in an informal setting.

21 MR. PACE: I'd like to call up DHT12025-DHT12031, please.

22 Q. On this first page, we can see the date 8 September 2025,
23 Preparation Note 2, and a reference to your witness code.

24 MR. PACE: And if we go to the last page of this item, DHT12031,
25 please.

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1 THE WITNESS: I'm sorry, counsel. I don't know -- this is
2 written by her. Okay. Thank you.

3 MR. PACE:

4 Q. We have "Attestation," 21:

5 "The information in this note was read to 1DW-003, who confirmed
6 it reflected his account fully and accurately."

7 And as you just noted, this is signed by counsel for Mr. Thaci.

8 MR. PACE: I'd next like to go to page 12028, please.

9 Q. And here I'm going to read from the last sentence in paragraph
10 13.

11 MR. PACE: That's good. Thank you.

12 Q. "He saw that the other KLA commanders, as well as Reith, who
13 spent weeks with the KLA, were deferential to Ceku. He never watched
14 them in closed session, but he saw Thaci being deferential to the KLA
15 commanders, not the reverse."

16 Is this excerpt here, in particular "he never watched them in
17 closed session," accurate or not?

18 A. Again, depending on the meaning of "closed," it's accurate.

19 Q. Were those words "closed session" that you used in your
20 preparation session or not?

21 A. Sometimes in the preparation session, for ease, I might have
22 been sloppy in using the word "closed," because I was trying to
23 distinguish between times when I did observe and see and indicate my
24 knowledge of the interactions between the two, and sometimes they
25 were closed to me and sometimes they weren't.

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Cross-examination by Mr. Pace (Continued)

1 MR. PACE: We can take this document down.

2 Q. Changing subjects slightly. Had you met or had any contact
3 whatsoever with Jakup Krasniqi before February 1999?

4 A. I don't believe so, no.

5 Q. Jakup Krasniqi was also part of the Paris delegation. Did you
6 speak to him there?

7 A. I can't remember.

8 Q. Do you recall whether you saw or had contact with Jakup Krasniqi
9 other than in Brussels in April 1999 and at Rambouillet?

10 A. Those are the only two times I think I could possibly have met
11 him. But it was a lot of things going on during those months, so I
12 can't be absolutely sure.

13 Q. And how about after the conflict?

14 A. That's a good question. I don't know the answer to it.

15 Q. Your statement makes no specific mentioned of Kadri Veseli;
16 correct?

17 A. I don't believe so. Yes, that's correct.

18 Q. Had you met or had any contact whatsoever with Kadri Veseli
19 before February 1999?

20 A. To be honest, I don't remember the individual, so I can't answer
21 the question.

22 Q. Kadri Veseli was not part of the KLA delegation at Rambouillet,
23 but he was present there; is that correct?

24 A. I don't know.

25 Q. Your statement makes no specific mention of Rexhep Selimi; is

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1 that correct?

2 A. I don't believe it does.

3 Q. Have you ever met or had any contact whatsoever with
4 Rexhep Selimi?

5 A. It's very possible I did. I met many, many KLA commanders over
6 many, many years, but I don't always remember those names because it
7 was more than 25 years ago.

8 Q. Yesterday, you testified that the US wanted to be sure that it
9 was, as you put it in government, on the side of the angels, which
10 you explained to mean being on the side of the victims, and that they
11 wouldn't be victims if they were committing war crimes. Did that
12 apply throughout 1996, 1997, 1998, and 1999?

13 A. To accurately answer that question, I would need to reflect the
14 fact that for that middle period you're describing - 1996, 1997, 1998
15 - a man named Ambassador Gelbard was in charge of this. He met with
16 KLA leaders at a time when we described them conducting terrorist
17 activities. And so we probably violated our desire to always be on
18 the side of the angels because for a period of time, until we
19 understood the situation better, we initially described the KLA as
20 conducting terrorist activities. And we certainly, as desirous of
21 being on the side of the angels, wouldn't want to be associated or
22 supportive of people who were conducting terrorist activities. That
23 position evolved, especially after the KLA agreed to the Rambouillet
24 accords, we regarded them as being on the side of the angels because
25 they signed a peace agreement.

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1 Q. And we'll have a look at some of the statements -- or the
2 statement you're referring to in a moment.

3 MR. PACE: And next I'd like to call up 128836-24. And this is
4 a video. And side by side, I'd like to call up the transcript, which
5 is 128836-24-TR-ET. And in the video, I would like to play from
6 minutes 09:15 until 09:55. And the relevant excerpt on the
7 transcript is going to be on page 5.

8 Q. And as it is being called up, Witness, for context, this is from
9 your July 1999 Charlie Rose interview.

10 [Video-clip played]

11 MR. PACE: Now, if we could prepare the video from minute 09:15
12 and then we will stop it at 09:55.

13 MR. MISETIC: I'm sorry to interrupt, but if we could just check
14 the date of when the interview was.

15 [Video-clip played]

16 MR. PACE: The first page of the transcript refers to 1 July
17 1999, and I informed the witness that it's a July 1999 interview.

18 I see the video excerpt is ready, and we're also on the correct
19 excerpt from the translation, so we can listen. We don't have an
20 Albanian. This is spoken in English. So for Albanian
21 interpretation, the interpreters will need to work off of either the
22 language or the transcript in English on their screens.

23 We can play the video, please

24 [Video-clip played]

25 "James Rubin: ... their Albanian forces were involved in

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1 assassination, that the KLA received drug money, that they received
2 criminal money. There are a number of these allegations that have
3 been around for a year. We look into them, we can't prove them. If
4 it were true, it would be deeply troubling. Would it --

5 "Charlie Rose: But would it prevent a relationship with Thaci
6 now?

7 "James Rubin: I think we would -- they are a force to be
8 reckoned with on the ground, and if we want to create peace in Kosovo
9 over the long term, we're going to have to deal with Mr. Thaci.

10 "Charlie Rose: We have to take them warts and all?

11 "James Rubin: I think that's a fair summary. Yes."

12 MR. PACE: We can stop there. And I note for the record we
13 stopped at 09:55.

14 Q. And my question for you, Witness, is whether you recall saying
15 that?

16 A. First I recall how young I look. That sounds like me.

17 Q. Is that a "yes" to --

18 A. Yes.

19 Q. -- my question?

20 A. Yes, yes.

21 MR. PACE: We can take the documents on our screen down. And,
22 actually, I seek admission of the excerpt shown, both in the video
23 and the corresponding translation.

24 PRESIDING JUDGE SMITH: Any objection?

25 MR. MISETIC: Mr. President, I just wanted to have an

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1 opportunity to check the context of what he says before and after
2 that excerpt to see if we can make it more complete.

3 PRESIDING JUDGE SMITH: We'll withhold making a ruling on the
4 tender --

5 MR. MISETIC: Thank you.

6 PRESIDING JUDGE SMITH: -- until you've had a chance to --
7 perhaps after the next break.

8 MR. MISETIC: Yes. Yes, Your Honour.

9 MR. PACE: Can we then MFI it?

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 THE COURT OFFICER: Your Honours, the currently played excerpt
12 from minute 09:15 to 09:55 and page 5 of the transcript will be MFI'd
13 as P4486.

14 MR. PACE: Yes. And I am told, I'm not sure if it's correct,
15 that the video wasn't broadcast to the public. Just for information,
16 anything I'm showing throughout my direct examination can be
17 broadcast to the public as well.

18 Q. Witness, and I think you touched upon this a little earlier
19 today, from 1997, US authorities expressed concern about or condemned
20 crimes allegedly committed by KLA members; right?

21 A. Yes.

22 Q. And US authorities wouldn't have done so without their being
23 reports of sufficient credibility to at least raise concern; right?

24 A. Yes.

25 Q. In 1998 and 1999, international media and other entities

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1 published multiple reports with credible allegations of crimes
2 committed by the KLA members --

3 THE INTERPRETER: The speakers are kindly asked to slow down for
4 the interpretation and to pause between question and answer. Thank
5 you.

6 MR. PACE: Apologies to the interpreter. I can repeat the
7 question.

8 Q. In 1998 and 1999, international media and other entities
9 published multiple reports with credible allegations of crimes
10 committed by KLA members; right?

11 A. Yes.

12 Q. In a press statement in August 1997, you expressed the
13 United States' deep concern about terrorist actions in Kosovo and the
14 political killings that have taken place there in 1997; right?

15 A. Yes.

16 Q. And you've publicly explained what you considered to constitute
17 terrorism.

18 MR. PACE: And in that regard, I'd like to call up
19 SPOE00397757-00397765, please. We can zoom in a little at the top.
20 That's good. Thank you.

21 Q. We see here this is your 15 June 1998 State Department daily
22 press briefing.

23 MR. PACE: And if we can turn to the page ending 7761, please.

24 Q. And there I'm going to read from the last question and into the
25 next page:

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Cross-examination by Mr. Pace (Continued)

1 "Question: Jamie, just for reference, the attack yesterday by
2 the KLA on a Serbian convoy - a couple of officers were killed. Do
3 you consider that a terrorist attack or a military attack?"

4 And we're now on the next page. Thank you.

5 "Mr. Rubin: If it's on a convoy, then it would be military. I
6 think - as they like to say - the answer to the question was
7 contained in the question itself.

8 "Question: Okay, so every action of the KLA is not a terrorist
9 action?

10 "Mr. Rubin: Correct.

11 "Question: Okay, what type of activities do you see as
12 terrorist activities?

13 "Mr. Rubin: Well, I think the definition of terrorism has been
14 pretty well established. I think you and I have had this exchange
15 about a month ago. If you kill an innocent non-combatant in the
16 furtherance of some political cause - the way people have blown up
17 innocent civilians on the streets of Tel Aviv, or killed innocent
18 Serbs who are not part of the Serbian internal police forces, and
19 murdered them for who they are and not what they've done - that's
20 terrorism."

21 Do you recall saying that?

22 A. It's 28 years ago. I can't honestly say I recall saying it, but
23 it reflects what I understood to be a way to explain publicly the
24 meaning of political terrorism.

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

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Cross-examination by Mr. Pace (Continued)

1 Q. You knew that, by 1998, KLA members were sometimes assassinating
2 civilian workers as well as Serb police; right?

3 A. Sounds right. Again, specific incidents escape me 28 years
4 later. But generally speaking, yes, that's fair.

5 Q. In a documentary by the BBC, you acknowledged that KLA members
6 were killing Serbian civilians in cold blood; right?

7 A. Sounds right. That I recall the reason why we condemned KLA
8 activities in the initial phase was because it was the killing of
9 civilians, non-combatants, that's why we condemned terrorist
10 activities by the KLA in the early years of our being made aware of
11 this organisation.

12 MR. PACE: Let's call up 128791-02. This is a video, again in
13 English, alongside the translation 128791-02-TR, where we'll go from
14 page 2. And the timestamps for the video are from minutes 07:48
15 until 08:25.

16 THE COURT OFFICER: While it's loading, can I confirm, in
17 Legal Workflow it's marked as confidential but I can show it?

18 MR. PACE: Yes, thank you, it can be shown to the public. And
19 actually before we play the clip, can we go back to the first page of
20 the transcript just to show the date. And we have here a date of
21 12 March 2000. And we can go back to the second page. In the
22 transcript, we could zoom in a little bit at the top. The top two
23 paragraphs, let's say. Thank you.

24 And once again, we don't have an Albanian translation of this,
25 so the interpreters will need to work off the words spoken or the

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1 transcript that's in English. And we're going to play 07:48 to
2 08:25, please.

3 [Video-clip played]

4 "... killing policemen and then disappearing as rapidly as they
5 had struck, an invisible commando force. Serb casualties mounted.
6 Would the West see them as victims of terrorism or of a legitimate
7 people's uprising?

8 "Killing postmen or killing Serb civilians in cold blood, those
9 are terrorist acts that we do believe were wrong, and unfortunately,
10 that was what the KLA was pursuing at the time."

11 MR. PACE: We can stop there.

12 Q. Witness, that was you saying those words; correct?

13 A. Absolutely, yes.

14 MR. PACE: We seek admission of this excerpt from the video and
15 the corresponding transcript.

16 PRESIDING JUDGE SMITH: Any objection?

17 MR. MISETIC: We have no objection. And I can already respond
18 to the previous MFI, P4486, that we would like to add the previous
19 pages as well, so pages 3 to 5, for context of what is being said. 3
20 through 5 we believe should be included. Thank you.

21 PRESIDING JUDGE SMITH: Any objection to that, Mr. Pace?

22 MR. PACE: We'll get back to you, Your Honour.

23 PRESIDING JUDGE SMITH: You want to take a look at it?

24 MR. PACE: Yes.

25 PRESIDING JUDGE SMITH: All right. What about this -- you have

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1 no objection to this exhibit?

2 MR. MISETIC: No objection.

3 PRESIDING JUDGE SMITH: 128791-02, which is the video, and the
4 translation, which is 128791-02-TR, is admitted.

5 THE COURT OFFICER: Your Honours, the excerpt that was only
6 played in court?

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 THE COURT OFFICER: That excerpt will be assigned Exhibit P4487.
9 And can it be reclassified as public?

10 MR. PACE: Yes.

11 PRESIDING JUDGE SMITH: Yes, reclassified as public.

12 MR. PACE:

13 Q. And, again, as I think you've touched upon yourself earlier
14 today, in February 1998, Ambassador Gelbard very strongly condemned
15 the unacceptable KLA violence; right?

16 A. Yes.

17 Q. And in March 1998, soon after Ambassador Gelbard's condemnation
18 of violence, you noted that the US Government had called on Kosovar
19 Albanian leaders to condemn terrorist action by the so-called KLA;
20 right?

21 A. That sounds right, yes.

22 Q. The United States condemned these actions by the KLA in February
23 and March 1998 because it was known at the time that the KLA judged,
24 tried, and executed the ethnic Serbs and Albanians it did not like;
25 right?

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1 A. I can't say that I knew that or the way you described it
2 accurately reflects my understanding of the time. Most of these
3 incidents are much less clear than the way you described.

4 MR. PACE: Let's call up 114010-114011, please. If we can zoom
5 in a little bit to the top half. That's good, thank you.

6 Q. We see this is Secretary of State Albright's statement at the
7 Contact Group ministerial on Kosovo in London on 9 March 1998, and it
8 says: "As released by the Office of the Spokesman, US Department of
9 State." That would have been your office; right?

10 A. Correct.

11 Q. Now, I'm going to read from the third paragraph at the bottom of
12 this page. So if we could scroll down, please. Yes. So here we
13 see:

14 "The authorities in Serbia will try to blur the picture by
15 claiming their actions are a legitimate response to a terrorist
16 threat. We do not deny that they face such a threat. We have no
17 sympathy for a so called liberation movement that judges, tries and
18 executes the ethnic Serbs and Albanians it does not like."

19 Do you recall Madeleine Albright saying that at this time?

20 A. This is a prepared speech. This sentence is a general sentence.
21 It's designed to elucidate a problem. It's not referenced to any
22 specific actions. Its speeches are intended to help people
23 understand things. They are not always --

24 PRESIDING JUDGE SMITH: Witness, Witness, that's not answering
25 the question. The question was do you recall this being said by

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1 Madam Albright.

2 THE WITNESS: 28 years ago, I couldn't say I recall the sentence
3 in a speech that she made.

4 MR. PACE:

5 Q. Do you have any reason to dispute that this document, as we
6 said, released by your office does not accurately reproduce what
7 Madeleine Albright said at the time?

8 A. No reason.

9 MR. PACE: Your Honour, we seek to admit this document.

10 PRESIDING JUDGE SMITH: Any objection by the Defence?

11 MR. MISETIC: The witness has added nothing to the document. I
12 won't object because it's from his office, but going forward.

13 PRESIDING JUDGE SMITH: 114010 to 114011 is admitted. Please
14 assign a number to it.

15 THE COURT OFFICER: Your Honours, that will be assigned
16 Exhibit P4488.

17 MR. PACE: And it can be public just in case it was
18 confidential. It wasn't. We can take that document down.

19 PRESIDING JUDGE SMITH: This also will be reclassified then,
20 Madam Court Officer.

21 MR. PACE: I understand that it already was public, so it's
22 okay. And we can take it down.

23 Q. Witness, in November 1998, US authorities knew that KLA members
24 had arrested Jakup Kastrati and Cen Desku, two members of the LDK
25 leadership in Malisheve, for allegedly collaborating with Serbian

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Cross-examination by Mr. Pace (Continued)

1 police; right?

2 A. I don't remember that 28 years, seven years ago. I don't recall
3 that.

4 MR. PACE: Let's call up P01067, please.

5 Q. As we can see here, this is the same cable we looked at earlier
6 today and also yesterday, so the one from 3 November 1998 to the
7 Secretary of State in DC, with, on this page, reference to the US
8 KDOM team leader.

9 MR. PACE: And I'd like to next turn to page 075307, and there
10 I'm going to read from the ninth line from the top. That's good.

11 Q. "Furthermore, the KLA 'secret police' arrested two members of
12 the leadership of the LDK's Malisevo chapter on October 30. On
13 November 2, Makmuti confirmed the 'arrests,' claimed that it was not
14 done for 'political reasons' but because the two LDK officials --
15 Cen Desku and Jakup Kastrati -- had 'collaborated' with the Serbian
16 police in encouraging locals to turn in their weapons. Makmuti
17 claimed that Desku and Kastrati were 'in prison' and were being 'well
18 treated.' He said they would be allowed to select their own lawyer
19 to defend them in their forthcoming 'trial.' Such developments raise
20 disturbing questions about the KLA's commitment to a peaceful
21 solution to this crisis and its willingness to tolerate other parties
22 and opinions. In short, the KLA seems only interested in enhancing
23 its public and international image and in strengthening its control
24 over Kosovo. Dealing with the newly assertive KLA will not be easy
25 for the OSCE/KVM."

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Cross-examination by Mr. Pace (Continued)

1 Had this information reached you in November 1998?

2 A. My guess is that I read this, and my guess is that this opinion
3 of the author about the objectives of the KLA was skimmed over by me
4 but not necessarily regarded as decisive or determinative or
5 dispositive.

6 MR. PACE: We can take this document down. And, Your Honour, I
7 have an answer to your question -- or, rather, to Mr. Misetic's
8 proposal. We have no objection to pages 3 to 5 from the Charlie Rose
9 interview being admitted along with my tendered excerpt, which was
10 given MFI 4486.

11 PRESIDING JUDGE SMITH: So MFI 94486 [sic] will be admitted,
12 plus added to it is pages 3 through 5.

13 MR. MISETIC: Yes, Mr. President. If I -- I forgot that there's
14 the video excerpt, so we would also like to have the video excerpt
15 that starts at page 3, which I think we can get you at the break what
16 the minute mark would be there.

17 PRESIDING JUDGE SMITH: No objection?

18 MR. PACE: No.

19 PRESIDING JUDGE SMITH: All right.

20 MR. MISETIC: Thank you.

21 THE COURT OFFICER: Your Honours, just for the record --

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Go ahead.

24 THE COURT OFFICER: So, Your Honours, just for the record, P4486
25 MFI, once I receive the correct excerpt segments, will be changed

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Cross-examination by Mr. Pace (Continued)

1 from MFI to admitted exhibit.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. PACE:

4 Q. Witness, are you aware that the US Department of State report,
5 which addresses Kosovo in the context of human rights practices for
6 1998, refers to elements of the KLA being responsible for killings,
7 disappearances, abductions, detentions, including of Serb and
8 Albanian civilians suspected of loyalty to the Serbian government?

9 A. I would be aware and would expect it to do so, yes.

10 Q. And that report also mentions credible reports of instances of
11 torture by KLA members; correct?

12 A. I would expect it to do so, but I don't recall the specific
13 allegation you're referring to.

14 Q. And the report notes that KLA members kidnapped two journalists
15 in October 1998 and sentenced them to prison time; right?

16 A. I don't recall that specific report 27 years later. But I have
17 no reason to dispute it either.

18 Q. And the same report refers to credible cases in which so-called
19 "collaborators" were killed and some ethnic Albanians employed by
20 state-owned enterprises were threatened; right?

21 A. That would be consistent with what I would expect to be in such
22 a report.

23 Q. In the same report, it refers to the detention of 13 Albanian
24 politicians by KLA members in Qirez, with the KLA forces being
25 reported to have repeatedly tortured six of the 13 detainees who they

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Cross-examination by Mr. Pace (Continued)

1 consider to be too close to the Serbian government; is that correct?

2 A. I don't recall that specific allegation.

3 Q. And then does that mean you would not know whether Mr. Thaci has
4 acknowledged being present in Qirez and Baice when this incident --
5 alleged incident occurred?

6 A. I don't have any recollection of the incident or his presence or
7 absence.

8 Q. In a press statement in January 1999, you refer to Serbian
9 authorities releasing Kosovar Albanian detainees, and you called on
10 both sides to release all detainees; is that right?

11 A. That would be my job at the time to do so, yes.

12 Q. And you also called on both sides to cease further detentions
13 and treat detainees humanely; right?

14 A. Same answer.

15 Q. Shortly before your press statement on 25 November 1998, *The New*
16 *York Times International* reported that experts estimated that the
17 rebels in Kosovo had kidnapped more than 200 Serbs, with most
18 believed to have been killed. Were you aware of that?

19 A. If it was in *The New York Times*, it's most likely that I would
20 have read it. I don't know that I would have regarded it as
21 definitively accurate.

22 MR. PACE: Let's call up V00007, please.

23 Q. Here we see this is a page from *The New York Times*
24 *International*, dated 25 November 1998, with an article titled "Tiny
25 Step to Help the Cease-fire in Kosovo." And I am going to read from

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Cross-examination by Mr. Pace (Continued)

1 the first paragraph.

2 MR. PACE: So if we could zoom in to the first paragraph in the
3 first column, please. Thank you.

4 Q. "After American diplomats had interceded, a Serbian police
5 officer whom rebels had kidnapped a week ago, Goran Zbiljic, was
6 released.

7 "The release is important because experts estimate that the
8 rebels have kidnapped more than 200 Serbs, with most believed to have
9 been killed."

10 And, Witness, based on your previous answer, I understand that
11 you would have read this but you would have not necessarily, let's
12 say, taken it as gospel truth; right?

13 A. Yes.

14 MR. PACE: We can take this document down, and instead I'd like
15 to call up P04259, please. And if we could turn to page 0402. It
16 should be PDF page 8.

17 Q. And, Witness, for context, this is an excerpt from a book by
18 Marc Weller. And if we scroll down a little bit on the screen, here
19 we see at number 4 a reference to report of the Secretary-General
20 30 October 1998. And I would now like to turn to the next page,
21 ending 0403, where I will read from paragraph 11 of this report as
22 included in this book. And here we see the following:

23 "The fate of many Serbian, Kosovo Albanian and Roma civilians
24 and Serbian police officers abducted by armed Kosovo Albanians,
25 believed to belong to KLA, remains unknown. Yugoslav authorities say

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Cross-examination by Mr. Pace (Continued)

1 that 249 civilians and police have been abducted by KLA. Ninety-two
2 of those persons were reportedly released, 9 escaped and 29 have been
3 found dead. The International Committee of the Red Cross reports
4 that it is currently following around 140 cases of abductions."

5 Would you have been aware of this report of the
6 Secretary-General in October 1998?

7 A. I would have read a report of the UN about Kosovo with high
8 degree of scepticism given the repeated failure of the UN to
9 accurately describe -- UN officials, some, to accurately describe the
10 situation there. So I may well have been aware of UN reporting, but
11 I would not -- you know, wouldn't have regarded it as credible
12 necessarily other than specific reports of the ICRC, which I would
13 have regarded as credible.

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

15 Q. You testified that you were in Kosovo on 19 June 1999 and I
16 believe one or two days thereafter. Did you hear around that time
17 about German KFOR troops finding in a building that had been taken
18 over by the KLA 15 prisoners, including an elderly man who was found
19 dead, handcuffed to a chair, and badly beaten?

20 A. I don't recall that specific incident all these years later.
21 No, I -- sorry.

22 MR. PACE: Let's please call up P01188.1. And if we can scroll
23 down just a little bit. We can keep it at this zoom level.

24 Q. And so here we see -- well, we saw up top *New York Times*, and
25 then we still see on our screens: "New York, Saturday, June 19,

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1 1999." And then we see the heading of the article on the left with a
2 picture beneath it: "Kosovo Rebels Take Over Towns; Violence Is
3 Reported." Do you recall this *New York Times* front page, Witness?

4 A. I'm sorry, 26 years later, I just don't recall that specific
5 newspaper.

6 MR. PACE: And if we scroll down a little bit on the screen. We
7 can keep the zoom as it is. A little bit more. Thank you. I'm
8 going to read from where we have: "15 prisoners Found Injured - NATO
9 Seizes Weapons." And I'm going to go down actually a few more
10 paragraphs, please, the same column. So I am going to read from "The
11 tenuous and volatile nature," which I believe is a little bit more
12 down. Yes.

13 Q. So here we read as follows:

14 "The tenuous and volatile nature of NATO's balancing act was
15 illustrated here this afternoon when German troops swooped down on a
16 former Serbian police headquarters taken over by the KLA, briefly
17 held 25 of the guerillas and seized a pile of weapons.

18 "Inside the station, the German troops found 15 people who had
19 been taken prisoner, including an elderly man who was found dead,
20 handcuffed to a chair and badly beaten, according to a German
21 spokesman ..."

22 MR. PACE: And for this we need to continue to the next page of
23 this item, and it will be from the first column thereof. So page 2.
24 Thank you. And if we can scroll down.

25 So from the first column here, I'll continue:

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1 "... prisoners included Serbs, Albanians, and Gypsies. It was
2 not clear why they had been arrested, but some onlookers said the
3 prisoners included informers and thieves.

4 "One man had red welts across his back, an old man had a bandage
5 on his head and cuts on his face and another man said he had been
6 stabbed in the leg."

7 Now, Witness, you've testified that you don't recall this
8 specific story in *The New York Times*, which was on its front page.
9 You've also testified you were in Kosovo at the time. When you were
10 in Kosovo at the time, did you hear anything about this incident?

11 A. I may well have heard about the incident at the time, and would
12 have urged tolerance and not retribution for the mass murder of
13 Albanians by Serbs, and encouraged my friends in the Kosovo Albanian
14 community to avoid retaliation in response to this horrors that they
15 had lived through, and I would have always tried to reject, condemn,
16 and discourage any such activity.

17 MR. PACE: Let's take this document down and instead call up
18 P04185, please.

19 Q. Here we see this refers to cnn.com, and we see the date June 19,
20 1999.

21 MR. PACE: And I'd now like to turn to page 013439. And if we
22 scroll down, I'm going to read from "KFOR frees captives of KLA." A
23 little down. Thank you.

24 Q. "But even with Yugoslav forces on their way out, the road to
25 full control remained bumpy. KFOR must not only monitor the Yugoslav

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1 withdrawal, it must head off any reprisals by the ethnic Albanians
2 against the minority Serb population and others as hundreds of
3 thousands of refugees return to Yugoslavia.

4 "On Friday, German KFOR troops swooped into a former police
5 station in Prizren that had been taken over by the ethnic Albanian
6 Kosovo Liberation Army, rescuing 15 prisoners who had apparently been
7 beaten by their captors."

8 And it goes on. Now, this is a CNN report. Do you recall
9 whether this report would have been brought to your attention?

10 A. Very likely. And I would have, like the KFOR people here, urged
11 no reprisals by ethnic Albanians against the Serb population for the
12 mass attacks and suffering the Albanians underwent during the Serb
13 occupation for a long, long time.

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

15 Q. Witness, did you continue to follow events on the ground in
16 Kosovo after your departure following the signature of the June 1999
17 undertaking?

18 A. Yes, I returned to Kosovo to urge an agreement in the Presevo
19 valley area to prevent a rise in violence there, which I believe was
20 successful in preventing Presevo valley from exploding in violence.

21 Q. And when was that, if you recall?

22 A. That would have been a few months after June at some point. I
23 can't remember precisely when. But I went with the Ambassador
24 Chris Hill, in fact, to Kosovo, and we pursued an effort to prevent
25 new violence from arising in the Presevo valley, and later it was

1 reported that that effort was successful.

2 Q. And when you went back, I presume to Washington DC, after the
3 June 1999 undertaking, in between being back in Kosovo, did you
4 follow media reports about Kosovo at the time? So we're saying from
5 the rest of June till the end of 1999 or there around.

6 A. Yes, I tried, because of my personal involvement in the
7 demilitarisation agreement, to stay abreast of it, especially because
8 I was sent back to try to calm things down once. I can't remember
9 again. It was in that year at some point. It might have even been
10 early 2000, but I don't recall. So, yes, I would have tried to stay
11 abreast to the best of my ability with events in Kosovo.

12 Q. And as you followed the conflict at this time, do you recall
13 learning of any crimes allegedly committed by KLA members?

14 A. I would have expected to learn of that. It sounds right to me
15 that there were a lot of things uncovered after a war.

16 MR. PACE: Your Honour, are we taking a break at 10.00?

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. PACE: If so, this is a good time.

19 PRESIDING JUDGE SMITH: We'll give you a ten-minute break.

20 Please don't speak about your testimony outside the courtroom.

21 You'll be back at 10.10.

22 [The witness stands down]

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

24 --- Break taken at 9.59 a.m.

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

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Cross-examination by Mr. Pace (Continued)

1 PRESIDING JUDGE SMITH: Yes, Mr. Misetic.

2 MR. MISETIC: Mr. President, I just wanted to alert the Panel
3 that with respect to the next witness, we have asked WPSO to have him
4 here after lunch. If you believe we're going to need him here
5 earlier, I need to give 45-minutes warning to WPSO. Just to let you
6 know.

7 PRESIDING JUDGE SMITH: No, that should be sufficient.

8 MR. MISETIC: Okay. Thank you.

9 [The witness takes the stand]

10 THE WITNESS: Thank you.

11 PRESIDING JUDGE SMITH: All right. Mr. Rubin, we will continue
12 with the cross-examination by Mr. Pace.

13 MR. PACE: Let's please call up DHT11910-DHT11916, which is
14 actually now 1D291.

15 Q. This is a 25 June 1999 *New York Times* article that you discussed
16 in your statement and also during your testimony yesterday. The
17 first two paragraphs read as follows:

18 "The senior commanders of the Kosovo Liberation Army, which
19 signed a disarmament agreement with NATO, carried out assassinations,
20 arrests and purges within their ranks to thwart potential rivals, say
21 current and former commanders in the rebel army and some Western
22 diplomats.

23 "The campaign, in which as many as half a dozen top rebel
24 commanders were shot dead, was directed by Hashim Thaci and two of
25 his lieutenants, Azem Sylja and Xhavit Haliti, these officials said.

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1 Mr. Thaci denied through a spokesman that he had been responsible for
2 any such killings."

3 MR. PACE: And now let's turn to the second page of this item,
4 where I will read from the fourth paragraph. And scroll down a
5 little bit. Yes, I will start from "The charges ..."

6 "The charges of assassinations and purges were made in
7 interviews with about a dozen former and current Kosovo Liberation
8 Army officials, two of whom said they had witnessed executions of
9 Mr. Thaci's rivals; a former senior diplomat for the Albanian
10 Government; a former ... official in the Albanian Government who
11 worked with the rebel group, and several Western diplomats."

12 And for now, Witness, my question is whether you recall this
13 article?

14 A. Not well.

15 MR. PACE: We can call up side by side with this article,
16 please, DHT05180-DHT05189. It's possible that this has an exhibit
17 number. If my colleagues could help me out with that. Thank you.
18 We see that's now on our screens.

19 Q. And we see that this on the -- on your screen on the right is a
20 briefing you gave on the same day the article we just looked at,
21 which is still on the left-hand side of our screen, was published, so
22 25 June 1999.

23 MR. PACE: And in the document on the right, the press briefing,
24 let's please turn to page 05186, where I will read from the first
25 question on this page. And while that's happening, I note this is

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1 1D295 partially admitted -- 75, partially admitted.

2 Q. So, Witness, as I said, on the document on the right on your
3 screen, which is your press briefing, on the page we have there, I'm
4 going to read from the first question, and it goes as follows:

5 "Question: Did they say anything more than you are quoted as
6 saying this morning in this report about Mr. Thaqi and his alleged
7 ordering?

8 "Mr. Rubin: Yes, I mean, there really isn't much to say about
9 that beyond what I have said. Let me say that we simply don't have
10 information to substantiate these allegations that there were such
11 activities of assassination or execution ordered or sanctioned by the
12 leadership. It's hard to comment further on unsubstantiated and
13 generally unprovable allegations.

14 "I think more broadly, it's fair to say that this is a tough
15 neighbourhood. The KLA was engaged in a situation where the people
16 of Kosovo faced a real oppression by the Serb forces in very large
17 numbers. They were not in a position to pursue an approach that we
18 in the West would probably want to see pursued; there was no Western
19 parliamentary democracy; there were no parliamentary rules of order.
20 Those are things that we want to create. And what we've been trying
21 to do with the work that we've done with the KLA and its leaders is
22 to encourage them to pursue their objectives through transforming
23 their organisation and pursue them, through the democratic means they
24 now have available to them through the presence of NATO forces on the
25 security side and the presence of the UN mission on the civilian

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1 side. So that is the path that we want them to take.

2 "As far as these anonymous sources and their allegations, from
3 our standpoint they're unsubstantiated and generally unprovable.

4 "Question: All right, but this is the second - well, it's not
5 the second, it's one of a multitude of reports along this nature. I
6 mean, are there red flags?

7 "Mr. Rubin: Well, again, I'm regularly asked about is the KLA
8 involved in drug dealing, and I regularly tell you that we don't have
9 any independent confirmation of that. I'm now being asked is the KLA
10 leadership responsible for executions, and I'm telling you we don't
11 have any information to confirm that. We've gone to pretty
12 significant lengths and we have very, very good contacts in the
13 region. So we haven't been able to substantiate, after a pretty good
14 faith effort, what are essentially anonymous allegations. The only
15 quoted person, really, was a political opponent who didn't even
16 specifically refer to a specific allegation but just said that this
17 leader was capable of that behaviour."

18 Witness, by the time you made this statement on 25 June 1999,
19 had you obtained the identity of any of the sources relied on in
20 *The New York Times* article, which is also dated 25 June 1999?

21 A. The author of that article regularly wrote sentences that I
22 thought were false.

23 Q. Sorry, Witness, you're not answering my question. Please answer
24 my question --

25 A. I'm trying to answer --

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Cross-examination by Mr. Pace (Continued)

1 MR. PACE: Your Honour, that's clearly not responsive to my
2 question.

3 PRESIDING JUDGE SMITH: [Microphone not activated] ... listen
4 closely to the question --

5 THE WITNESS: I'm trying.

6 PRESIDING JUDGE SMITH: -- then answer it. And if more
7 information is needed, they'll ask for it.

8 MR. PACE:

9 Q. I'll repeat. Witness, by the time you made the statement on
10 25 June 1999, had you obtained the identity of any of the sources
11 relied on in *The New York Times* article, which is also dated 25 June
12 1999?

13 PRESIDING JUDGE SMITH: And that's a --

14 MR. PACE:

15 Q. Yes or no?

16 PRESIDING JUDGE SMITH: -- "yes" or "no" question.

17 THE WITNESS: I don't recall seeking those sources from that
18 article because I doubted the author.

19 MR. PACE:

20 Q. And in relation to this article's author, Chris Hedges,
21 yesterday you testified he was fired by *The New York Times* for making
22 repeated mistakes. And at paragraph 81 of your statement, you say:
23 "Hedges, as it turned out was an unreliable journalist and was
24 ultimately fired by the *Times* because he repeatedly made multiple
25 mistakes."

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Cross-examination by Mr. Pace (Continued)

1 Witness, that's not an accurate statement about Mr. Hedges, is
2 it?

3 A. That is my understanding, because I regularly consulted with the
4 editors of *The New York Times* about Mr. Hedges, had extensive
5 consultations with him about Mr. Hedges, and, frankly, know an
6 enormous amount about the internal workings of *The New York Times*
7 with regard to Mr. Hedges. So I think I'm about as good a source on
8 why Mr. Hedges was fired as anybody.

9 Q. Chris Hedges won a Pulitzer Prize for Explanatory Reporting in
10 2002 with *The New York Times*, didn't he?

11 A. That's not relevant to why I think he was fired.

12 Q. That's also not responsive to my question. Do you know whether
13 he won a Pulitzer Prize for Explanatory Reporting in 2002?

14 A. I can't remember whether he was part of a group that won a
15 Pulitzer Prize.

16 MR. PACE: Let's call up SPOE00397247-00397261, please.

17 Q. Here we see this is a screenshot of a page of pulitzer.org. At
18 the top we see the Pulitzer Prizes and then we see the 2002 Pulitzer
19 Prize winner in Explanatory Reporting, and below that "Staff of *The*
20 *New York Times*."

21 MR. PACE: And if we can turn, please, to the second page of
22 this item. Here we see a list, "Winning Work." And if we then go
23 through the third page of the item, we see, still as part of the same
24 list, December 27, 2001, "Missed signals: Terror cells slip through
25 Europe's Grasp, by Steven Erlanger and Chris Hedges." Do you see

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1 that, Witness.

2 A. Yes.

3 Q. Would that mean that he won a Pulitzer Prize?

4 A. It would mean that he was the second author in an -- he won a
5 Pulitzer Prize as part of a team. And my guess, from knowing a lot
6 about this, is that Steven Erlanger deserved it more than he did.

7 Q. Witness, Chris Hedges --

8 MR. PACE: We can take this document down.

9 Q. Chris Hedges was not fired by *The New York Times*. Rather,
10 certain media personalities, such as Sean Hannity, called for Hedges
11 to be fired after Hedges gave a May 2003 speech concerning the
12 invasion of Iraq, and Hedges later resigned from the *Times*; isn't
13 that right?

14 A. I think as we all know, when someone resigns, it's often because
15 they've been asked to leave.

16 Q. Does that mean that your assertion yesterday during testimony
17 and in your statement that he was fired is not accurate?

18 A. In my business, when someone is doing a bad job and they resign
19 because they are no longer treated seriously by their news
20 organisation, that is the functional equivalent of being fired.

21 MR. PACE: Your Honour, I just need a moment to confer.

22 [Specialist Prosecutors confer]

23 MR. PACE: Thank you, Your Honour.

24 I'd like to call up SPOE00397266-00397270. Here we see this
25 refers to *The New York Times*, "Business, What It Was Like to Work for

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1 Russian State Television," by Cecilia Kang, 12 March 2022. And if we
2 could turn, please, to the page ending 7268, and I will read from the
3 last sentence of this *New York Times* article.

4 Q. We see:

5 "Mr. Solodovnikov promised complete editorial freedom.

6 Mr. Hedges had resigned from The Times in 2005 after what he
7 described as an internal dispute over his opposition to the Iraq
8 war."

9 Witness, do you see here that *The New York Times* is also
10 describing Chris Hedges as having resigned from *The New York Times*?

11 A. I see that.

12 Q. To your knowledge, would *The New York Times* itself publish that
13 Chris Hedges resigned when it had fired him instead?

14 A. Again, the word "fired," used by me, is my colloquial
15 description of a person who is forced to resign because he's no
16 longer treated seriously by his organisation and is now going to work
17 for RT.

18 Q. And you said in testimony and your statement that he was making
19 repeated mistakes and that's reason he was let go; right?

20 A. I said that, yes.

21 Q. So your evidence is not that, as I put to you, his speech about
22 the Iraq war in 2003 is what led to him then leaving the *Times*?

23 A. My opinion, as an observer of this business as close as you can
24 observe it outside the internal workings of *The New York Times*,
25 beginning when he wrote a story that was false, *The New York Times*

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1 had to correct, about a billion dollars in Bosnia, over and over
2 again, repeated mistakes led ultimately to his no longer being
3 treated by his news organisation as a serious reporter, and thus, in
4 my colloquial description, is the functional equivalent of being
5 asked to leave perhaps would be -- or no longer given proper roles,
6 and so then you sort of get people to say, "Okay, I'll resign."
7 That's just colloquial talk about matters of journalistic behaviour
8 that I am a close observer of.

9 I know many of his colleagues. I know a lot about this
10 business. And it's my summary judgment, as a person who observes
11 these things, that he was no longer welcome to be a prominent
12 reporter there and, thus, in my opinion, was forced out, asked to
13 leave, and ended up resigning as a technicality.

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

15 Q. Witness, on 25 August this year, counsel for Mr. Thaci informed
16 the SPO that you declined the SPO's request to interview you. Why
17 did you decline that request?

18 A. It's a good question. I think I've gone to extraordinary
19 lengths to try to make myself available to this Court. I've spent
20 hundreds of hours in preparation for this appearance. And I felt
21 like everything I knew was contained in the document I provided. And
22 my views on the Prosecution I don't think are worthy of mention here,
23 but I didn't feel like there was anything more to add, but I was
24 happy to answer your questions as I've done so today and yesterday,
25 and will be happy to continue to answer them as long as you have

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Cross-examination by Mr. Pace (Continued)

1 them.

2 Q. Witness, I think your views of the Prosecution are worthy of
3 mention here. Could you enlighten us as to what you're referring to,
4 please?

5 A. Well, that the fact that the defendant has been in prison for
6 five years after voluntarily offering himself up to the Court at a
7 time when he was about to make a peace agreement with the Serb leader
8 troubled me. That politics would enter into the rule of law, that
9 troubles me. It troubles me that he would be in prison for five
10 years before a case could even begun to be prosecuted when he had
11 volunteered himself, and that no bail was provided for someone who
12 was showing himself willing to submit to the Court in every way
13 possible. Why he had to be in prison for five years before the trial
14 began struck me as rather -- not the kind of rule of law that I had
15 hoped the international system would create when Madeleine Albright
16 created this Court -- sorry, not this Court but the international
17 criminal court -- sorry, the international tribunal for the former
18 Yugoslavia and Rwanda.

19 So I wanted to see individual accountability to prevent
20 collective blame, and it felt to me that this was collective blame
21 just because he was the leader of the KLA. And having observed the
22 leadership of the KLA in their mountain hideout in a way that I don't
23 believe any other person did outside of the KLA, having a unique view
24 of the leadership structure of the KLA, a snapshot for three days,
25 observing how they behaved, how they operated, who was in charge, who

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1 was a commander, who was a subordinate, I felt that this was really
2 wrong and not justice.

3 That's my opinion. I'm not a lawyer, but I think I'm entitled
4 to my opinion.

5 Q. When I asked you why you declined the SPO's request to interview
6 you, you talked about going to extraordinary lengths to make yourself
7 available to this Court. It's correct, isn't it, that while we were
8 informed of your declining the interview on 25 August, you then met
9 the Defence for preparation on the 3rd and the 8th September; right?

10 A. Right. Yes.

11 Q. And in your answer, you also referred to hundreds of hours in
12 preparation for this appearance. Could you detail what you did
13 during those hundreds of hours in preparation for this appearance?

14 A. I -- five years ago, six years ago, I first started hearing
15 about this trial. I tried to look into the formation of this
16 Tribunal, tried to understand how it was created, why it was created.
17 I spoke to lawyers. I spoke to scholars. I then tried to review, to
18 the best of my ability, all of my written, you know, articles, tried
19 to -- the documents you're presenting on the screen here today that
20 are easily available to the Court weren't easily available to me. I
21 remember I couldn't even download the FT article. Couldn't find my
22 copy of it. I re-read that. I re-read as much of the material as I
23 could. I met with the legal team in Washington at least once, maybe
24 twice, for a full day or two. And then I thought about it, and five
25 years have gone by of thinking about it, talking about it, preparing

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1 for it. Every year I thought the trial would start and then it
2 didn't start. Another year went by, another year went by.

3 So for five years I've been thinking about it, talking about it,
4 wondering about it, wondering why it would take five years to prepare
5 a case like this even though the indictment was made five years ago.
6 I didn't understand that. I asked people about it. I asked people
7 whether that was normal in the course of justice. And I spoke to
8 many, many prominent international lawyers - I don't want to mention
9 their names; they may not want to be known - who told me that this
10 was an unusual way to treat a head of state who had voluntarily
11 submitted himself to the jurisdiction of a court that he created as
12 prime minister at the behest of the European Union to show their
13 desire to join the European Union, and then to have that court hold
14 him in prison for five years before even preparing their testimony --
15 their case, all of these things went through my mind over hundreds of
16 hours before I got here yesterday.

17 Q. Five or six years ago, did anyone ask you to look into this
18 Tribunal?

19 A. No. When I first heard -- no.

20 Q. When did Hashim Thaci or persons on his behalf first reach out
21 to you in relation to the SPO's case against him and others?

22 A. Sorry, if I might just add to my answer, I forgot about an
23 important factor. I was working for the Executive Branch in the
24 United States. I had an extremely busy job as the Special Envoy and
25 Coordinator of the Global Engagement Centre and the top adviser to

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Cross-examination by Mr. Pace (Continued)

1 Secretary Blinken from 2022 to 2025. During that period, I had to
2 stop what I was doing and had multiple meetings with the State
3 Department legal adviser's office, over multiple hours, because of
4 this desire to be available to the Court and make sure the
5 State Department was willing to allow me to testify. I neglected to
6 mention all of that effort that was genuinely a burden to me, that
7 most people said: Why are you doing this when you have these other
8 jobs?

9 And so the answer to your question about who first contacted me,
10 I believe it was the former US war crimes prosecutor, Pierre Prosper,
11 who first contacted me.

12 I also neglected to mention when I was working at the OECD in
13 Paris, I had multiple -- or at least one long meeting with them in
14 Paris.

15 So this has taken up a significant portion of my time over the
16 last five years while I was doing many other things. But because I
17 thought this Court should be treated with respect, because I wanted
18 to do all I could to make myself available, within limits, I agreed
19 to be a witness.

20 Then I was in contact with Mr. Prosper over the last several
21 years, five years, in preparation for this day yesterday.

22 Q. So my question was when did Mr. Thaci or someone on his behalf
23 reach out to you. Does that mean it was five years ago, so 2020?

24 A. To tell you the truth, I can't remember when someone first --
25 "reach out" is one of these words, I don't know what that really

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1 means. But when I was formally requested to testify I believe was
2 about four years ago. I began to -- what are we, in 2025? Yeah, I
3 about four years ago this took on some -- that I recall, when I was
4 in Paris, and I again stopped what I was doing in my job, met with
5 the legal team in Paris. That I recall very well. At least four
6 years ago.

7 Q. I didn't specify formal, so I'll perhaps reformulate my
8 question. When was the first time, formally or informally, that
9 anybody contacted you in relation to the SPO's case against Mr. Thaci
10 and others?

11 A. The time I recall specifically was in Paris, but that would have
12 come after a previous contact. So at least four years ago, probably
13 between four and five years ago. When I first became aware of it was
14 when it was announced and when the meeting at the White House was
15 cancelled because Mr. Thaci had submitted to this Court. I was aware
16 of the trial. I suspect between that day, which is, I gather,
17 October 2020, and my time working in Paris. Between October 2020 and
18 the fall of 2021. At some point during that period between October
19 2020 and October 2021, when I was in Paris and it was fall, I believe
20 we met. It might have been summer. So somewhere in that period I
21 believe Mr. Prosper contacted me and asked me about my availability,
22 willingness to go through the effort to be available as a witness.

23 Q. And just to clarify, you said "the time I recall specifically
24 was in Paris, but that would have come after a previous contact."
25 Who was this previous contact with?

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Cross-examination by Mr. Pace (Continued)

1 A. Mr. Prosper, Pierre Prosper, the former US war crimes prosecutor
2 who I knew from my time in government was a very responsible official
3 who had spent his life seeking to prosecute real war criminals.

4 Q. Yes, Witness, I didn't ask you for your appraisal. I asked you
5 whom. If you could limit your answers to my questions, please.

6 Prior to the meeting in Paris that you just described, when was
7 your last contact with anyone acting on Mr. Thaci's behalf to your
8 recollection?

9 A. I believe I've answered that. I don't know how to be more
10 specific.

11 Q. And before that contact with Mr. Prosper?

12 A. As I said - and I now feel that I'm being needlessly
13 interrogated - somewhere between the announcement of the indictment
14 and my meeting in Paris, I've just said three times, Mr. Prosper
15 contacted me. That, to the best of my recollection, was between the
16 time of the indictment in October 2020 and the time of the meeting in
17 Paris. I don't recall the exact date when he contacted me, but it
18 was sometime in that period as I've now said four times.

19 Q. Before Mr. Prosper contacted you in this period, before that,
20 when was the last time somebody contacted you and that the somebody
21 was acting on Mr. Thaci's behalf, if you remember?

22 A. About the trial or just contacted me?

23 Q. On any matter.

24 A. The last time I remember being in contact with Mr. Thaci was, as
25 I indicated in my testimony yesterday, during the period of 2020 when

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Cross-examination by Mr. Pace (Continued)

1 I was the representative for him seeking to make a permanent peace
2 agreement with Serbia. In the period 2020, before the indictment, I
3 was working with him, talking to him, during that year of 2020.
4 That's the last time I recall meeting, talking to Mr. Thaci or any of
5 his formal representatives.

6 Q. And that was while you were engaged with Ballad Partners working
7 on the Kosovo contract?

8 A. The contract that was signed before I got there, that I was
9 happy to participate in, ending the conflict between Serbia and
10 Kosovo.

11 Q. And in your meeting with Mr. Thaci, or meetings, while you were
12 engaged with Ballad Partners, in particular in this period of 2020,
13 as you mentioned, did you discuss with Mr. Thaci anything to do with
14 this Court?

15 A. I don't remember every single thing we talked about. The bulk
16 of our discussions were to how to make a permanent peace with Serbia.
17 That's what I was working on. Anything else was incidental.

18 Q. So if there were discussions about this Court with Mr. Thaci,
19 they would have been incidental to what you were actually dealing
20 with?

21 A. Correct. And I don't remember any such conversations but I'm
22 not ruling them out.

23 Q. Have you read the indictment in this case?

24 A. No.

25 Q. Have you read the Specialist Prosecutor's Office pre-trial brief

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Cross-examination by Mr. Pace (Continued)

1 in this case?

2 A. No.

3 Q. Have you read the pre-trial brief of any of the Defence teams in
4 this case?

5 A. No.

6 Q. And did you follow the opening statements in this case?

7 A. No.

8 Q. Do you know when those opening statements were held?

9 A. The exact date, I do not know. No.

10 Q. Have you followed any proceedings in this case?

11 A. Yes.

12 Q. Which?

13 A. I think I generally followed the public reporting about the case
14 as it happened. But I did not read the briefings, I'm not a lawyer,
15 and I didn't feel the need to read all the submissions that were made
16 that were available publicly.

17 Q. Do I understand that correctly to mean you wouldn't have, for
18 example, watched online or otherwise videos of testimony of any
19 witnesses?

20 A. Correct. That's correct.

21 Q. Going back to -- we just touched on your work with Ballard
22 Partners. You said at paragraph 20 of your statement that you were
23 the chair of international policy and strategy there in DC until
24 2020. Can you clarify until when in 2020 you occupied that position?

25 A. It's a good question. That was COVID. I basically stayed with

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Cross-examination by Mr. Pace (Continued)

1 Ballard Partners through the end of 2020. But I made a conscious
2 effort when I thought that President Biden was going to be elected to
3 resign my position as a -- what you call a registered lobbyist
4 because I wanted to be able to work for President Biden, and there is
5 a cooling off period for registered lobbyists. I thought it was
6 going to be one year, so I resigned, I think, my registered lobbying
7 role in the spring of 2020, or early 2020, so that I could be
8 available in January 2021. To my horror and shock, the cooling-off
9 period was made two years, so I went to Paris for a year. It wasn't
10 a tragedy, but it wasn't what I had hoped for.

11 So I'm trying to say that because it answers directly your
12 question of my role at Ballard Partners during the year 2020. I
13 stopped really representing international clients formally about a
14 year before I expected and hoped President Biden to win. And so I'm
15 guessing that most of the work I did was in that spring, and then I
16 sort of stopped working. And I think the contract expired around
17 that time as well, in the summer of 2020.

18 Q. You mention that you started in that position in 2018. Do you
19 recall when in 2018 you started with Ballard Partners?

20 A. I believe it was January. I left London in January, maybe
21 started in February, March, April 2018, roughly speaking.

22 Q. You testified that Ballard Partners already had a contract with
23 the Government of Kosovo. That contract specifically was with the
24 Office of the President of Kosovo; right?

25 A. Yes.

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Cross-examination by Mr. Pace (Continued)

1 Q. And Hashim Thaci was the president at that time that they
2 entered into that contract?

3 A. Yes.

4 Q. And he was continuing to be the president until your time at
5 Ballard; right?

6 A. Yes.

7 Q. Did you start to work on the Kosovo contract immediately when
8 you joined Ballard?

9 A. Work is a kind of -- in a firm like that, there was another
10 gentleman who was primarily responsible for the contract, who had won
11 the business, who had interacted with the Kosovo team. As I
12 became -- you know, I was starting a new job. They didn't know me
13 very well. I think it took several months until we all settled into
14 our relative roles and responsibilities, at which point it was deemed
15 wise for me to work with Mr. Thaci because I knew him so well, and
16 the chairman of the firm, the founder of the firm thought it made
17 sense for me to take this over given my relationship with Mr. Thaci.
18 But it didn't happen right away. So it would have happened -- I'm
19 guessing the fall of 2018 I probably first registered, it might have
20 been 2019, and then I worked on it for, I don't know, roughly again,
21 I don't remember precisely, I don't have those records with me, but
22 roughly a year plus. And then the contract expired, actually, I
23 believe in 2020.

24 Q. I'd just like to -- I'm not sure if it's actually -- if I
25 misspoke or I may -- or the transcript is erroneous. I just want to

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Cross-examination by Mr. Pace (Continued)

1 clarify that what I meant to say or what I meant to ask is you
2 whether the contract was with the Office of the President of Kosovo
3 and Ballard Partners.

4 A. That was my understanding, yes.

5 Q. Thank you. And the contract between Ballard Partners and the
6 Office of the President of Kosovo was for \$52.000 a month; right?

7 A. That sounds right.

8 Q. As part of your work on Kosovo at Ballard Partners, you met or
9 contacted various US government employees in relation to Kosovo;
10 right?

11 A. Yes.

12 MR. PACE: I like to call up SPOE00395242-00395244, please. And
13 here we see -- that's good for now as is. We can zoom in a little.
14 Yes, thank you.

15 Q. Here we see this is from at least your name to many persons
16 whose e-mail addresses end in house.gov or senate.gov. We also see
17 it's dated 11 February 2020. And in the subject line, we see "Latest
18 Developments Regarding the Republic of Kosovo."

19 And, Witness, do you recall sending e-mails of this nature to
20 such persons around this time?

21 A. I need to be very clear about this. This is a mass e-mail.
22 This would not have been actually pushed the button by me. This
23 would have been pushed the button by a -- someone who worked in the
24 office for clients. I wouldn't have pushed this button, but it would
25 have come from me because that's the way you do business. You have

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1 someone send mass e-mails. This isn't a specific e-mail. It wasn't
2 a meeting. It wasn't something with special information. This was
3 all -- as you can see, latest developments regarding -- these were
4 mass e-mails that we would send -- I believe the company would send
5 to all their clients on all -- of this type. But I am pretty sure I
6 wouldn't have pushed "send" on this e-mail.

7 Q. And you mentioned sending to their clients. But as I mentioned,
8 here we have house.gov and senate.gov e-mail addresses. So do you
9 recall --

10 A. It was about your client. So you would send to the Congress
11 about your clients to make sure that you were representing them. You
12 were trying to inform the government, that's what -- petitioning your
13 government is part of our Bill of Rights in the United States, you
14 have the right to petition your government. So as long as you
15 register and make it transparent, which is what the purpose of the
16 Foreign Agents Registration Act is. You're trying to make it
17 transparent. So nothing is happening behind the scenes, where
18 politics or other people's personal views can get in the way. You're
19 being transparent.

20 So I registered as a lobbyist and then had my office petition
21 the government pursuant to the Bill of Rights. So we petitioned the
22 government by sending mass e-mails to those members of the Hill staff
23 who were interested in foreign affairs about recent developments in
24 Kosovo. I can assure you there's nothing very interesting in these
25 e-mails.

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Cross-examination by Mr. Pace (Continued)

1 Q. And just to make sure I'm understanding you clearly, you may not
2 have typed out the content of this e-mail, but it was sent from your
3 e-mail address --

4 A. Absolutely.

5 Q. -- and you would have approved that sending from your e-mail
6 address; right?

7 A. That type of sending, yes, I would have. I would have known
8 that this was done by the office.

9 Q. And if we scroll down a little bit -- actually, it's already on
10 our screen. We see that: "This material is distributed by Ballard
11 Partners on behalf of the Government of the Republic of Kosovo," and
12 then there's reference to the Department of Justice. Was that
13 standard language in such contacts?

14 A. Yes, so that everyone knew this was a registered contract with
15 maximum transparency pursuant to the Foreign Agent's Registration
16 Act.

17 Q. If we can scroll down a little bit, I'm going to let you just
18 have a look to yourself in terms of the bullet points that we have
19 here. No need to read them out loud.

20 A. Okay.

21 MR. PACE: And if we can turn to the next page. Scroll down a
22 little bit please. That's good. Thank you.

23 Q. Let me know when you've had a look at this page as well.

24 A. Right.

25 Q. And so we can see that the content of these two pages covers

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Cross-examination by Mr. Pace (Continued)

1 reporting, amongst other things, on political and economic matters
2 relevant to Kosovo; right?

3 A. Yes.

4 MR. PACE: And if we go back to the first page. And we scroll
5 down a little bit. A bit more. Yes.

6 Q. Here we can see that the reporting also covered statements by or
7 action undertaken by President Thaci and then outgoing Prime Minister
8 Haradinaj; right?

9 A. Correct.

10 MR. PACE: Your Honour, we seek admission of this item.

11 MR. MISETIC: Mr. President, I think -- before we do that, I
12 think there is an obligation to put his case to the witness. I have
13 a list of at least 30 times that the Panel instructed the Defence to
14 put its case to a witness. I'll cite to transcript page 24418 on
15 this point. So whatever the issue is, it should be put to the
16 witness so that he can comment on the case that's being put to him.

17 MR. PACE: Your Honour, we object to that request. What I'm
18 doing is here clear. I'm also going off information from the
19 witness's statement that he worked for this organisation lobbying on
20 behalf of Kosovo, which he testified about during cross-examination,
21 during direct examination as well. And --

22 PRESIDING JUDGE SMITH: I think it's quite clear. The questions
23 are proper and they're not putting any mysterious case before the
24 witness. He understands why the questions are being asked.

25 Your objection is over -- the objection is sustained.

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Cross-examination by Mr. Pace (Continued)

1 MR. PACE: Overruled, I hope, Your Honour.

2 PRESIDING JUDGE SMITH: [Overlapping speakers] ...

3 THE WITNESS: We all know.

4 PRESIDING JUDGE SMITH: Talked too long. Go ahead.

5 MR. PACE: And in terms of admission of the item, Your Honour?

6 PRESIDING JUDGE SMITH: Did you offer this item? Just this one

7 00395 to 0039 -- I'm sorry, I didn't get the whole first number.

8 MR. PACE: So it was 395242 to 395244, the e-mail we're looking
9 at.

10 PRESIDING JUDGE SMITH: It's admitted.

11 THE COURT OFFICER: Your Honours, that will be assigned
12 Exhibit P4489, and I note it's classified confidential.

13 MR. PACE: It can be public. We can take the document down.

14 Q. Witness, did you work on or discuss with Mr. Thaci, or anyone,
15 his letter to the US Secretary of State Pompeo concerning the KSC and
16 SPO?

17 A. I don't recall working on that. To be specific, the bulk of the
18 work, the work I remember, the work I spent my time on and effort on
19 was the dialogue between President Vucic and President Thaci intended
20 to achieve a peace agreement between the two of them. The previous
21 e-mail we just had on the screen had references to the dialogue
22 between Serbia and Kosovo that President Thaci and President Vucic
23 were undertaking. That was what I spent my time on. I don't recall
24 working on what you just asked about the Kosovo Specialist Tribunal,
25 I don't recall that. If there was such a letter, it wasn't prepared

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Cross-examination by Mr. Pace (Continued)

1 by me, thought of by me, reviewed by me, to the best of my
2 recollection.

3 Q. I'll change subjects.

4 MR. PACE: I'd like to call up SPOE00398214-00398223. And the
5 English translation, which is SPOE00398214-00398215-ET, please. Yes.
6 If we could zoom in even a little bit more on the page on the left.
7 That's good for now. Thank you.

8 Q. So, Witness, we see this is a Facebook post by a profile
9 attributed or bearing the name Artan Behrami on 30 January 2025.

10 MR. PACE: And if we can turn on the document on the left to
11 page ending 216, please. And, yes, if we can zoom in on the
12 photograph.

13 Q. And that's you on the right in this photo; correct?

14 A. Yes.

15 Q. And is that Artan Behrami to the left next to you?

16 A. With respect to him, Mr. Behrami, I don't remember him. And
17 Kosovar Albanians often ask me to take pictures with them, and I try
18 to be as friendly as I can. But I don't remember him, and I
19 apologise to him for not remembering him.

20 Q. So to your knowledge, have you ever had any contact, other than
21 - if this is him in the photo - a photograph, with someone named
22 Artan Behrami?

23 A. If he's not an official of the Kosovo government, I don't recall
24 meeting him. I just don't remember.

25 Q. And the post is dated 30 January 2025. Do you recall meeting

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Cross-examination by Mr. Pace (Continued)

1 any officials of the Kosovo government this year?

2 A. This year? No, I don't. So -- by the way, I love the post:
3 Thanking Rubin and the president of the United States for freedom and
4 independence --

5 Q. Okay. So you don't, to answer my question.

6 MR. PACE: And we can take the document down.

7 And, Your Honour, I think this would be a convenient time for a
8 break before I touch my last topics, which will take me somewhere
9 between 15 and 20 minutes.

10 PRESIDING JUDGE SMITH: All right. We'll give you a half-hour
11 break, Witness.

12 THE WITNESS: Thank you.

13 PRESIDING JUDGE SMITH: We'll be back at 11.30.

14 [The witness stands down]

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

16 --- Recess taken at 10.57 a.m.

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

18 PRESIDING JUDGE SMITH: Please bring the witness in.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: All right. Mr. Pace, you may continue.

21 MR. PACE: Thank you.

22 Q. Witness, earlier today you testified about some of your views on
23 the Prosecution in this case, and you've shared such views on
24 television and in podcasts; right?

25 A. Yes.

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Cross-examination by Mr. Pace (Continued)

1 Q. And in a televised appearance in July this year, you described
2 this prosecution of Hashim Thaci as a disgrace; right?

3 A. I might have used that word. That was probably an ill-advised
4 word. But I was -- you know, occasionally when you're on television
5 you use words you wish you hadn't used. I probably would take that
6 word back.

7 Q. You testified earlier that you have not read the indictment in
8 this case, that you've not read the Prosecution's pre-trial brief in
9 this case, and that you haven't watched any witness testimony per se.

10 In this July 2025 televised appearance, you stated Mr. Thaci was
11 prosecuted under a completely absurd theory that he controlled
12 everything, which is obviously not true. That's what you said;
13 right?

14 A. Sounds right. It's what I believe.

15 MR. PACE: Let's please call up SPOE00395152-00395154. And
16 alongside that, we can already call up 128836-27, for now just the
17 video. And, again, these can be public and they can be broadcast to
18 the public.

19 Q. So while the video is being called up, Witness, on the
20 right-hand side of your screen, you see a screenshot from a YouTube
21 channel or web site.

22 MR. PACE: If we can zoom in a little bit in particular on the
23 information below the image on this screen. And it's okay, we can
24 call the video up after we're done with this. Sorry, I don't mean to
25 make you multitask. And if we can -- yes, that's good. A little bit

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1 further down, please. Thank you.

2 Q. So we see this is, as I said, a screenshot from a YouTube video.
3 And we see a reference to N1 BiH, and we also see 13 July 2025 with
4 an image of you. Do you recall being on the show depicted in this
5 still image?

6 A. Yes, I recall doing this interview in the morning one time, very
7 early in the morning, yeah.

8 Q. And does the date indicated here, July 13, 2025 --

9 A. Sounds right, yeah.

10 Q. Thank you.

11 THE INTERPRETER: Interpreter's note: The speakers are kindly
12 asked not to overlap. Thank you.

13 MR. PACE: So we can take the document on the right down,
14 please, and instead call up the transcript of the video that we are
15 about to watch, and that transcript is 128836-27-TR-ET. And in the
16 transcript, we can turn to page 2.

17 And in the video, I would like to play, with sound, minutes
18 07:36 until 09:36. And if that is ready? Yes. And once again, the
19 video is in English. There are subtitles in not English. And the
20 interpreters can therefore either interpret from what is being said
21 in English or follow on from the transcript.

22 So as I said, we'll now hear from minutes 07:36 until 09:36,
23 please.

24 [Video-clip played]

25 "... law is a very complex one. Unfortunately, it can be abused

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1 by political leaders, it can be abused by human rights groups
2 themselves, it can be abused by journalists. It's a subject that has
3 such wide-ranging interpretations about whether governments had made
4 a full fledged effort to avoid civilian casualties, for example,
5 about the extent to which a commanding control exists at the top of a
6 government for things that happened. These are very hard questions.
7 And, frankly, I believe that in the Balkans the whole justice system
8 has gone out of whack. And I use as an example of this the
9 prosecution of the former president of Kosovo, Hashim Thaci, which is
10 a disgrace. The Kosovo government created its own tribunal at the
11 behest of the West, and then he was prosecuted under a completely
12 absurd theory of that he controlled everything, which was obviously
13 not true. And, frankly, they -- they have been keeping him in prison
14 for many years because they can't figure out how to get the trial
15 going. I hope to testify on behalf of Hashim Thaci, which I believe
16 will be a case of a travesty of the justice system. Where there's an
17 attempt made by certain political leaders to show 'both side-arisms'
18 that, you know, both the Serbs and the Kosovars committed war crimes.
19 Well, no. The Serb military committed 95 per cent of the mass murder
20 in -- or all of the mass murder -- but 95 per cent of the problem in
21 Kosovo. And to try to equate what went on by Kosovar Albanians to
22 what Serbian leader Milosevic and his military did is an outrage.
23 And the fact that they wouldn't even let this former president go on
24 bail while he was awaiting them to get their act together and figure
25 out how to prosecute him. So I think" --

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Cross-examination by Mr. Pace (Continued)

1 MR. PACE: We can stop that there.

2 Q. My only question for you, Witness, is that is you saying those
3 words; right?

4 A. Very early in the morning, yes.

5 MR. PACE: We can take these items down.

6 Q. In a 17 July podcast which you co-host, you stated you were
7 going to testify in Hashim Thaci's trial "as the lead witness for the
8 Defence." Is "lead witness" a description you attributed to yourself
9 or has someone else described you that way?

10 A. That was my own description.

11 Q. In the same 17 July 2025 podcast, you said:

12 "The system is assigning guilt to people who have no business
13 being in -- in prison and they're doing it for political reasons."

14 And that's something you said in relation to Mr. Thaci's trial;
15 right?

16 A. Yes.

17 Q. In a 30 July 2025 podcast which you co-host, you stated that:

18 "This Court is an example of an international legal institution
19 run amok."

20 Right?

21 A. Yes.

22 Q. You testified you haven't read the indictment or pre-trial brief
23 of the SPO and have not followed witness testimony. And in this same
24 30 July podcast, you said:

25 "They created a case out of whole cloth for the leader of the

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1 Kosovar Albanians."

2 Is that right?

3 A. I don't remember saying those specific words, but as I
4 indicated, this is my non-legal opinion as an observer.

5 MR. PACE: Let's please call up 128871-04 alongside
6 128871-04-TR-ET, please. Now, it's actually not a video. It's an
7 audio clip of a podcast. As we can see from the transcript on the
8 right, this is from a podcast on 30 July 2025.

9 And in the audio clip, I would please like to play minutes 13:47
10 until 14:40.

11 [Audio-clip played]

12 MR. PACE: And in the English, that's going to -- in the English
13 transcript on our screen on the right, that's going to correspond to
14 pages 1 to 2, so starting from the very bottom of page 1, if we can
15 scroll down. And if we can zoom in on the last three lines of page
16 1. Or it's actually okay as it is, I think.

17 THE WITNESS: Oh, I'd submit I said it if that helps you.

18 MR. PACE: There is no question yet. Thank you.

19 Q. So I will -- we will be listening from the words "But now the
20 Kosovo" on the English transcript and we'll go into the next page.
21 So if we're ready, we can play, as I said, from minutes 13:47 to
22 14:40.

23 [Audio-clip played]

24 "... in Kosovo tribunals, but now the Kosovo tribunal is an
25 example of an international legal institution run amok. They created

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Cross-examination by Mr. Pace (Continued)

1 a case out of whole cloth for the leader of the Kosovar Albanians.
2 They indicted him at a moment he was about to make peace with the
3 Serbs, put him in prison. He's been in prison for four-plus years,
4 and they can't even put their case together for the first three and a
5 half years of that, because they're inventing the law as they go.
6 And this is how international law damages the real international
7 legal instruments that are legitimate, by individual groups,
8 politicians, and lawyers who try to make themselves famous or make
9 names for themselves by making new arguments that aren't necessarily
10 legitimate. So I think it's a real problem. We don't have a" --

11 MR. PACE: We can stop there. Thank you.

12 Q. And, Witness, my question for you is, as before, is that you
13 saying those words in July this year?

14 A. Yes.

15 MR. PACE: And, Your Honour, we seek admission of this video and
16 the corresponding excerpt, please.

17 PRESIDING JUDGE SMITH: Any objection to the exhibit?

18 MR. MISETIC: No objection.

19 PRESIDING JUDGE SMITH: 128871-04 and their translation of
20 128871-04-TR-ET from 13:47 to 14:14 is admitted.

21 THE COURT OFFICER: Your Honours, that will be assigned
22 Exhibit P4490, and I note it's marked confidential in Legal Workflow.

23 MR. PACE: It can be public. Thank you.

24 PRESIDING JUDGE SMITH: Reclassified as public.

25 MR. PACE: And just to clarify, I'm told the Judge mentioned

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1 14:14. The correct timestamp should be 14:40.

2 PRESIDING JUDGE SMITH: 40? Oh, I'm sorry. I didn't hear that
3 properly. So it would be from 13:47 to 14:40.

4 MR. PACE: And, Your Honour, that completes our questions for
5 this witness at the moment. At this stage, I do note that the SPO
6 reserves its right to further cross-examine this witness once we
7 receive statements or summaries of Defence witnesses whose summaries
8 and statements we don't have and who it would seem their evidence
9 overlaps with this evidence.

10 So there is no application at this point because, obviously, we
11 don't know what those statements or summaries contain, but we do
12 reserve our position in that regard. Thank you.

13 PRESIDING JUDGE SMITH: We'll have to rule on that at a later
14 time, but they have finished and you may redirect if you have one.

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

16 Re-examination by Mr. Misetic:

17 Q. Good morning, Mr. Rubin.

18 A. Good morning.

19 Q. This is my opportunity to ask you just some follow-up questions
20 to what you were asked on cross-examination, so my questions will be
21 limited to what you were asked in cross-examination.

22 At yesterday's transcript at page 26596, you were asked several
23 questions by the Prosecutor about the observations of
24 Mr. Shaun Byrnes, and you were asked more questions this morning
25 about the observations of Mr. Shaun Byrnes.

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1 Without putting the trial transcript up, I would like to ask you
2 a question about something else Mr. Byrnes said. And this is at
3 trial transcript pages 13599, line 13, to 13650 -- and 13650, line
4 13. His observation was that the KLA General Staff was like the
5 foreign ministry of the KLA. And my question to you is, is that
6 consistent with what your understanding was of Mr. Thaci's role in
7 the KLA?

8 A. Yes. I was observing their work and trying to put a template
9 onto their organisation that would fit with my understanding of a
10 government, even though they had no government and the organisation
11 was very amorphous. So I saw him as equivalent to a foreign minister
12 who could reflect the views of his government, his military, and
13 could make, you know, representations that reflected this consensus
14 view but wasn't a leader, rather a minister, a political presenter
15 and signer, and, yes, like a foreign minister, would be -- agree with
16 Shaun Byrnes.

17 Q. Thank you.

18 MR. MISETIC: I would like to take you now to Exhibit 1D280
19 because yesterday at transcript page 26607 you wanted to add
20 something, but the Prosecutor stopped you from being able to complete
21 your answer. So I would like to give you an opportunity to provide
22 the answer you wanted to provide.

23 If we could have Exhibit 1D280 on the screen, please. So this
24 is again the *Financial Times* article. And if we could go, please, to
25 the second page, the one ending in 15. And if we could zoom in on

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1 the fifth column in the middle at the portion that begins: "Albright
2 told me to work with Thaci."

3 THE WITNESS: It must be down a little bit.

4 MR. MISETIC: Yeah, it must be down a little bit. Can we stop
5 there? There we go. In the --

6 THE WITNESS: Yeah, I see it.

7 MR. MISETIC:

8 Q. Yeah:

9 "Albright told me to work with Thaci."

10 So here's the question that you were asked by the Prosecutor,
11 and I will quote:

12 "And that paragraph that I'm going to read starts 'Albright gave
13 him ...' and I'm going to read from the end of that paragraph. Here
14 it is written:

15 "'Albright told me to work with Thaci. The rest of the Albanian
16 delegation had already signalled that they would most likely go
17 along. If he agreed, we could proceed. If not, we were going back
18 to square one.'

19 "And my question is did you write this in 2000?"

20 And your answer was:

21 "Yes, but I wrote --"

22 And then you were stopped from providing an answer. So what
23 were you going to say?

24 A. Right. I'm trying to communicate that these are impressions of
25 behaviour of a group of people we didn't know well. We thought the

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1 most likely supporters were the LDK folks, Veton Surroi, of agreeing,
2 but we didn't know, and this was all quite new to us. And so her
3 telling me that Thaci was my assignment didn't mean that he was the
4 only person that mattered. It rather just meant that that was my
5 assignment, and we thought the others would go along. But in these
6 things, you never know. And so you're operating by impressions.
7 This isn't a very formal process. And so what I was trying to
8 communicate there was that he was important, he was necessary but he
9 wasn't sufficient. We needed everybody. And they had chosen him,
10 and so it was appropriate -- they, the Kosovar Albanians, had chosen
11 him. And over and over again, people don't understand that. That's
12 why we worked with him as their leader there, because they had chosen
13 him to be, whatever it was called, the chairman or the main
14 interlocutor.

15 And so I'm just trying to communicate that, you know, he was
16 important and necessary, but there was a lot of different things
17 going on at the same time. And it was very confusing, frankly, and
18 so I was focused on what I thought I could do. And I just wanted to
19 eliminate the idea that everything was very cut and dried when it
20 wasn't cut and dried.

21 Q. Thank you. Now, at pages 26619 to 26622 of yesterday's
22 transcript, you were asked a series of questions by the Prosecutor as
23 to whether Hashim Thaci was above Adem Demaci in the hierarchy of the
24 KLA. And again this morning you were shown a document which claims
25 that Mr. Thaci "takes care not to attribute to Demaci any political

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1 authority." Do you recall that discussion?

2 A. Yes.

3 Q. Okay. And at one point, you said, at page 26621, lines 8 to
4 11 -- well, let me read it out. You said:

5 "That is why Madeleine Albright called Demaci after Rambouillet,
6 because we thought Adem Demaci had influence over Hashim Thaci, not
7 the other way around. Not the superior."

8 Do you recall that answer?

9 A. I do.

10 MR. MISETIC: I would like to call up DHT12047 to DHT12049 to
11 follow up on this phone call between Secretary Albright and
12 Mr. Demaci.

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

15 MR. MISETIC:

16 Q. Mr. Rubin, this is an interview that Secretary Albright gave in
17 2006 as part of the effort to collect the oral histories by people
18 who participated in the Bill Clinton presidency. Do you see that?

19 A. Yes, I do.

20 MR. MISETIC: And if we could go to the next page. And I will
21 get the document.

22 Q. She has an account of Rambouillet and her discussion with
23 Adem Demaci.

24 MR. MISETIC: And if we could go, please, to the paragraph at
25 the bottom of this page, "There was this young Kosovar guy ..."

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1 Q. And I'll read it out to you. In 2006, this is what Secretary
2 Albright said:

3 "There was this young Kosovar guy, Hashim Thaci, who was a KLA
4 fighter. We said to him, 'You're going to be the Gerry Adams of this
5 operation. You'll show that there's a peaceful arm to the KLA and
6 you will be the hero.' He said, 'I'll do [whatever] you want. I
7 really understand this. When we meet with the other members of the
8 contact group, I'll say that we want the killing to end and we want
9 autonomy but we don't want independence.'

10 "We went through all of this. In the meantime, there was this
11 man, his name was [Adam] Demaci, who was really controlling things in
12 Kosovo. When I talked to him on the phone and told him to support
13 Thaci, he said, 'I don't care how many people die.' It was the most
14 bloodthirsty conversation I've ever had."

15 Mr. Rubin, is Secretary Albright's account of her conversation
16 with Mr. Demaci consistent with your own recollections of that --
17 what you were told about that phone conversation?

18 A. I was with Secretary Albright when she called Demaci. I was
19 standing next to her. And I remember vividly that we felt this was a
20 way to get someone who had -- again, "authority" is a funny word.
21 Not physical authority, not vertical authority in an organisation,
22 but ideological authority. And that Hashim Thaci thought he needed
23 someone like Adem Demaci to let him postpone the question of
24 independence. And I think there where he said autonomy not
25 independence, he wasn't saying no independence. He was saying no

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1 independence now, that he could defer the guarantee of independence
2 till later. Demaci was saying, Independence or death, kind of
3 phrase. And we saw that as signaling that Thaci needed Mr. Demaci to
4 say it was okay to defer the question of independence, and that
5 therefore Thaci was -- Demaci was his superior in terms of
6 decision-making by this group, and that he wasn't in charge. He
7 needed ideological support from the founder or the ideological
8 leader. And then instead of saying, Let's work with NATO, let's get
9 a peace agreement, Demaci says to her: Independence or I don't care
10 how many people die. And we found that shocking and, as she says,
11 bloodthirsty.

12 Q. Thank you. Were you aware at the time of any information
13 concerning whether Mr. Demaci was, as that call was taking place, a
14 participant in an effort to change the leadership of the KLA on the
15 ground?

16 A. Yes. We were aware there was always -- since this was a new
17 organisation, this was a new entity on the scene, we understood that
18 there were power struggles going on, and that although Mr. Thaci was
19 the representative, he could only reflect the powers that be, and the
20 powers that be included Mr. Demaci, and that in order to sign the
21 agreement later in Paris, he told me he had to go back and get
22 approval. He never specified exactly who he needed to get approval
23 from, but it was absolutely clear that he couldn't make decisions on
24 behalf of the KLA, that he could only go back to the leaders. And we
25 surmised that one of these leaders was Demaci, who was trying to

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1 change the Rambouillet accords and prevent us from making peace or at
2 least getting the Albanian Kosovars to sign.

3 And so, yes, to answer your question, precisely - I'm sorry for
4 going on, Your Honour, but it's complicated - we understood there
5 were struggles going on and we were trying to figure out how to get
6 to yes.

7 Q. Thank you.

8 MR. MISETIC: Mr. President, I tender DHT12047 to DHT12049.

9 PRESIDING JUDGE SMITH: Any objection?

10 MR. PACE: No.

11 PRESIDING JUDGE SMITH: DHT12047 to DHT12049 is admitted.
12 Please assign it a number.

13 THE COURT OFFICER: Your Honours, that will be assigned
14 Exhibit 1D369.

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. MISETIC: May I proceed, Mr. President? May I proceed?

17 PRESIDING JUDGE SMITH: Yes, go ahead.

18 MR. MISETIC: Thank you.

19 Q. Mr. Rubin, you were asked at the end of yesterday's testimony at
20 pages 26626 to 26628, questions by the Prosecutor about whether
21 arming the KLA would undermine the support of other NATO countries to
22 send in ground forces in a permissive environment. Do you recall
23 that line of questioning?

24 A. I do.

25 MR. MISETIC: I would like to ask the Court Officer to please

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1 call up 1D120, please.

2 THE COURT OFFICER: I'm not finding it in any of the queues,
3 but --

4 MR. MISETIC: I think it's in our original queue. Oh, I'm
5 sorry. I read out the wrong number. 1D120. The transcript says
6 1D102, so I don't know which one you pulled up.

7 Madam Court Officer, we see it in our queue, and the ERN, if it
8 helps, is DHT01465 to DHT01467. Yes, that's it.

9 THE WITNESS: Ah, okay.

10 MR. MISETIC: Yeah.

11 Q. Mr. Rubin, you discuss this document in your witness statement
12 in paragraphs 65 and 66. My question to you is this document says --

13 MR. MISETIC: And if we can scroll down to the third paragraph,
14 please. Yes.

15 Q. It says:

16 "Moreover, as there is no political structure in Kosovo or
17 effective command and control of the KLA, it would take many months,
18 if not years, to organise them to use and maintain any military
19 assistance the United States would provide."

20 Now, was this an effort to mislead Senator McConnell with the
21 real reason for not arming the KLA being to not break NATO unity?

22 MR. PACE: Objection, Your Honour, leading.

23 MR. MISETIC: It's a --

24 PRESIDING JUDGE SMITH: Overruled.

25 Go ahead. Answer.

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1 THE WITNESS: Absolutely not. We would never mislead the
2 Congress.

3 MR. MISETIC:

4 Q. Okay. So can you tell us, how do we reconcile the fact that
5 Secretary Albright may have mentioned that one of the reasons not to
6 arm the KLA was to maintain NATO unity and the official position of
7 the Clinton administration, that one of the additional reasons is
8 that there is no effective command and control of the KLA?

9 A. Context is the answer. We're meeting with a leader -- a leading
10 official, representative of the KLA. We don't want to tell them that
11 they don't have a good organisation, and we don't want to tell them,
12 you know, "the reason why we don't want to arm you is because it
13 would take years for you to have an organisation that would be able
14 to receive effective armaments," because that's insulting to a person
15 who's fighting for their lives in a war.

16 And so like many things, there's often many reasons you say and
17 do things, and sometimes you choose a rationale that's easier to the
18 interlocutor to hear and to swallow, without insulting them. So to
19 tell the KLA "we don't want to give you weapons while your people are
20 getting slaughtered because you're disorganised" wouldn't be very
21 nice. But to tell them that "we can't give you weapons right now
22 because it would damage unity" is what a chief diplomat would say.

23 Q. Thank you. Now, putting that answer to this letter, would you
24 also withhold or spin the truth to -- would the State Department spin
25 the truth to the chairman of the foreign operations committee of the

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1 Senate?

2 A. Not in my experience. I bet it's happened, but not in my
3 experience in government. We went to extraordinary lengths to try to
4 be as precise and accurate and responsive as possible. And here
5 we're making a judgment about an argument to arm the KLA and telling
6 them that we don't think this is a good idea because there's no
7 political structure or effective command and control, it would take
8 so long to do so. Meanwhile, the slaughter would continue.

9 So we're making our best judgment, using all the resources of
10 the US government, of an assessment of the KLA's political structure
11 and whether it has effective command and control, and we did not
12 believe it did. We did not believe that arming them would be a good
13 idea, and one of the main reasons for that was because there was no
14 effective command and control of the KLA.

15 Q. Thank you. I'd like to turn your attention to some questions
16 you were asked this morning about some newspaper articles that were
17 published in *The New York Times* and cnn.com on 19 June 1999. Do you
18 recall those questions?

19 A. Yes, I do.

20 Q. And those questions concerned reporting on an incident with
21 German KFOR troops finding people who had been detained and
22 mistreated. Do you recall that?

23 A. I do.

24 Q. Do you recall the date on which Mr. Thaci returned to Kosovo?

25 A. I recall the signing of the agreement, the demilitarisation

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1 agreement, and being -- him being flown in to Kosovo, Prishtine, with
2 me on that date. Where he was during the negotiations in the
3 mountains, moving around, I didn't know. So I know that he joined me
4 in Prishtine at KFOR headquarters and then at a press conference in
5 Prishtine, and it felt like this was his return to Prishtine,
6 certainly. Where he was in those other days, I just don't know.

7 Q. And the date you returned, again, is 19 June; is that correct?

8 A. The date of, correct, the signing.

9 Q. Well, the signing would have been the 21st.

10 A. Right. So -- oh, the date that I returned or he returned?

11 Q. The first day that you went into Kosovo --

12 A. Correct. Yes.

13 Q. -- was the 19th?

14 A. Correct.

15 Q. How did the incidents reported in *The New York Times* and *cnn.com*
16 affect what you observed of Mr. Thaci's influence among military
17 commanders?

18 A. I observed something unique that I don't think any outsider ever
19 observed other than me, and that was Mr. Thaci's interaction with the
20 sector commanders in the mountains for those three days. I don't
21 believe any outsider other than me and my -- the people with me ever
22 saw the interaction between Mr. Thaci and the sector commanders or
23 the leaders -- the real military leaders. Because if I had known
24 that somebody else had seen that and reported it, I would have had a
25 better understanding of the structure of the KLA.

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1 And the reason I'm so confident that he wasn't the military
2 leader of the KLA is because I was uniquely able to observe that for
3 three long days. Not just once, not just a snapshot, not just a
4 cable, not just a news report, but actually observe it over a 72-hour
5 period, the power dynamic between him and the other KLA sector
6 commanders. Meaning, the sector commanders, because he wasn't one.

7 And so seeing that told me where he stood in the system,
8 dramatically, clearly, by my own eyes and my ears and my
9 observations. So everything else I read or saw or was rumour --
10 RUMINT we call it, rumour intelligence, I put into that context. So
11 whenever I heard something said that he ordered killings of leaders
12 of blah, blah -- I said no. I saw the way that structure worked. He
13 couldn't order anything to those commanders.

14 And so that's why I'm so confident that these charges in that
15 newspaper, these claims, are false.

16 Q. In addition to the questions about these incidents that were
17 reported on 19 June, you were asked questions by the Prosecutor today
18 about your comments at your briefing on 25 June 1999 that you did not
19 have information to suggest that the KLA leadership was responsible
20 for executions. Do you recall those questions --

21 A. I do.

22 Q. -- this morning?

23 MR. MISETIC: I would like to call up Exhibit 1D175, please.

24 Q. Mr. Rubin, this is a State Department report published in
25 December 1999. And as you can see on the screen, the title of the

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1 report is "Ethnic Cleansing in Kosovo: An Accounting."

2 MR. MISETIC: And if we could go to page 2 of this document in
3 the bottom left-hand column, please.

4 Q. And I'll just read the paragraph. This is the State Department:

5 "The Roma population" --

6 And this is now talking about the summer of 1999:

7 "The Roma population has also been the focus of retribution,
8 being accused of collaborating in the expulsion of Kosovar Albanians.
9 Historical animosity against the Roma community has also played a
10 role. A July 20 statement condemning attacks on Serbs and Roma was
11 released by the former UCK [or KLA] leadership, and former UCK,
12 [KLA], leader Hashim Thaqi publicly denounced the July 23 Gradsko
13 attack."

14 And then this sentence:

15 "There is no evidence that the former UCK [or KLA] leadership is
16 orchestrating the violence. On the other hand, Kosovar Albanians
17 have neither identified the perpetrators of these crimes, nor has the
18 condemnation of these abuses by leaders of the Kosovar Albanian
19 population been as broad, sustained, or" - if we can go to the top of
20 the next page - "effective as the circumstances warrant."

21 Now, the sentence, "There is no evidence that the former KLA
22 leadership is orchestrating the violence," was that your opinion or
23 the official opinion of the State Department, or assessment, I should
24 say?

25 A. This is a very formal document prepared by the State Department.

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1 I would have only been involved in being aware of it, reading it,
2 looking at it, maybe I edited it, I doubt it. So this would have
3 been as formal a State Department view, and it would have been
4 written by the human rights bureau, the war crimes people, the
5 population people, and the regional bureau. So it would have been a
6 combined effort of the experts at the State Department of our
7 assessment of these human rights issues. And the title "Ethnic
8 Cleansing in Kosovo" is about the Serb ethnic cleansing in Kosovo,
9 and, obviously, it includes Serb forces ethnic cleansing.

10 So it includes these charges. This particular sentence is a
11 definitive statement: There is no evidence.

12 Q. And is that definitive statement of the State Department in
13 December 1999 consistent with what you found when you did your own
14 investigation in June 1999?

15 A. Exactly. I, again, always tried to the best of my ability to
16 look into these allegations. And if I didn't find anybody to say
17 there's any proof, I said there's no evidence.

18 Q. Thank you. Mr. Rubin, you were asked several questions about
19 the work you've done for Ballard as well as your criticism of the
20 Prosecution in this case. I'm sure you recall those questions.

21 A. Yeah, I do.

22 Q. Can you tell us how the work you did in 2019 and 2020 and any
23 statements you made after 2020 impacted what you wrote in the
24 *Financial Times* in 2000.

25 A. They would not have impacted anything that I wrote in 2000

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1 because I wrote it in 2000.

2 Q. Okay.

3 A. And so, as they say, the answer is in the question. I had
4 knowledge at the time of what transpired in Kosovo in my presence. I
5 wrote about them at the time. Then later, I learned things, did
6 things, worked, and said things.

7 Q. Okay. How did your work for Ballard or any comments you made
8 about this case impact your assessment at Rambouillet of Mr. Thaci's
9 authority?

10 A. Not at all.

11 Q. How did your work for Ballard or any comments you made after
12 2020 about this case affect your assessment of Mr. Thaci's authority
13 when you were in Kosovo in June 1999?

14 A. Not at all.

15 Q. I'd like to show you one additional video on this topic.

16 MR. MISETIC: If we could please have DHT12046 to DHT12046, plus
17 the transcript which is DHT12046 to DHT12046-TR.

18 Q. Do you recall, Mr. Rubin, you moderating a round table at The
19 New School in New York sometime earlier this decade?

20 A. I do. Not precisely every sentence, but I recall the event.

21 Q. Yes, and the event was titled "Kosovo: The Hazards of
22 Intervention and State-Building." Do you recall that?

23 A. Yes.

24 Q. I would like to play your comments.

25 MR. MISETIC: If we could begin at the -- we're going to jump

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1 around just to save some time because there's some extraneous
2 comments in between the two clips I want to show. But if we could
3 start at the 51:09 minute mark, please.

4 MR. PACE: Your Honour, before we do that, could we have a date
5 for the cite. There was reference to "earlier this decade." Can we
6 have some more specificity, please?

7 MR. MISETIC: We'll look that up but it doesn't need to wait for
8 the date. So we'll provide it in due course.

9 PRESIDING JUDGE SMITH: We have the starting point. You didn't
10 tell us the end point.

11 MR. MISETIC: Well, it's going to go to 52 -- approximately to
12 52:40, and then we'll pick up back again at 53 minutes. Actually, we
13 can just play it then. We don't need to stop and start.

14 THE COURT OFFICER: I'm sorry, the clip seems to have six
15 minutes.

16 MR. MISETIC: Oh, then it's not the full clip. Sorry.

17 THE COURT OFFICER: There's no 51 minutes in it.

18 MR. MISETIC: Then we can just play the clip. That's even
19 easier. My team did better than I thought.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. MISETIC: The whole thing. And for the record -- I
22 apologise. The date -- and I was incorrect. The date of this is
23 16 February 2011. Yes.

24 [Video-clip played]

25 "... seriously, it's in the interest of everybody to have

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1 clarity on this. Is this true, is this not true, but some kind of
2 conclusion need to be reached.

3 "This is a report by Dick Marty, the Swiss parliamentarian to
4 the Council of Europe, that alleges the prime minister of Kosovo,
5 Thaci, and members of the KLA were involved -- were the ringleaders
6 of an organ trafficking criminal organisation. Just to specify --

7 "It's a bit the issue of the day.

8 "Yes, and you know I looked into that because I had a feeling
9 somebody would bring that up. And -- and I know that my relationship
10 with Mr. Thaci was something that was criticised at the time by some
11 of the realists in the State Department and the international
12 community, because, unlike Mr. -- Dr. Rugova, he was a younger member
13 of the Kosovar liberation army's negotiating team, and he was
14 associated with people from the villages rather than from the cities,
15 and there were many other factors in play. And I've been interested
16 to see that over time each one of the American representatives at
17 some point I've gotten in touch with, because they know I know him,
18 and every time the reports, and I'm just asking now, because I'm out
19 of government, is that the political evolution was extremely positive
20 and exactly what the United States Government hoped and expected in
21 terms of the political evolution of a party and a young man becoming
22 a political leader and all of that. Meanwhile, always the same
23 background talk about crime and drugs and bad things, which everyone
24 talks about as if they know for sure that it's true but no one ever
25 gives you the actual proof. It's one of those weird things in the

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1 Balkans. Everybody is absolutely sure, but when you ask an
2 individual for the proof, well -- there's an article in the *London*
3 *Review of Books*, there was an account by the international criminal
4 tribunal, they looked into these allegations that -- at least some of
5 them, and they declared there to be no evidence for them and stopped
6 their investigation. Whether this particular Mr. Marty has
7 objectivity and bias or not, I don't know, but some people seem to
8 think so. So I really don't know about this.

9 "But what I do know is that at the political level, in terms of
10 the behaviour of the Kosovo Liberation Army, I was invited in to meet
11 with many of them at the time of the war's ending, and all of the
12 same people who now say with great confidence about organ trafficking
13 and crime and drugs said there's no way these guys will disarm,
14 they've just won the war. And they disarmed. They negotiated an
15 agreement, and by and large, they met the requirements of
16 General Jackson who wanted -- and was quite cynical himself about it.
17 He's become a friend of mine and we've talked about this extensively.
18 And I think it's -- I've checked this statement, and nobody's yet
19 proven it not to be true, so I'll try it here. The fastest
20 demobilisation of a victorious rebel army, so to speak, in the
21 history of modern warfare. And that has not, again, yielded any
22 change in the confidence that some people have of the deep, dark
23 conspiratorial evils lying beneath the surface which pop up every
24 once in a while. And do I have any doubt that there are people
25 connected with the party of Mr. Thaci or other parties who are

1 connected in that society? When the word 'connected' is one of those
2 incredible words with these tribal structures and family clans and,
3 you know, this is tough stuff to penetrate. Are there -- is there
4 crime, is there corruption, is there activity like that conducted by
5 people associated with the prime minister? I'm sure there is. But
6 why this has to always come up in the context of challenging the
7 legitimacy of a free election in a part of the world where there are
8 limitations on what we can achieve as outsiders in that society.
9 We've asked them to make certain commitments to the fellow Serbs who
10 live in that area, they've made them. We've asked them to do certain
11 things, they've done them. But can we change the whole mentality of
12 this 90-plus per cent Albanian population towards the people they
13 regarded as oppressors for so long? I doubt it. That doesn't mean
14 we shouldn't try, but it does mean we should be realistic, and it
15 does mean that we should stop assuming that we know who's a criminal
16 and who's not until we actually have evidence. And so I think
17 Mr. Marty would do well by the world to provide some of this missing
18 evidence for his rather outrageous charges.

19 "And, in fact, I will -- I suggest everyone to read the report I
20 just -- in its entirety. And to the students, I would say this is a
21 real example on how not to write anything. It's really a quite --
22 there's a lot of mentions of witnesses but absolutely no evidence.
23 But most of the report is an indictment of the KLA that is described
24 as a completely criminal organisation in which maybe some fought to
25 defend their families and the country, but the majority were all

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1 criminal. And that's quite -- don't ever do that, because it's
2 actually -- it was just an assumption. But buying -- let's buy, for
3 a second, into the conspiracy theory, that this sort of ..."

4 MR. MISETIC: I was just waiting. I thought there would be
5 interpretation, but I guess there isn't.

6 Q. Mr. Rubin, first, you, in answer to the Prosecutor's questions,
7 said that you had been looking into and following allegations for --
8 I believe you said for 25 years; correct?

9 A. Yes.

10 Q. You here indicate in this video that you have some knowledge of
11 a report that was prepared by someone named Dick Marty. Do you have
12 any knowledge of what the allegations were?

13 A. Yes, I do.

14 Q. Do you know why this Court was established?

15 A. I believe this Court was established at the request of European
16 and American, maybe European leaders, to the Kosovo government.

17 Q. And do you know what it was supposed to look into?

18 A. I don't.

19 MR. PACE: Your Honour, at this stage I'm going to object to
20 this line of questioning both in terms of relevance and also about
21 not arising from cross-examination. I did not go into the creation
22 of this Court in my cross-examination, so this does not arise
23 therefrom.

24 PRESIDING JUDGE SMITH: That's correct.

25 MR. MISETIC: I'm sorry, it does, and it's directly related

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1 to --

2 MR. PACE: Your Honour, you've ruled --

3 MR. MISETIC: Excuse me, can I --

4 PRESIDING JUDGE SMITH: Go ahead.

5 MR. MISETIC: Yeah. He didn't rule, actually.

6 They've gone into this witness's criticism, and I assume that
7 the only relevance that criticism would have is as to the
8 witness's -- the reliability of his evidence. Correct? So if that's
9 the case, then the witness should be given an opportunity to explain
10 the foundation of any criticism he's made. And if that criticism is
11 justified, then it doesn't affect the reliability of his evidence.

12 PRESIDING JUDGE SMITH: All right. Go ahead.

13 The objection is overruled.

14 MR. MISETIC:

15 Q. Now, are you aware of what allegations this Court was founded to
16 look into?

17 A. I didn't read the original dictate but --

18 PRESIDING JUDGE SMITH: Just a second. Witness, answer "yes" or
19 "no" first. Then if he wants more questions, he'll do it.

20 THE WITNESS: Please repeat the question.

21 MR. MISETIC: Yes.

22 Q. Are you aware of what allegations this Court was founded to look
23 into?

24 A. No.

25 Q. Do you know ultimately what happened with Mr. Marty's

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1 allegations?

2 A. I believe it never got anywhere.

3 Q. Thank you. And does this -- what you say on this video, is this
4 consistent with the fact that you said you've been following along
5 what's been happening in terms of allegations against the KLA almost
6 from the end of the war to today?

7 A. I need to say more than yes or no, sir, please.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 THE WITNESS: So reframe it. I don't know which I'm supposed to
10 say, yes or no.

11 MR. MISETIC:

12 Q. Sorry, it's a bad question. You say on this video that you were
13 aware of allegations that have been made about drugs, about organ
14 harvesting, et cetera, and this video is from 2011. And I believe
15 you indicate on the video that you actually tracked what was going on
16 in terms of allegations against the KLA; is that correct?

17 A. Yes.

18 Q. And did you track allegations against the KLA from the war until
19 today?

20 A. As best as I could, yes.

21 Q. Thank you.

22 MR. MISETIC: Mr. President, I will tender the video as - one
23 second, please - DHT12046 to DHT10246, plus the transcript.

24 PRESIDING JUDGE SMITH: The entire video?

25 MR. MISETIC: I can't cut it now, so ...

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1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. MISETIC: Yes, yes.

3 PRESIDING JUDGE SMITH: DHT12046 to 12046 plus the transcript.

4 Do you have any objection, Mr. Pace?

5 MR. PACE: No.

6 PRESIDING JUDGE SMITH: That video plus the transcript will be
7 admitted.

8 THE COURT OFFICER: Your Honours, that will be assigned
9 Exhibit 1D370.

10 MR. MISETIC: Thank you.

11 Q. Mr. Rubin, thank you for answering our questions. I appreciate
12 it.

13 MR. MISETIC: Mr. President, thank you. That concludes my
14 redirect.

15 PRESIDING JUDGE SMITH: All right. It would appear we're
16 finished, but we're not. The Judges have some questions as well.

17 THE WITNESS: Okay.

18 PRESIDING JUDGE SMITH: So please give them your attention.
19 We'll begin with Judge Barthe, who is to my left, your right.

20 JUDGE BARTHE: Thank you, Mr. President.

21 Questioned by the Trial Panel:

22 JUDGE BARTHE: Good afternoon, Mr. Rubin.

23 A. Good afternoon.

24 JUDGE BARTHE: Good afternoon. As the Presiding Judge just
25 said, the Panel has a few more questions for you to better understand

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1 your evidence. And for that purpose, I would like to go through your
2 statement, the statement that you gave to the Defence in March 2025
3 and through some other documents in order to clarify some issues that
4 are still not entirely clear to us.

5 I would like to start with paragraph 24 of your statement, which
6 reads as follows, and I quote:

7 "At some point during the conference," and this is a reference,
8 you're talking about the Rambouillet conference, "Mr. Thaci shared
9 with me his worries that he did not have full authority to sign on
10 behalf of the KLA without approval. This is when I started to
11 realise that he was more of a public face for the KLA to present to
12 the West and that he was not in charge. Frankly, we were not sure
13 who Thaci needed to get approval from. Some thought it was
14 Adem Demaci. All we knew was that it was the military that had to
15 make the decision and that they were not among those present at
16 Rambouillet. What was clear from what Thaci was telling me was that
17 he had to go back home and get approval from all these different
18 groups, or clans."

19 Mr. Rubin, my first question is this: How did you know that it
20 was the military that had to make the decision? Did Mr. Thaci tell
21 you this at Rambouillet?

22 A. Your Honour, as best as I remember, that was an assumption on my
23 part. So he didn't specify who he had to get approval from, but I
24 knew that the KLA had a so-called military wing, and without their
25 agreement to the peace agreement, it wouldn't work. And so that, I

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1 believe, was an assumption on my part, not a direct communication
2 from him.

3 JUDGE BARTHE: Thank you. And could I ask you to clarify what
4 you meant by "different groups, or clans." To which group or clan
5 were you referring to here?

6 A. I think what I -- I didn't mean any specific clan. I was trying
7 to communicate that the structure of the Kosovo leaders and the
8 decision-makers in a society we didn't understand well needed
9 political ideologists, needed military people such as the KLA were,
10 and what I called clan leaders, because I understood their society to
11 be oriented around families, elders, and the older people as crucial
12 decision makers, and that's what I was signalling by "clans," but not
13 any specific clan.

14 JUDGE BARTHE: I understand. Thank you.

15 Mr. Rubin, in the following paragraph, this is paragraph 25 of
16 your statement, you are talking about Mr. Thaci being threatened for
17 making too many concessions and that you recall him telling you his
18 constraints. Do you remember saying this to the Defence?

19 A. Yes.

20 JUDGE BARTHE: Can you please be a bit more specific, starting
21 with what kind of threats were made against Mr. Thaci and who
22 threatened him, if you know.

23 A. Yes. I need to be as clear as I can. I never had personal
24 evidence from any special source that he was threatened. Rambouillet
25 was a hot-house environment. People were always saying things.

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1 Sometimes they were true, sometimes they weren't true. He was a new
2 person for me. And it was clear to me that other members of the
3 American delegation would tell me things about the KLA or the Kosovar
4 Albanians, and this was a new experience for me to be immersed in
5 their internal functionings.

6 And so I would try to remember that someone on my team said he's
7 been threatened, or someone on my team say he's scared, and then I
8 would talk to him and try to figure out whether that was true. He
9 never told me who threatened him, but it was a general assumption
10 that he was nervous, and that's why his movements in and out of the
11 castle were very careful. And I recall him telling me how hard it
12 was for him to get in and out of Kosovo climbing through the
13 mountains for protection.

14 So I think that was - how should I put this? - a generalised
15 fear. And the threats were mostly from the Serb forces who had, I
16 believe, a death sentence against him at some point. I don't know
17 whether that was at Rambouillet. But we understood that the Serbs
18 didn't -- would -- his safety was threatened by the Serb military,
19 the Serb leadership.

20 JUDGE BARTHE: I'm sorry, I was listening to you with one ear
21 and listening to the Presiding Judge with the other.

22 A. I do that too all the time.

23 JUDGE BARTHE: Thank you. Mr. Rubin, did Mr. Thaci use the term
24 or anyone use the term "threatened"?

25 A. Yes. People in the American delegation used that term as I

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1 recall it. He was a very dignified man, and I don't think he wanted
2 to tell me personally that he was threatened by a specific threat.
3 But the climate was that he was threatened by Serb military forces,
4 and that made him have to travel very carefully.

5 JUDGE BARTHE: I understand. Thank you. And could you tell us
6 what exactly were the concessions Mr. Thaci made during the first
7 round of negotiations in Rambouillet?

8 A. Well, the Rambouillet accords, for those who actually read them,
9 were extensive and had a lot of detail in them, including allowing
10 NATO to be the dominant military security structure in Kosovo. And
11 that would go against the idea that the KLA was providing security to
12 the people of Kosovo. So that in its basic form is a concession.

13 Secondly, by agreeing in principle, I believe that what he had
14 done was say yes in principle to the accords. Those accords didn't
15 have a guarantee of the independence of Kosovo in them. They merely
16 said or -- or we indicated there would be an expression of the will
17 of the people in three years, I believe. So independence was a
18 concession, and that was a big deal.

19 JUDGE BARTHE: So after the first round of negotiations, the
20 conference in Rambouillet was suspended, and you met again around two
21 or three weeks later in Paris for a second round of discussions; is
22 that right?

23 A. Yes.

24 JUDGE BARTHE: And then ultimately - and I'm referring to
25 paragraph 27 of your statement now - the Kosovo Albanian delegation

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1 signed the agreement on 18 March 1999 while the Serb delegation
2 refused to sign; is that right?

3 A. Yes. Yes.

4 JUDGE BARTHE: Thank you. My next questions, Mr. Rubin, are
5 about your interactions with Mr. Thaci during the NATO bombing
6 campaign or the NATO bombing from March to June 1999. And what is
7 recorded in paragraph 27 of your statement where you said, according
8 to that statement, the NATO air strikes began on 24 March 1999. And
9 during the bombing campaign, you were often in contact with
10 Mr. Thaci. The campaign lasted 78 days, and you believe that you
11 spoke somewhere between 10 to 14 times during that time. And the
12 purpose of these calls was to exchange information about what was
13 going on or what was happening on the ground since you had no embassy
14 or other information from the scene, and you welcomed any chance of
15 getting real-time -- or credible real-time information as to what was
16 happening.

17 Is that what you --

18 A. Yes.

19 JUDGE BARTHE: -- told the Defence in --

20 A. Yes.

21 JUDGE BARTHE: -- March this year? Mr. Rubin, do you know where
22 Mr. Thaci was during the telephone conversation? Was he in or
23 outside Kosovo?

24 A. I believe he told me that he was often - not every time but
25 often - inside Kosovo in hiding, trying to prevent himself from being

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1 killed, and helping with his organisation's help for the people of
2 Kosovo. I think he told me he wasn't always there, but I think he
3 was mostly there, inside Kosovo. Mostly.

4 JUDGE BARTHE: Thank you. And how were these telephone calls
5 made, by satellite phone?

6 A. Yes, he had a satellite phone, and he would call the
7 State Department operations centre, usually at a certain time in the
8 morning, I think, and they would patch him through to me.

9 JUDGE BARTHE: And did you also call him?

10 A. No.

11 JUDGE BARTHE: No. And --

12 A. I didn't have his phone number.

13 JUDGE BARTHE: I understand. Was Mr. Thaci able to give you the
14 information you were looking for directly, or did he tell you that he
15 had to get the information from others first?

16 A. I should say that I was the recipient of information, not the
17 asker of information. So the calls usually started with me asking if
18 he was okay, was he safe, was his family safe, you know, very
19 personal things. And then I tried to get from him information about
20 what was going on on the ground. At this time, I was generally aware
21 that there might be other people in the US government communicating
22 with the KLA, but I wasn't aware of the specifics of that. And these
23 were mostly reports of the civilian suffering inside Kosovo. By and
24 large, that's what he told me.

25 And I should add, to be as accurate as I can, sometimes he was

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1 wrong. That he would receive a report, be told something, we'd check
2 it out, and it wouldn't be true. But we wanted to receive the
3 information so I could communicate it. If I thought it was something
4 that seemed unlikely, I then didn't communicate that at my briefing.
5 So I tried to edit what I reported to the media from these
6 conversations.

7 JUDGE BARTHE: Thank you. And did Mr. Thaci tell you where he
8 got the information from, the reports from?

9 A. No.

10 JUDGE BARTHE: Did he mention something like ZKZ or an
11 intelligence or counter-intelligence directorate?

12 A. No. Let me rephrase that, Judge. He might have said once in
13 reference to their organisation. Remember, and with respect to all
14 concerned, they were trying to impress us with their organisation,
15 and we weren't very impressed. So often he would try to impress us,
16 as often all the KLA leaders did, but we weren't easily impressed as
17 Senator Biden's remarks that were made earlier indicated. I was
18 probably more impressed, but I wasn't that impressionable, and so I
19 knew that sometimes he was making it seem like they were a more
20 formal entity with more formal capabilities, whether that was
21 intelligence or military or political, that I knew really were, as
22 often happens in politics, you know, a little overstated.

23 JUDGE BARTHE: And, Mr. Rubin, do you know now whether the KLA
24 had an intelligence and counter-intelligence directorate?

25 A. I don't know. Specifically, I never -- I mean, that word is one

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1 of those words I try to steer away from because it's kind of -- can
2 be misunderstood. I mean, did they have -- did they try to gather
3 information? Did they have units who were gathering information?
4 Yes. Did they have units who were making sure their people weren't
5 giving away information, counter-intelligence? Yes. But was it a
6 real unit, the way we would call such a thing a unit? I didn't think
7 so at the time.

8 JUDGE BARTHE: And now?

9 A. Well, as their country has evolved, I should certainly hope so.

10 JUDGE BARTHE: Thank you. My next question or questions are
11 about paragraph 30 of your statement.

12 In this paragraph you talked about the undertaking of
13 demilitarisation and transformation by the UCK, or the KLA. And you
14 said that, according to that paragraph, that the negotiations were
15 conducted by the British, and that you received a phone call
16 informing you that General Reith had been talking to the generals, or
17 the leaders of the KLA as Reith described them. And you were also
18 informed that the leaders did not want to sign and wanted Mr. Thaci
19 to sign as he was the public face of the KLA who interacted with the
20 West in Rambouillet and spoke internationally.

21 Do you remember saying this to the --

22 A. Yes.

23 JUDGE BARTHE: -- Defence? Do you know, Mr. Rubin, who
24 General Reith meant by the generals or leaders of the KLA? Did he
25 mention a specific person or persons by name?

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1 A. No. But later, I should say, it became apparent to me that he
2 had a relationship with Agim Ceku and described him to me as the
3 commander-in-chief of the KLA. That's what General Reith told me.

4 JUDGE BARTHE: But that came up later?

5 A. Correct. At the time I didn't know that and didn't hear any
6 names, initially.

7 JUDGE BARTHE: Thank you. I have further questions in relation
8 to paragraph 32. In that paragraph 32 of your statement, you
9 discussed or you mention meetings you had with Mr. Thaci and others
10 that led to the signing of the undertaking of -- or the undertaking
11 in June 1999. You said that you had the impression that Mr. Thaci
12 was separate from the KLA generals. "It was not like [Mr.] Thaci was
13 going to get 'one of his guys' each time we asked for something.
14 That was not their relationship." And you said that have seen or you
15 had seen vertical power structures in the past in the Balkans, but
16 this was not, in your view, a vertical power structure.

17 And you said at the end of this paragraph:

18 "Anytime something needed to be changed, [Mr. Thaci's] response
19 was, 'Ok, I have to ask them.'"

20 Then you would have to give him, give Mr. Thaci reasons to help
21 persuade them, the generals I assume. And in your view he was --
22 Mr. Thaci was absolutely not able to tell them what to do. Is that
23 right? Did you tell this --

24 A. Yes.

25 JUDGE BARTHE: Did you tell this to the Defence? Did Mr. Thaci

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1 tell you why it was so difficult to persuade the generals?

2 A. That's a good question. As I recall it -- I've never actually
3 thought that through. Let me do so now. I do believe he tried to
4 explain that they were feeling victorious as generals of an army.
5 Even though we didn't consider it that, he communicated it as if they
6 were an army. And victorious generals were being asked to give up
7 their weapons. That was hard.

8 And so he was constantly explaining those difficulties to me for
9 people who, one, normally were armed and were specially armed in this
10 war, and now were being asked to disarm. And I think he explained
11 that that was hard.

12 JUDGE BARTHE: And, Mr. Rubin, if I may add that not only that
13 they were -- or had to disarm, that probably they would all lose
14 their positions and ranks; right?

15 A. He didn't say that, but I think that was implicit. But yes.

16 JUDGE BARTHE: So this was not really surprising --

17 A. Right.

18 JUDGE BARTHE: -- I guess to you?

19 A. Right. Right, that it's hard to give up -- I'm glad you said
20 that, because I've been in other parts of the world where disarmament
21 was a problem for that reason. In Cambodia, in El Salvador, other
22 places in the world, I'd seen the difficulty of demobilisation for
23 those soldiers and generals who had power and would lose power if
24 they demobilised, which is why we tried to come up with something in
25 the middle, which was this protection force. And, thus, the detail

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1 of the negotiation was about what would a protection force be? Would
2 it have uniforms? What would its job be? What would its weaponry
3 be, if any? And that was the halfway house between a military and
4 General Jackson's desire for a permissive environment in which the
5 KLA would be demobilised.

6 JUDGE BARTHE: Thank you. I think this is clear now.

7 Mr. Rubin, I now have some more questions about some of the
8 documents that were shown to you during your questioning or interview
9 with the Thaci Defence. I would like to start with a US cable of 15
10 February 1999. There is no need to bring it up. But that cable
11 reports on Secretary of State Albright's meeting with the Kosovo
12 Albanian and Serbian delegations in Rambouillet on 14 February 1999.
13 And you said in paragraph 37 of your statement that it was probably
14 your first meeting with Mr. Thaci, and that he was saying - Mr. Thaci
15 was saying - that they wanted to live side by side with the Serbs, or
16 with Serbs, and that he wanted democracy and was ready to sign an
17 agreement which was obviously very important.

18 I'm aware, Mr. Rubin, that, I think it was yesterday on page 57
19 of our realtime transcript, you were asked a similar question by one
20 of the parties, and you said -- or your answer was when you were
21 asked whether you -- I think it was Mr. Misetic who asked you the
22 question whether Mr. Thaci's -- or what Mr. Thaci said was --
23 Mr. Thaci's statements were genuine. You said:

24 "In our business, words are important, but actions are more
25 important. But words," you said, "But the words were a great start."

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1 Nevertheless, I would like to ask you did you believe what
2 Mr. Thaci told you on that first meeting, that they, the KLA, wanted
3 to live -- so the Albanians wanted to live -- Kosovo Albanians live
4 side by side by Serbs, that Mr. Thaci was interested or that wanted
5 democracy and was ready to sign an agreement? Did you believe that?

6 A. I believe he wanted an agreement. I believed he wanted
7 democracy, even though he spoke in a kind of a communist lingo at the
8 time. And remember this was translated, so it was hard to really
9 make an assessment.

10 So the side-by-side stuff, I knew that Kosovar Albanians had
11 been under extreme oppression for more than -- you know, decades, and
12 many, many thousands had been murdered, and so I knew he was saying
13 what we wanted to hear, and that was good. Did I believe him? I
14 think, to be honest, I believed him more and more as the years went
15 by because he showed that he followed his words with actions on all
16 these points, to me, even though he never -- the others doubted him.

17 And so I became more convinced of his sincerity when he made
18 statements as time went by. But in the beginning, I think that third
19 point I had my doubts.

20 JUDGE BARTHE: Thank you. Mr. Rubin, correct me if I'm wrong,
21 but if I'm not mistaken, you confirmed earlier today, this morning,
22 in response to questions by the Prosecutor or by the Prosecution that
23 you were aware of accusations of crimes or human rights violations by
24 KLA members against ethnic Serbs or other minorities at that time.
25 That is, in 1999.

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1 A. Yes.

2 JUDGE BARTHE: Is that right?

3 A. Yes.

4 JUDGE BARTHE: And did you -- this is my follow-up question.

5 Did you discuss these allegations with Mr. Thaci either in

6 Rambouillet or in Paris or later on?

7 A. To answer your question precisely, not in Rambouillet, not in

8 Paris, but later on.

9 JUDGE BARTHE: Can you be a bit more specific? When did you
10 discuss that? In 1999?

11 A. Yes. So I had an opportunity to go -- and the time I most
12 discussed this was, as I indicated to the Prosecutor earlier today, I
13 believe, I was sent to Kosovo to deal with an emerging threat in the
14 Presevo valley, and that was when I travelled myself as a leader of a
15 delegation.

16 The previous time we went to Kosovo and met with Mr. Thaci, it
17 was Madeleine Albright's trip and I was just a participant in her
18 dialogue, and she made the points about tolerance, about not
19 retribution, and about not retaliating against the perpetrators of
20 violence.

21 When I went myself later on, and he was in power in some form
22 then, I don't remember. It was more like a political leader than a
23 government, as I recall it, in the late spring if -- sorry, fall of
24 1999, and then I made those points to him. And I said, "Hashim, we
25 went to bat for you. We put our credibility on the line for you. We

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1 would look really terrible if you now visited upon the Serbs what the
2 Serbs visited upon you so horribly." And I made those points
3 publicly and privately, and I admitted that we would no longer be
4 able to support his cause if we saw that happening.

5 JUDGE BARTHE: And what was his response?

6 A. He assured me that he was going to do what he could within his,
7 you know, public statements and efforts to meet our expectations.

8 JUDGE BARTHE: Did he tell you whether in his view these
9 allegations were true, allegations of human rights violations or
10 crimes, even war crimes, committed by members of the KLA, or did he
11 say that these allegations were wrong?

12 A. I think it depended on the allegation. And so I think he did
13 admit that, yes, this was a war, and that in war things happen. But
14 then he might point to ones that we thought were wildly
15 exaggerated -- or, sorry, he thought were wildly exaggerated and Serb
16 propaganda, which often came up and often proved to be so. But I
17 think he acknowledged that things were happening that he knew about
18 or had heard about or had read about that he didn't dispute, but that
19 he understood that his relationship with me and Madeleine Albright
20 depended on him doing what he could to deter that, to speak out
21 against it.

22 Mostly what we were asking him to do was speak publicly, because
23 we felt, honestly, really, that these actions were the actions of
24 individual Kosovar Albanians whose families had been murdered or
25 family members had been murdered and would then retaliate. And most

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1 of our effort was directed towards him making public statements so
2 that the people wouldn't retaliate or commit retributive violence as
3 opposed to the organisation which we never had evidence was
4 conducting any organised violence. So we were talking about public
5 statements to deter retributive violence almost in -- that's what we
6 were doing.

7 JUDGE BARTHE: Thank you, Mr. Rubin. Did Mr. Thaci tell you
8 what he did or what he will do in the future to find out whether
9 these allegations were true?

10 A. I don't recall that. Mostly, as I think I just said, I was
11 asking him to make statements and he offered to do so, or he would
12 give me an example of a statement he'd make. We wanted him to make
13 more statements. There was a State Department document that Defence
14 counsel brought up asking for broader, wider, more consistent
15 statements. That was the objective of my diplomacy. I was not an
16 investigator. I was not a war crimes prosecutor. I was not a human
17 rights guy. So I wouldn't have brought up specific cases. I was a
18 diplomat urging a leader of a people to do those three words,
19 whatever they were again in the document, broader, more consistent,
20 more comprehensive exhortation to the people to not commit
21 retributive violence. That's what I would have done. And he would
22 have said, "I've done this, but I'll do that." And then I would have
23 said, "We really need it to be consistent, comprehensive, and broad,"
24 and he would have signalled, "Okay." And that would have been the
25 end of the conversation, most likely.

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1 JUDGE BARTHE: I ask you that question, Mr. Rubin, because
2 before making or publishing a statement, you have to have, at least
3 in my view, a factual basis upon which you make that statement
4 because there are -- as you've said before earlier this morning,
5 there might have been false allegations or maybe allegations that are
6 true at the end, but he never mentioned anything -- or did he mention
7 anything what he did in order to find out -- to get this factual
8 basis first before [Overlapping speakers] ...

9 A. I understand what you're asking me as a Judge and a legal
10 scholar, and I'm trying to distinguish between the work that you do
11 and the work that I did as a diplomat.

12 So as a diplomat, I'm asking him to make public statements to
13 exhort not to commit retributive violence. I'm not -- and there were
14 others who might have met with him, like a human rights lawyer or a
15 prosecutor or somebody that's saying: Case X, find out what
16 happened, say something about it. I never had that interaction with
17 him. Mine was at the high level: Work with KFOR, work with the UN,
18 make public statements exhorting your people not to commit violence,
19 and then later, don't let the Presevo valley blow up. Those would
20 have been my areas of responsibility as opposed to if one of the war
21 crimes folks or human rights team or others came and asked him about
22 specific cases and then asked him to make specific statements.

23 And I'm just trying to distinguish between what my role as I
24 recall it was as opposed to an investigator demanding information
25 about a problem or a charge or a case.

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1 JUDGE BARTHE: Mr. Rubin, I think I understood what you said,
2 but I was not asking you in your capacity as a diplomat. I was
3 asking you in your capacity as a witness today. And I just wanted to
4 know whether you had such a conversation in which Mr. Thaci told
5 you --

6 A. Thank you.

7 JUDGE BARTHE: -- that he did this or that in order to find out
8 what was going on on the ground or whether he -- you never had such a
9 conversation.

10 A. I don't believe so. I think mostly he would be giving me an
11 example of one that wasn't true as opposed to telling me what he did
12 about one that might be true. So he might admit that there were
13 problems. Then he might give me an example of a not true one and say
14 that he proved that wasn't true, and then I would go to the
15 exhortation. So I'm sorry, I don't recall anything specific like
16 that.

17 JUDGE BARTHE: Not a problem.

18 I think it's a good time for the lunch break.

19 PRESIDING JUDGE SMITH: We'll give you an hour-and-a-half lunch
20 break. We'll be back here at 2.30.

21 [The witness stands down]

22 PRESIDING JUDGE SMITH: I was about to adjourn. Just a second.
23 Gotta put my ears back on.

24 Yes, sir.

25 MR. MISETIC: Mr. President, we asked WPSO to have the next

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1 witness here and ready to go at 2.30. If you have any reason to
2 think we're not going to need him today, then if you could let us
3 know so that we can release him and have him here in the morning.

4 JUDGE BARTHE: [Microphone not activated].

5 I can't tell you now. I'm not willing to tell you now.
6 [Microphone not activated].

7 MR. MISETIC: I will have also questions as --

8 JUDGE BARTHE: [Microphone not activated].

9 MR. MISETIC: I guess all I'm asking for is if we have
10 permission to release the next witness --

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. MISETIC: Tomorrow. Great. Thank you.

13 PRESIDING JUDGE SMITH: So we're adjourned until 2.30.

14 --- Luncheon recess taken at 1.01 p.m.

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

16 PRESIDING JUDGE SMITH: Please bring the witness in,
17 Madam Court Officer.

18 [The witness takes the stand]

19 PRESIDING JUDGE SMITH: Judge Barthe will continue with his
20 questions.

21 JUDGE BARTHE: Thank you.

22 And good afternoon, Mr. Rubin. Welcome back. And as I said
23 before the lunch break, I have some more questions for you and hope
24 you don't mind.

25 A. Please.

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1 JUDGE BARTHE: Thank you. I would like to move on to paragraph
2 51 of your statement which reads as follows, I quote:

3 "The US was not prepared to commit to independence immediately,
4 which is what Demaci and other extremists wanted at Rambouillet. But
5 this was completely unrealistic and is precisely why Thaci was in
6 such a difficult position. People were saying that if Thaci was not
7 for 'true' independence, then he was not a true Albanian - he was a
8 traitor, almost."

9 My first question is the following, Mr. Rubin: When you say
10 "people," who are you referring to here?

11 A. Good question. I think I'm making a general point about my
12 recollection of the time of Rambouillet and my understanding of the
13 situation he was in. I think this statement was made a few months
14 ago, or I can't remember exactly when, but this year, and I'm
15 reflecting there my understanding of the situation in retrospect as
16 opposed to my understanding at the time, which was more about him
17 just getting approval and that it was hard. What I understood at the
18 time was this was difficult. There were those who wanted
19 independence, and the idea of true Albanian -- and I think I'm trying
20 to reflect a mood that I understood later as opposed to what I
21 understood at the time.

22 So I don't have any specific names. I think Demaci was an
23 example of that attitude.

24 JUDGE BARTHE: Thank you. And can I ask you why do you say "a
25 traitor, almost"?

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1 A. Well, I think it would be hard to call someone who had fought
2 and risked his life for his people a traitor. And so I'm trying to
3 distinguish between the extremist view, which is the only way to be
4 pure and not a traitor is to be for one thing, independence now, as
5 opposed to someone who's risked their lives as a leader of a cause
6 who is not for everything the extremist is for. So that's the
7 "almost."

8 JUDGE BARTHE: Thank you. Let me try to shift gears now and
9 move on to paragraphs 58 and the following paragraphs, where you were
10 shown -- or according to paragraph 58, you were shown a press
11 conference of US Envoy Robert Dole and Ambassador Chris Hill from 6
12 March 1999, and there's a reference to Exhibit DHT05165 to DHT05169,
13 according to which they went to Skopje, Mr. Dole and Mr. Hill went to
14 Skopje the day before to meet members of the Kosovo delegation to try
15 to convince them to sign the agreement. Mr. Dole said that Mr. Thaci
16 was not there where they tried to locate him.

17 And in paragraph 59, it is said that you recall this incident
18 when they could not locate Mr. Thaci. And this is when Secretary of
19 State Albright would call you and say, "What is going on with your
20 guy Thaci?" And Secretary of State, it is said here also in
21 paragraph 59, Albright did not want any mistakes. That is why she or
22 they sent you with Thaci to Paris, to make sure he would actually
23 sign, because they were worried about him.

24 My question again, do you recall saying this to the Defence?

25 A. Yes.

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1 JUDGE BARTHE: And can you tell us what the problem was? Why
2 were they worried about him? Were they afraid that something could
3 have happened to Mr. Thaci in the meantime or that he could change
4 his mind on his way to Paris, or what was the problem?

5 A. So I knew that Chris Hill was not friendly towards Mr. Thaci. I
6 knew that Chris Hill would come up with negative explanations for his
7 behaviour and make derogatory comments about Mr. Thaci to people in
8 the US delegation, to journalists, and I suspected he might have made
9 them to Senator Dole. And so the attitude expressed there is not
10 poor Mr. Thaci is missing because he's hiding from danger, but why
11 isn't he here when Senator Dole is here? And why isn't he behaving
12 like head of a government or some more responsible official? And so
13 I was aware that Chris Hill was a pernicious influence on the whole
14 situation, and so I would be trying to say, well, maybe there's a
15 good reason why he's not there, maybe he's trying to get there and
16 stuck in the mountains, maybe he's at risk. I don't know.

17 And so the idea of me going to Paris was based on her assessment
18 that if anybody could get -- in the US delegation other than her, who
19 couldn't just pick up all the time and go somewhere, that I was a
20 good choice for trying to encourage him to do what we wanted and what
21 he said he would do to me. Because he had told me that if we gave
22 him this extra time in the delay between Rambouillet and Paris, that
23 he would make his best effort to get agreement and come back and
24 sign. That was a kind of promise to me personally. And so she
25 thought a good way to make sure he signed was to have the person he

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1 promised it to go there. And, indeed, I went there. And, indeed, he
2 was ready to sign. And we had a very good talk, and I encouraged him
3 to behave as well as it could, and it worked and he signed.

4 JUDGE BARTHE: Understood. At paragraph 62, a Kosovo update of
5 10 March 1999, and this is -- Exhibit 1D271 is mentioned. That
6 update was issued by the US Bureau of European Affairs, and it refers
7 to an arrest warrant issued by the Serb authorities against
8 Mr. Thaci. And it is said here that you recall that there was,
9 indeed, such an arrest warrant against Mr. Thaci from the Serbs,
10 which is why you believe that Mr. Thaci had to travel through the
11 mountains and could not meet Mr. Dole earlier. And you believe that
12 Mr. Thaci told you that in Paris; is that right?

13 A. That's what I recall. And, again, that confirmed my worry that
14 Mr. Hill was giving a negative explanation for his absence, as if he
15 was irresponsible or not making himself available to Mr. Dole, when I
16 guessed - I didn't know - that there was a more legitimate
17 explanation for it. So when a legitimate explanation came about,
18 that was -- I was like, okay, well, that's a good explanation.

19 And so, yeah, I recall that there was a, you know, reason for
20 him to behave very carefully in where he travelled.

21 JUDGE BARTHE: And did you personally see the arrest warrant in
22 March 1999 or later?

23 A. No, it was something I heard about and believed to be true.

24 JUDGE BARTHE: Thank you. I'd like to move on to paragraphs 71
25 and the following paragraphs of your statement, and there Secretary

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1 of State Albright's book is mentioned and discussed with you. You
2 are shown some excerpts from this book, "Madam Secretary, A Memoir,"
3 DHT01462 to DHT01464.

4 And -- oh, no, I have to rephrase. I have another question.
5 I'm sorry, I have to ask another question first which is contained in
6 paragraph 70, maybe. I don't have to ask the other question after
7 that. It's about a memorandum, and you already talked about that
8 memorandum before of a telephone conversation President Bill Clinton
9 had with Mr. Thaci in June on the -- as it is said here, on 20 June
10 1999.

11 And you said, according to your statement to the Defence, that
12 you were having this -- or Mr. Thaci was having this telephone
13 conversation with President Clinton in a makeshift location, a tent
14 in the mud in Prishtine it is said here, and the communication
15 systems were not good. But Mr. Thaci was saying all the right
16 things, and that President Clinton, you said, was really impressed by
17 Mr. Thaci. And Mr. Thaci was talking about respecting minorities
18 while his own people had been mistreated for years. This is
19 contained in paragraph 70 of your statement.

20 I would like to know from you now, what do you mean by "all the
21 right things"? Is this a reference to democracy and respecting
22 minority and minorities' rights?

23 A. Yes, it is. I recall after -- so again, 20 years later, I'm
24 remembering the time, and I remember hearing though Sandy Berger, who
25 was President Clinton's National Security Adviser, that -- since

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1 didn't speak directly to President Clinton, that he was impressed
2 that he was talking to a leader of the KLA in a wartime environment
3 who his people had just suffered terrible killings and murders and,
4 you know, deportations and horrors. That even so, that he made a
5 point of saying, without prompting, I think, to President Clinton the
6 message that we wanted him to send to the world. And when you say
7 something to the President of the United States, that's a pretty
8 important thing to do.

9 And so President Clinton, I remember, told Sandy Berger that he
10 was impressed by that, and that being minimising retributive
11 violence, not responding to the damage done to the people of Kosovo
12 with retaliatory abilities now that the Serb forces had left or were
13 leaving Kosovo and NATO was going to take over and such retributive
14 violence could take place. And so President Clinton was impressed,
15 passed that on to Mr. Berger, who I recall told me about it.

16 JUDGE BARTHE: Thank you. And did Mr. Thaci, either before or
17 after this telephone call with President Clinton, tell you that there
18 were, in fact, problems with respecting minorities' rights in Kosovo
19 in June 1999 or before?

20 A. Right. He wouldn't bring it up. We would bring it up. He
21 would acknowledge that this was a difficult time for the people of
22 Kosovo. He wouldn't dispute that there was a risk of such violence.
23 And then he would offer to try to minimise it through his public
24 statements. And by saying this to President Clinton, and me
25 repeating what he said to President Clinton, I think I did later that

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1 day or the next day, I was trying to make sure to hold him to his
2 commitment to President Clinton.

3 JUDGE BARTHE: So correct me if I'm wrong, but you actually
4 brought it up?

5 A. Generally that would be the pattern, yes. I don't remember
6 exactly that day, but my recollection is that that was the pattern.

7 JUDGE BARTHE: And did Mr. Thaci confirm or actually tell you
8 that there were, in fact, problems with minorities?

9 A. He --

10 JUDGE BARTHE: Respecting minorities, I should say.

11 A. Yeah, he never disputed that this was going -- it was a problem,
12 it was going to be a problem, and then I think he would try to
13 explain why it was such a problem.

14 JUDGE BARTHE: Thank you. Mr. Rubin, again in an effort to
15 shift gears, I would like to ask you one or two more --

16 A. Sure.

17 JUDGE BARTHE: -- questions about what is recorded or reproduced
18 in your preparation note, Preparation Note 1, and more specifically
19 in paragraph 4 of that note.

20 And I would like to ask Madam Court Officer to bring up
21 Exhibit 1D266. This is DHT05125 to DHT05125 if I'm not mistaken.
22 And in the meantime, just for the record, the preparation note is
23 Exhibit 1D263. Yes, thank you.

24 Can you see it, Mr. Rubin?

25 A. Yes.

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1 JUDGE BARTHE: According to paragraph 4 of Preparation Note 1,
2 Mr. Rubin, you confirmed that you had seen this Situation Report
3 Number 33, if I'm not mistaken, and you said you were not aware of
4 Mr. Thaci's movements every day, so you would not know whether
5 Mr. Thaci went to Ljubljana as it is recorded here in -- or stated
6 here in the fourth paragraph. But the fact, you said, according to
7 your preparation note, the fact that Mr. Thaci had to visit
8 Adem Demaci in Ljubljana on 19 February 1999 was consistent with your
9 understanding that Mr. Demaci was one of the persons Thaci needed to
10 consult during the Rambouillet negotiations because Demaci was
11 ideologically strongly in favour of independence for Kosovo, which
12 was one of the issues that could not have been resolved at
13 Rambouillet.

14 Again, my question: Do you remember telling this --

15 A. Yes.

16 JUDGE BARTHE: -- or saying this to the Defence in preparation
17 session?

18 And I would like to ask you do you know whether Mr. Thaci was
19 actually required in any way to consult with Mr. Demaci or whether it
20 was more, let me say, a strategic or a politically motivated visit,
21 for example, to seek political advice of Mr. Demaci? I know that in
22 this situation report, it is noted that Mr. Demaci -- or Mr. Demaci
23 is called a political adviser of the KLA. Can you see that?

24 A. Yes.

25 JUDGE BARTHE: So I will repeat my question again because it was

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1 a bit compound. Do you know whether Mr. Thaci was required in any
2 way to consult with Mr. Demaci or whether it was -- it had other
3 reasons?

4 A. I want to be very responsive because you raised the title there.
5 This is a shorthand preparation from a situation officer in a
6 State Department operations room who is not an expert on any of these
7 subjects. So he's just writing down everything he can really fast so
8 that everyone can read it. And I would strongly urge no one to
9 regard that titling as meaningful because it was done probably very
10 quickly. That's the first point I would like to make. Political
11 adviser, KLA. The person who wrote that may or may not have been an
12 expert on Kosovo, or may not know even where Kosovo is on a map. He
13 was just a guy preparing a note quick. Because I've learned that
14 when I relied on such documents just like this, sit reports,
15 Executive Secretariat, Operations Centre, there were things wrong in
16 it all the time, specific titles. So I just wanted to say that
17 because I know that came up during the course of our discussions.

18 Number two. Hashim Thaci never told me exactly what he needed
19 to do or exactly who he needed to consult during the period when he
20 said he needed to consult. He just -- at that time, our relationship
21 was brand new. I had just met the man, spent time with him in
22 Rambouillet, just getting to know him. He didn't speak English. And
23 so he was getting to know me. He wasn't very forthcoming, frankly.
24 Neither was I. We were just getting to know each other.

25 So what I do vividly remember is that he wouldn't tell me

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1 exactly what he needed to do or why. Just that it was absolutely
2 evident that he had superiors he needed to get approval from. The
3 way he described it was more vague, like consulting the community,
4 the leaders, the community, and he was vague in his language at that
5 time, and it was translated, and he didn't speak English.

6 So we surmised that Demaci was crucial because we knew what
7 Demaci said. And by this time, Demaci had spoken to Madeleine
8 Albright and said what he said to her, and we knew that this was a
9 guy who wasn't in favour of Rambouillet. Absolutely not. And so the
10 fact that he needed to consult with him struck me as him going
11 through the effort to be as consultative as possible, but I didn't
12 know why it was, which is what your question was. That he needed to
13 or was required, I didn't know.

14 JUDGE BARTHE: Thank you. And just to follow up on one of the
15 comments you just made. Did Mr. Thaci mention or did Mr. Thaci call
16 Mr. Demaci a leader? I know there was an issue of translation, a
17 translation issue, but did he remember calling him -- that Mr. Thaci
18 called Mr. Demaci a leader?

19 A. To be very precise to answer your question, I don't remember and
20 I doubt it. But he talked about him in a way that he showed great
21 respect for him.

22 JUDGE BARTHE: Understood.

23 Mr. Rubin today, and I'm referring to page 67 of our realtime
24 transcript during redirect examination by Mr. Misetic from the Thaci
25 Defence, you called Adem Demaci, if I'm not mistaken, an "ideological

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1 leader" and "the founder," but you did not say the founder of what.
2 You want to say -- or did you mean the founder of the -- or a founder
3 of the KLA?

4 A. Yeah, that was a bad word. I would take it back if I could. I
5 try to be precise, Your Honour, but I don't always succeed after a
6 couple of days, and I would -- if I had to answer that question
7 again, I would remove that word. And what I mean by that is, you
8 know, when a movement has ideological leaders, you think of them as
9 founders.

10 Since I never knew exactly what this guy's job was or what his
11 title was or who he was, really - I never met him, never spoke to him
12 - I kind of thought of him in a way as an early founder, I guess is
13 why I use the word. A kind of an ideological -- more than a
14 functionary, and so that's why I use the word "founder" rather than
15 ideological -- I should have just said an ideological supporter than
16 founder. "Founder" was just a bad choice.

17 JUDGE BARTHE: Okay. Thank you. And one final question about
18 Mr. Demaci's role during the peace talks in Rambouillet and in Paris
19 in 1999.

20 If Mr. Demaci was indeed, you said, the ideological leader or
21 supporter of the KLA and, you said this earlier today, a superior or
22 superior to Mr. Thaci, why didn't you - I mean you as representative
23 of the United States and Madam Secretary or Secretary of State
24 Albright - why didn't you talk to him directly, to Mr. Demaci,
25 instead of talking to people like Mr. Thaci who were his subordinates

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1 and who didn't have the power and the authority to sign agreements or
2 whatever?

3 A. Right. There's, I think, a good reason, and the good reason was
4 that we met in Rambouillet with the officially named delegation of
5 the Kosovar Albanians. They were to be the signers of the agreement.
6 Mr. Thaci was selected, elected, I don't know, by the group in
7 Rambouillet as their leading member who would meet if one person was
8 to meet. He was to be the signer.

9 And precisely for the reason you asked, Madeleine Albright chose
10 to call Mr. Demaci at the end of the talks, thinking that might help
11 for the very reason you asked. Meanwhile, Mr. Hill, who was one of
12 the people who had to advise us on a subject that was his work, was
13 extremely dismissive of Mr. Thaci. You know, nasty, dismissive:
14 Don't call that man, why are you spending the time, the Secretary of
15 State shouldn't spend one second talking to that man.

16 I subsequently learned he told a lot of people that, that she
17 made a terrible mistake by calling Adem Demaci.

18 So we're in a situation where we're trying to get Mr. Thaci to
19 sign, because he's the official recognised member of the delegation
20 at Rambouillet who is to sign. Mr. Demaci is being spoken of as
21 highly negatively by one of the negotiators. He then has a
22 bloodthirsty call with Mrs. Albright, Secretary Albright, so we kind
23 of didn't talk to him anymore after that, to tell you the truth. At
24 least she didn't want to. And she thought it was more important for
25 me to get Thaci to do what he said he was going to do, which is have

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1 his consultations and then come back and sign.

2 JUDGE BARTHE: Thank you.

3 Mr. Rubin, I want to ask you some more questions about your
4 *Financial Times* October 2000 or September/October 2000 article, which
5 was admitted as 1D277, and also about information that is contained
6 in your book "How We Won the War," partially admitted as
7 Exhibit 1D279. And I would like to start with PDF page 9, no need to
8 bring anything up of 1D277, your *Financial Times* article, where it is
9 said the following:

10 "... the Europeans opposed air strikes [against Serbia] because
11 the KLA was often responsible for breaking the October ceasefire ..."

12 And, Mr. Rubin, similar information is contained in your book on
13 page 7, PDF page 7, or SPOE00229714. I have to wait for the
14 transcript. This is why I am slowing down.

15 My question is: Is this correct? You remember that the
16 Europeans initially opposed, were against air strikes against Serbia
17 because the KLA had often violated the October 1999 ceasefire
18 agreement?

19 A. Yes, that is my recollection. Just shortly elaborate. The
20 October agreement was -- had a lot of vagaries in it and it required
21 verification that was difficult to do. It lent itself, like the
22 early Bosnia days, to everyone blaming everybody for violations,
23 which is precisely why we went to the full peace agreement. We
24 didn't want anymore temporary arrangements that were subject to
25 misinterpretation, verification that couldn't be done easily, that

1 lent themselves to what I would call "both-siders" are to blame, when
2 one side had the power and the other side had a small power. So by
3 going to the Rambouillet accords, we eliminated all of that.

4 And there were some people who thought that wasn't the right
5 move, but Secretary Albright did, President Clinton did. And we
6 managed to persuade the Europeans that that was the right move by
7 agreeing with them that we would do a diplomacy backed by force in a
8 dramatic way: Giving an agreement that we negotiated carefully, and
9 then saying, rather dramatically, to both sides, "Take it or," in the
10 case of the Serbian forces, "you will get air strikes if you use
11 force." And to the Albanian side, Kosovar Albanian side, "Agree with
12 this or lose our support."

13 That's a pretty dramatic thing to do on a, you know,
14 hundred-page document, to say take it or leave it, and the
15 consequences are incredibly dramatic. And so we did that to overcome
16 the vagaries and difficulties of the October agreement, which
17 included Serbian violations and violations by the KLA.

18 JUDGE BARTHE: Thank you.

19 On page 13 of your *Financial Times* article, PDF page 13 I have
20 to say. It is said that Mr. Thaci was called by Jim O'Brien, the
21 "key figure in the Albanian delegation" in Rambouillet and "the
22 leader of the political wing of the KLA." And similar information
23 can be found in or on page 11 of your book, "How We Won the War,"
24 SPOE0229718, where it is said that:

25 "When Albright arrived a few days later, Jim O'Brien, who for a

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1 long time was Albright's aide and one of our key negotiators, told
2 here that the main personality of the Albanian delegation of
3 politicians, journalists and intellectuals was Hashim Thaci, leader
4 of the KLA political branch."

5 Mr. Rubin, my question is only do you remember that you wrote
6 this in your article and also in your book?

7 A. Yes, except I now need to elaborate. I never wrote that book.
8 I wrote the article and somebody turned it into a book. I don't
9 actually know who. Nobody ever paid me any royalties, never gave me
10 any money. I've heard that it's my book but it's not my book that I
11 knew about it. I did write the article for the *Financial Times*, and
12 somehow that was turned into a book by somebody I don't know.

13 JUDGE BARTHE: Okay.

14 A. But nothing in there strikes me as wrong, but I should keep
15 saying it's not my book just because I'm trying to be as precise as I
16 can for you.

17 JUDGE BARTHE: That is good and this is good information.

18 Mr. Rubin, I'm grateful. Can I just ask you to confirm whether the
19 information contained in the book and also in the article that
20 Mr. O'Brien referred to Mr. Thaci as the key figure in the Albanian
21 delegation is correct?

22 A. Yes. To the best of my recollection, he was the first person we
23 met with when we arrived because he was very close to Mrs. Albright.
24 He had been working with Chris Hill. And he was bringing us, as we
25 call it, up to speed: Here's what's going on, here's what you need

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1 to know. And the one thing that was new for us was this new person
2 we'd never really heard of. She hadn't heard of and I hadn't heard
3 of. And, thus, he described him that way to the best of my
4 recollection when I wrote it. And, yes, therefore it's accurate in
5 the article.

6 JUDGE BARTHE: Thank you. And on page 14 of Exhibit 1D277 -
7 again this is your article - one can read that the other Albanian
8 representatives at Rambouillet would not make a decision without
9 Mr. Thaci. And, again, this is also -- or similar information can
10 also be found on page 12, SPOE00229719 of your book --

11 A. The book.

12 JUDGE BARTHE: -- "How We Won the War." I would like to know
13 from you now, very briefly, do you remember that you wrote this at
14 least in your article and is this information still correct?

15 A. I do, and yes.

16 JUDGE BARTHE: And, again, on page 15 of your article of
17 Exhibit 1D277, which is your article, you describe Mr. Thaci's
18 central role in the negotiations, especially with Madeleine Albright,
19 Secretary Albright and yourself, when you said, I quote, from your
20 article:

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 Again, my question, do you remember that you wrote this in your
25 article?

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1 A. Yes.

2 JUDGE BARTHE: And is it still correct, the information
3 contained in that --

4 A. Yes.

5 JUDGE BARTHE: -- article? Thank you. And, again briefly, also
6 on page 13 of -- no, this is actually on page 13 of the book, "How We
7 Won the War," SPOE00229720, one can read the following:

8 "Then Thaci's turn came and he did not budge. Privately, the
9 other KLA members told us that they were ready to comply, but
10 everything depended on Thaci. So I brought Thaci to meet Albright in
11 the lunch room, but which at the time served as her office."

12 Again, my question: Remember that Mr. Thaci was brought by you
13 to Madam Albright's makeshift office/lunchroom?

14 A. Your Honour, this would be an example where I feel the article I
15 actually wrote and the book that came out in my name differ. And so
16 I don't think I wrote anything about a lunchroom, and whoever
17 translated it or put it out added that detail. But I recall being
18 someone who might have done that.

19 JUDGE BARTHE: Thank you. I would like to move on to another
20 question.

21 On page 15 of the book, "How We Won the War," SPOE00229722, it
22 reads:

23 "As it seemed, Thaci had not given his final approval, and the
24 rest of the delegation hesitated to accept it without him."

25 Do you recall that this happened?

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1 A. Yes.

2 JUDGE BARTHE: So Mr. Thaci did not give his final approval, and
3 the rest of the delegation was hesitant --

4 A. Correct.

5 JUDGE BARTHE: -- to accept it without him? Thank you.

6 Also on page 15 of the book, "How We Won the War," the following
7 can be found:

8 "He," and this is a reference to Jim O'Brien again, "informed me
9 that Mr. Thaci had accepted to let Surroi sign the interim agreement
10 on behalf of the Albanian delegation."

11 The same question as before: Do you remember that Mr. O'Brien
12 -- or is the information contained in this part of the book correct?
13 Do you remember that Mr. O'Brien told you that Mr. Thaci had accepted
14 to let Mr. Surroi sign the interim agreement?

15 A. I need to correct that, because if it was in the book, which I
16 trust that you've read it accurately, the book misrepresented what
17 was signed. It wasn't the agreement. It was merely an expression of
18 intent to sign, an agreement in principle, which had to be delayed
19 for two or three weeks for them to actually sign. But I recall
20 Mr. O'Brien saying that Thaci had assented -- after he and I talked
21 about this compromise, agreement in principle versus agreement, he
22 had assented to Mr. Surroi signing it. I even remember giving
23 Mr. Surroi my pen to sign it.

24 JUDGE BARTHE: Thank you. Actually it was called, maybe I read
25 too fast, an interim agreement.

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1 A. Yeah, and I guess that would be again the book mis -- sort of
2 adjusting what I was talking about, which is an intent to sign or a
3 statement of principle which could be described as an interim
4 agreement, but I probably wouldn't have written those words.

5 JUDGE BARTHE: Thank you. This is clear now, I think. And do
6 you know why Mr. Thaci had Mr. Surroi sign the, I call it interim
7 agreement, the document, and why he did not sign it himself?

8 A. I don't know. I have a strong suspicion it is because it
9 precisely fit with the compromise we had agreed to, which is that he
10 felt that they would sign the full agreement once he did the
11 consultations. But because of the pressure he was under, and the
12 fear that that pressure created for a young man -- he was a very
13 young man at the time. The whole world is pouring in on him,
14 Madeleine Albright is telling him: You're going to be responsible
15 for the death of all your people. It was an extremely intense
16 emotional moment as much as I can remember in all my years of
17 government.

18 And so he wanted to support the goal of peace through this
19 agreement, but he -- and he knew he had to do something to meet our
20 needs, but he didn't want to put his name to it until he had
21 consulted with his higher-ups, his people and others.

22 JUDGE BARTHE: And Mr. Surroi didn't have these problems --

23 A. Apparently not.

24 JUDGE BARTHE: -- of higher-ups?

25 A. Mr. Surroi was an unusual man. He was a journalist. He didn't

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1 have a political party. He was quite a confident man, and he didn't
2 have those problems.

3 JUDGE BARTHE: Understood.

4 A. Much older.

5 JUDGE BARTHE: Thank you. On page 19 of the book, "How We Won
6 the War," SPOE00229726, one can read the following:

7 "When the peace conference resumed after three weeks, Albright
8 sent me to Paris with clear instructions, 'Go there and make sure
9 that your friend, Hashim Thaci, signs it this time.' I arrived in
10 Paris convinced that Thaci would sign it. Confident, when I invited
11 him for lunch at the residence of the US ambassador in Paris, Thaci
12 did his utmost to tone down the results of the latest catastrophic
13 meeting with Albright."

14 And the last sentence:

15 "He immediately told me that he had the authority to assign on
16 behalf of the KLA."

17 Can I ask you, is this information correct? Did Mr. Thaci tell
18 you that he had the authority to sign on behalf of the KLA?

19 A. Yes, as I recall it.

20 JUDGE BARTHE: Thank you. And now my final questions also in
21 relation to the book, "How We Won the War." And this can be found on
22 page 19, just for the record, of that book. It says:

23 "In that three-week interval, there was a split in the KLA
24 leadership, since a small group of extremists insisted on
25 independence, whereas those who opposed it were deprived of decision

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1 making in the future."

2 And, Mr. Rubin, during your direct examination by the Thaci
3 Defence, you said, if I recall correctly, "those extremists were
4 sidelined," and I'm referring to page 39 of yesterday's realtime
5 transcript.

6 Once again, and for the last time, is this what Mr. Thaci told
7 you, that those who were opposed the agreement were deprived of
8 decision-making in the future?

9 A. He was never that specific to me about the organisational
10 structure of the KLA or his own -- the different people. A lot of
11 this I'm writing is surmise, judgments that I can make based on
12 different information. I don't think he was ever that specific to
13 me, but I think that I believe that to be true -- that appeared to be
14 true, and thus I wrote the sentence to that effect. Whether it was
15 the exact sentence, because it's not the article, it's the book, I
16 don't know, but I wrote something to that effect because I thought
17 that was true. And it would only have come from him plus maybe other
18 sourcing, but I can't remember what the sourcing was.

19 JUDGE BARTHE: Thank you. Since the agreement was ultimately
20 signed by the Albanian -- Kosovo Albanian delegation on 18 March
21 1999, if I remember correctly, and since Mr. Demaci was, as you said,
22 as an ideological leader against the agreement because he was in
23 favour of independence, and this is why you called him an extremist,
24 was he one of the people who were, as you put it, sidelined or
25 deprived of decision-making in the future?

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1 A. That may be what we call, you know, "hoped for" language.
2 Sometimes you write things because you hope they're true. Yeah, I
3 certainly got that impression and I wanted it to be true as well.

4 JUDGE BARTHE: So, in other words, are you aware whether he
5 played any role or whether he didn't play any role anymore after the
6 signing of the Rambouillet/Paris agreement?

7 A. Thank you. That helps me answer the question precisely. I
8 think during the course of the subsequent months, when I spent more
9 time in Kosovo with the -- in the mountains, for example, or in
10 subsequent trips, all of the information I received -- because we all
11 came back to Rambouillet, it was always discussed. I think I was --
12 somebody told me -- that I relied on, that I regarded as
13 authoritative, probably some combination of Thaci, the embassy,
14 others, led me to believe that Mr. Adem Demaci was no longer as
15 significant a player in this movement as he had been prior to
16 Rambouillet, and so thus, yes, sidelined.

17 JUDGE BARTHE: Thank you very much. I have no further
18 questions. Thank you.

19 PRESIDING JUDGE SMITH: Judge Mettraux.

20 JUDGE METTRAUX: Thank you, Judge Smith.

21 And good afternoon, Mr. Rubin.

22 A. Good afternoon.

23 JUDGE METTRAUX: I'll pick up where you just left with my
24 colleague. You've been asked quite a few questions about Mr. Demaci
25 and your understanding of his role and position, and I would like to

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1 explore the basis of your understanding of it with you if I may.

2 The first thing, and I think you've said it yesterday, but I'll
3 ask you again, is did you ever meet with Mr. Demaci?

4 A. No.

5 JUDGE METTRAUX: Did you ever have any personal contact with
6 him?

7 A. No, except I was -- when Madeleine Albright spoke to someone, it
8 felt as if I had personal contact because that's how close I was with
9 Mrs. Albright. She was next to me when she spoke to him and
10 described the conversation in great detail, but it was her speaking
11 to him, not me.

12 JUDGE METTRAUX: Do you know of any decision taken by Mr. Demaci
13 in respect of the KLA?

14 A. No.

15 JUDGE METTRAUX: And the answer to this question might be built
16 in your last answer, but do you know of any order that Mr. Demaci
17 would have ever issued in his capacity as a KLA member to anyone?

18 A. No.

19 JUDGE METTRAUX: Do you know who chose Mr. Demaci to be a
20 political representative of the KLA?

21 A. No.

22 JUDGE METTRAUX: Do you know what his marching order or his
23 tasks were as they were given to him as a political representative of
24 the KLA?

25 A. No, sir.

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1 JUDGE METTRAUX: And in your view, would this information - and,
2 of course, it's a hypothetical - but would it be relevant to
3 determining what his real position was within the KLA knowing who
4 appointed him and who tasked him?

5 A. In my opinion, which you asked for, and I want to give it, he
6 had a role, a big role, but it is what I call an ideological role,
7 not a mechanical role, not an executive role. The impression I got
8 from all of my meetings in Kosovo, with Kosovars, with leaders of
9 Kosovo, was that this was an ideologically important man for many
10 years, and so his views about independence were therefore very
11 important to the people who I was dealing with and -- but not in the
12 mechanistic way you've asked me. So I don't know, and so I hope I've
13 been responsive.

14 JUDGE METTRAUX: Well, you have been responsive. I think my
15 question was not really well phrased.

16 In a military structure, as the KLA was, would it be relevant to
17 know who appoints whom to a position, to know what their respective
18 hierarchical position is?

19 A. Absolutely. If we would agree that the KLA had a military
20 hierarchical structure, which I would dispute from my experience.

21 JUDGE METTRAUX: Now I want to go to the role and position of
22 Mr. Demaci on Rambouillet and the negotiation, and you've already
23 touched upon all of this, but I'll take you through that path once
24 again.

25 Is it fair to suggest that Demaci's opposition to any agreement

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1 in Rambouillet was -- that would fall short of independence was well
2 known at the time? Would you agree with that?

3 A. It was well known once Madeleine Albright spoke to him. It was
4 well known to me and her and others.

5 JUDGE METTRAUX: And are you aware of the fact that Mr. Demaci
6 at the time considered that to sign any interim agreement would be an
7 error on the part of the KLA? Were you aware of this?

8 A. I got that impression, yes.

9 JUDGE METTRAUX: Now, during the negotiation process, and we've
10 just seen it a moment ago, there were indications that Mr. Thaci
11 either went or tried to go to Slovenia to meet with Mr. Demaci to
12 convince him to change his mind on this issue. Do you recall these
13 questions?

14 A. Yes.

15 JUDGE METTRAUX: And it's fair to say that Mr. Thaci failed to
16 make Mr. Demaci change his mind on this; correct?

17 A. That seems fair.

18 JUDGE METTRAUX: And, nevertheless, Mr. Thaci, as we know with
19 hindsight, was able to sign the agreement on behalf of the KLA;
20 correct?

21 A. Correct.

22 JUDGE METTRAUX: So would you agree with the suggestion that, as
23 far as the KLA was concerned, the view of Mr. Thaci prevailed over
24 that of Mr. Demaci and that they were somehow able either to overcome
25 or to ignore the views of Mr. Demaci on this matter? Would you

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1 agree?

2 A. Except -- yes, with one caveat, sir. Hashim Thaci had something
3 Adem Demaci didn't have, which is the promise from the United States
4 of America and the US military and the NATO Alliance and the West and
5 the world, in his hands, that: If I sign and the Serbs don't sign,
6 the United States of America will initiate a military campaign
7 against the Serb forces. No one else had that promise in their
8 personal hands other than him. The world sort of knew that. It was
9 implied in all the public articles. But we had made that commitment
10 to him personally. I did, Mrs. Albright, Secretary Albright did, I
11 believe Wes Clark did as well, the NATO Supreme Allied Commander.

12 So to have that information in an amorphous situation like that
13 made Mr. Thaci's views very powerful regardless of his status in any
14 organisation that might or might not have a structure. Nobody else
15 had that. And that gave him power.

16 JUDGE METTRAUX: Thank you.

17 A. In my opinion.

18 JUDGE METTRAUX: Thank you, Mr. Rubin.

19 Now, you've told us, I think repeatedly, that they were -- or
20 you were told that there were tensions within the KLA, hesitancy in
21 some quarters to sign up to the agreement, and that explained this
22 period of time between the interim agreement and the final agreement
23 where Mr. Thaci told you that he would try to bring the relevant
24 people on board. Did I get that right?

25 A. Absolutely correct.

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1 JUDGE METTRAUX: And, again, you've repeated it, I'm going
2 through it, but you were given assurances by Mr. Thaci that once
3 these consultations would take place, that he would be in a position
4 to sign; correct?

5 A. I would say best good faith efforts, but, yes, "assurances" is
6 probably a good word. Well chosen.

7 JUDGE METTRAUX: And as he had committed, they were, indeed,
8 able to overcome any resistance that might have existed at the time
9 and signed the agreement; correct?

10 A. Yes.

11 JUDGE METTRAUX: I'd like to show you another document that
12 falls into this period of time, and I'm trying, of course, through
13 you, to figure out what happened chronologically.

14 And I'll ask the Registry to please bring up DHT05178 to
15 DHT05179.

16 I'll give you a moment, Mr. Rubin, for you to acquaint yourself
17 with the content of the document, and then I'll ask you about
18 specific parts of it. There's a second page that I'm going to take
19 you to. Please read through it. And if you need for it to be
20 scrolled down, just say so.

21 THE COURT OFFICER: And, Your Honour, while that's happening,
22 this was in the meantime assigned Exhibit 1D358 per the bar table.

23 JUDGE METTRAUX: I'm grateful.

24 THE WITNESS: Okay. If they could scroll down the summary.
25 Yeah, great. Okay. If they could scroll down a little bit more, I

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1 can finish. All right. Okay. We can go to the next page.

2 JUDGE METTRAUX: We'll stay there for a second. I'll take you
3 to the second page in a second.

4 If I could ask you to look at the left-hand side of the
5 document, under number 1, towards the second part of the paragraph,
6 there's a sentence that starts with the words: "Buja and
7 Krasniqi ..." Can you see that?

8 A. Yes.

9 JUDGE METTRAUX: So this we know from -- the document refers to
10 Rame Buja and Jakup Krasniqi whom I suppose you knew at the time;
11 correct?

12 A. Krasniqi, yes. The other name, I can't remember all this now.

13 JUDGE METTRAUX: Now, it says:

14 "Buja and Krasniqi confirmed there is a serious conflict inside
15 the KLA over Rambouillet and that their principal antagonist is KLA
16 political representative Adem Demaci. Buja and Krasniqi expressed
17 determined confidence that Demaci's opposition would be overcome."

18 Do you see that?

19 A. I do, sir.

20 JUDGE METTRAUX: And that's again the sort of reassurances, if
21 you agree, that the members of the General Staff at the time are
22 communicating to you, the US government, that they would be able to
23 overcome Demaci; is that fair.

24 A. Yes.

25 JUDGE METTRAUX: Then can we please turn to the next page.

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1 And I'll ask you to do the same. I'll give you a second,
2 Mr. Rubin. I'll take you to the relevant part, but please feel free
3 to scan through this page.

4 THE WITNESS: Okay. To the bottom now. Okay.

5 JUDGE METTRAUX: So if we can scroll back up, please, to point
6 5, you will see that there is a brief summary about the fact that:

7 "General Staff officers were conspicuous by their absence. Only
8 Chelik," that refers to Fatmir Limaj, "was present to welcome the
9 returning delegation. (Rame Buja advised that the General Staff was
10 meeting ... elsewhere with KLA political representative Demaci.)"

11 And then under point 6, it says:

12 "As noted above Buja commented that the General Staff was
13 meeting that afternoon with Demaci. Buja indicated that he, Krasniqi
14 and Sulja," that's Azem Sylja, "would participate. Asked about
15 Demaci, both Krasniqi and Buja said stiffly that they would 'take
16 care of him' and that his opposition both to the Rambouillet package
17 and to the provisional government proposed by Rugova, Qosja and Thaqi
18 on February 24, would be overcome."

19 And it says then that:

20 "... the provisional government was intended to administer
21 Kosovo following the expected Rambouillet agreement until elections
22 were held."

23 Do you see that?

24 A. Yes, sir.

25 JUDGE METTRAUX: Do you recall -- or I'll ask it differently.

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1 Were these assurances given by Mr. Krasniqi and Buja communicated to
2 you at the time?

3 A. No.

4 JUDGE METTRAUX: And when Mr. Krasniqi and Buja used the
5 expression, the stiff expression according to this memorandum, that
6 they would "take care" of Mr. Demaci, do you know what they did to
7 take care of him?

8 A. I'm glad you asked that question, sir. I noted the author or
9 signed cable was Mr. Hill, Christopher Hill, the ambassador in
10 Macedonia, former Yugoslavia, Republic of Macedonia. This was a
11 rather typical Chris Hill cable, doing his best to describe the KLA
12 as thugs, using language that make them seem like thugs.

13 And what I always found interesting was, travelling with
14 Mr. Hill in Kosovo and being with Mr. Hill in Rambouillet, I would
15 hear the same words from members of the KLA, from any Albanian,
16 frankly, other than LDK representative Rugova, and I would hear
17 someone telling me something that seemed normal enough to me, and he
18 would assign the most pernicious, dark view of whatever they were
19 saying.

20 So the fact that Mr. Hill is signing this cable and using this
21 phrase "they would 'take care of him,'" in quotes, sounds like they
22 were going to kill him is what he's saying. That's what the cable --
23 reading a lot of cables in my life, this is a cable where I would go,
24 whoa, they're saying they're going to kill him. That's what this
25 cable sounds like.

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1 JUDGE METTRAUX: I'll stop you there because maybe I misled you
2 with my question. And putting aside the terms that Mr. Hill chose,
3 well or not, do you know what the General Staff did in response to
4 the assurances that they had given you in respect of Mr. Demaci? In
5 other words, do you know what happened afterwards?

6 A. I would -- I don't know. The General Staff just seems like such
7 a -- I know a General Staff -- I never saw anything in Kosovo that
8 resembled a General Staff, so I don't know what the General Staff
9 means in the KLA context. There were no staff for generals that I
10 ever saw. There were not even generals that I really ever saw. And
11 to the extent there were generals, I never saw them have any staff.

12 And so the fact that it's written this way, gives a very
13 misleading impression of the KLA that I got to know, as if it were a
14 formal structure with a General Staff that were meeting with
15 political representatives in a normal way that we, as Americans or
16 Europeans or others, would see. And so this gives to me kind of a
17 false impression of the KLA that I saw, so it's hard to answer your
18 question for that reason.

19 JUDGE METTRAUX: Can the Registry please bring up a document
20 with ERN U017-5901 to U017-6091.

21 So just to give you a bit of context about what that is. This
22 is a book of -- made up of interviews given by Ramush Haradinaj, and
23 they turned it into a book. Do you understand?

24 A. Yes.

25 JUDGE METTRAUX: And if we could turn to page 120 of the book.

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1 I think it's page 116 of the PDF, and it should have an ERN of
2 U017-6016.

3 We'll start at the top of the page. You will see if you read or
4 scan the first paragraph, that Mr. Haradinaj says that he was never
5 formally informed of the appointment of Adem Demaci as general
6 political representative of the KLA but that he learned about it in
7 the media. Do you see that?

8 A. Yes.

9 JUDGE METTRAUX: And if we can scroll down a little bit, please.

10 Then Mr. Haradinaj is being asked whether he met Mr. Demaci in
11 the context of Rambouillet, and his answer, as you can read it, I'll
12 read it for the transcript, is this:

13 "I met Adem Demaci only once and it was during the conference in
14 Rambouillet. We met in the Berisha Mountains, at the headquarters of
15 the KLA General Staff. We were at a working meeting. I did not even
16 have a chance to greet him. I saw him coming out of the meeting in a
17 very nervous state."

18 Do you see that?

19 A. I do, sir.

20 JUDGE METTRAUX: Can we please turn to the next page.

21 Then he's being asked:

22 "Did you know why Demaci was so nervous?"

23 And Mr. Haradinaj's response as recorded is:

24 "I did not consider Demaci's departure from his position a good
25 thing. I thought it illogical that Adem Demaci, as a personality, in

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1 the name of the KLA, would speak against, shout at, and threaten
2 national and international personalities and then resign as if
3 nothing had happened. I had nothing against his appointment, to
4 which I did not contribute, nor did I think it would become a
5 calamity some day. But, I did not like the fact that, one day, this
6 man who identified himself with us, was not around anymore. I did
7 not understand why these things were happening. The zone commanders
8 asked [me] to meet with him. I wanted to meet with Adem Demaci and
9 see what he thought about what was going on. This meant that I would
10 ask about his appointment and why was he being removed. The Llap
11 commander, Rustem Mustafa, 'Remi,' had closer ties with Demaci. I
12 talked to him about Demaci's activity and position. I asked 'Remi'
13 to invite uncle Adem to a meeting with the zone commanders and to
14 discuss his stand on Rambouillet and other current problems. When I
15 arrived at the meeting, Demaci was walking out."

16 And if we can scroll down a bit.

17 "I asked Commander 'Remi' why Demaci left in that way.

18 "'He exchanged words with Jakup Krasniqi, got very nervous, and
19 left,' he told me. Demaci had exchanged words with some others
20 there. I do not know exactly with whom. I know that Hashim Thaqi
21 had not come back yet. Later 'Remi' told me that Demaci was
22 criticised for his work practices and for several proposals that he
23 had made - I think - why he had consulted Mahmut Bakalli, or why he
24 had proposed him in a group he wanted to set up. He was also
25 criticised for not setting up a mechanism he had promised to set up,

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1 like the National Assembly. Demaci became irritated and left the
2 meeting demonstratively."

3 Now, were you aware of any of these events that Mr. Haradinaj
4 describes here?

5 A. I was not at that time. I began to have my doubts about
6 Mr. Haradinaj's description of events later when I met him in
7 Prishtine. He was someone who tended to exaggerate. I found him to
8 be a non-accurate, credible interlocutor, and tended not to believe
9 what he told me.

10 JUDGE METTRAUX: Well, let's stop at this part of what he says.
11 Do you have any reason to dispute anything in this account?

12 A. Yes, when he said General Staff meeting -- I think it's the same
13 place I was, and I wouldn't call it a General Staff meeting of any
14 kind. It was a hut with a bunch of couches. And to describe that as
15 a General Staff office strikes me as absurd.

16 JUDGE METTRAUX: Anything else in his account you wish to take
17 issue with?

18 A. I would take issue with -- it doesn't make any sense. The whole
19 argument is: I liked him, I didn't like him, I liked him, I didn't
20 understand him, why was he there, why was he not there. It was a
21 long account that never actually said anything. That's why I would
22 dispute it. Give me any information about why he left or what he did
23 or why he liked him or didn't like him. So it was just a bunch of
24 ruminations that strike me as not very informative. Other than that,
25 I thought it was very interesting because I've never seen it before.

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1 JUDGE METTRAUX: And we know that a couple of days later
2 Mr. Demaci resigned, as you agreed yesterday; correct?

3 A. I never knew the precise participation or absence of Demaci. I
4 only understood him as an ideological figure. I've tried to say that
5 as many times as I could because I wasn't aware of his specific role
6 inside the KLA. I was only aware that Mr. Thaci needed his -- to
7 consult with him and treated him like an important man in his
8 firmament of leaders. That's what I described to the Court, to both
9 the Prosecutor and the Defence lawyers. I never understood his
10 precise role. That's why I discussed the word "founder" with your
11 colleague, because I just understood him to be an important figure.
12 And knowing these movements, I was aware of how an important figure
13 could take on a life larger, much larger, than his technical title,
14 because people didn't want to disagree with him.

15 JUDGE METTRAUX: My question was slightly different. Shortly
16 after that meeting that Mr. Haradinaj is recorded as describing,
17 Demaci left the KLA; correct?

18 A. I don't know, sir.

19 JUDGE METTRAUX: Now, the last thing I want to show to you is -
20 and I'll ask the Registry to bring it up - on that subject is
21 SPOE00131824 to SPOE00131857.

22 And to give you some context, Mr. Rubin, that is a book of
23 memoirs, if you want, written in the same style in a way as the book
24 we saw before, but this one is a book written by Rexhep Selimi. And
25 I think you've indicated you know who Rexhep Selimi is; right?

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1 A. Only by words or reputation. I don't believe I met him. If I
2 did, I don't recall meeting him. But I know the name.

3 JUDGE METTRAUX: Could we please go to page 280 of the book. It
4 bears ERN SPOE00131856. Thank you. That would be the page.

5 Now, I'll ask you to look at the first bullet point, Mr. Rubin.
6 The question is:

7 "KLA's final divorce with Demaci ..."

8 Can you see that?

9 A. Yes, sir.

10 JUDGE METTRAUX: I'll read it for the transcript. It says this:

11 "KLA's final divorce with Demaci happened in the Berisha
12 Mountains, did it not? The delegation returned from Rambouillet on
13 Thursday, while Demaci met with the General Staff on Saturday. How
14 did that meeting go?"

15 And the recorded answer of Mr. Selimi is this:

16 "- Demaci left the General Staff meeting. He insisted that the
17 deal was not signed at all and attempted to use his influence on zone
18 commanders, but the zone commanders ignored him, so his silence since
19 then has shown his disappointment or failure. His silence or
20 disengagement in the various processes has been unjustified and has
21 left a void in his otherwise very fruitful life as a symbol of
22 national resistance."

23 So assuming, of course, that the record of what Mr. Selimi said
24 here is correct, would you agree that Mr. Demaci failed to obtain the
25 support of the zone commander or commanders in respect of his

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1 objection to the signing of Rambouillet?

2 A. Yes, Your Honour.

3 JUDGE METTRAUX: And it would seem, doesn't it, that the only
4 figure that, at this stage at least, was still opposed to Rambouillet
5 was Demaci; correct?

6 A. I don't know that. I just know that -- what I'm reading. I
7 don't know whether there was anyone else.

8 JUDGE METTRAUX: And, as we've seen a moment ago, the
9 General Staff was able to bat away the objection of Mr. Demaci and to
10 proceed to sign Rambouillet; correct?

11 A. Sir, again, I have trouble with "General Staff." But this
12 particular guy doesn't sound very credible. He doubted NATO was
13 going to intervene in the next paragraph. He said:

14 "I was sceptical NATO would intervene. I didn't think they'd do
15 this. I thought they wouldn't do it. I didn't trust them, I didn't
16 believe them."

17 I find that interesting about him because I tried to read and
18 understand who this person was, and two paragraphs down he's just
19 wrong.

20 JUDGE METTRAUX: Well, do you know that this particular guy, as
21 you choose to call him, was himself a member of the General Staff at
22 the time? Do you think he would know what General Staff there may or
23 may not have been at the time?

24 A. I think he was very not aware of the world situation that
25 Mr. Thaci was made aware of at Rambouillet, that NATO was going to

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1 attack. And he's showing a lack of understanding of NATO and what
2 the West was prepared to do two paragraphs down where he doubts that
3 it would happen. He admits that:

4 "I thought they weren't going to do it so fast. I am speaking
5 from a professional point of view, I was sceptical. NATO had given
6 Serbia another chance. I could also believe it."

7 So he's doubting what actually happened.

8 JUDGE METTRAUX: But do you think that as a General Staff
9 member, as he claimed to be at the time, he would know if such a
10 thing existed or you think you know better than him?

11 A. I don't think I know better. I don't think that the outsiders
12 understood this place very well at all. And I think when I've seen
13 memoirs written, people write about themselves. They don't write
14 about it from an objective point of view. I had no opinion about
15 these people. I had a completely -- my goal was Madeleine Albright's
16 goal. So I was looking at it as an outsider, who is doing what,
17 who's got this, who's got that. These are people positioning
18 themselves within their organisation, writing books about who is
19 important, who's not, who's in charge, who's not. I've seen that
20 happen in the US government. I've seen that happen in every
21 organisation. I tend to doubt those people.

22 But in the case of the decision-making of the KLA, as an outside
23 observer with no fish to fry, no bone to pick, no desire to pick
24 somebody over the other, I observed a power structure.

25 And now I'm reading two different versions of people whose views

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1 don't seem to comport with reality, and so I'm trying to offer that
2 as an evidence of -- as someone -- as an outsider about the KLA who
3 doesn't have a bias. I don't think I am biased.

4 JUDGE METTRAUX: Thank you. Now, if necessary, I will take you
5 to your own statement, Mr. Rubin, but am I right to understand that
6 Mr. Thaci was only able to sign the Rambouillet agreement after he
7 had been given the approval of the General Staff or what he described
8 as the General Staff for that purpose? In other words, having
9 received the General Staff agreement, he was then in a position to
10 sign the agreement?

11 A. To my understanding, that's incorrect, Your Honour, because I
12 never understood him reporting to a General Staff. He never
13 described himself reporting to a General Staff. And having observed
14 the zone commanders in their hideout, I never observed the existence
15 of a General Staff. What I knew from Mr. Thaci was that he had to
16 consult with the leadership community, the political leaders, the
17 military leaders, not the General Staff. And I think this word
18 "General Staff" is very misleading from my experience actually on the
19 ground with the KLA.

20 JUDGE METTRAUX: Can the Registry please bring up DHT05010,
21 please.

22 We'll take a five-minute break.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: We'll make it a ten-minute break. We'll
25 be adjourned until 4.00.

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1 --- Break taken at 3.49 p.m.

2 --- On resuming at 3.59 p.m.

3 PRESIDING JUDGE SMITH: Please bring the witness in.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: We'll continue with the questions from
6 Judge Mettraux now.

7 THE WITNESS: Thank you.

8 JUDGE METTRAUX: And I apologise to you, Mr. Rubin, for not
9 giving you the courtesy of a break earlier.

10 Could the Registry bring up, it's DHT05010, and it's now become
11 an admitted Defence exhibit under the number 1D300.

12 And I'm showing you the first page, Mr. Rubin, so you can see
13 what that is and where it comes from.

14 And I will ask the Registry to please go to page -- I believe
15 it's the ninth page in the PDF with an ERN DHT05018.

16 And as you can see, it's, in effect, a compilation of various
17 reports from the relevant period.

18 And if we could scroll down a little bit more, please.

19 I'll ask you to focus on the paragraph that starts with the
20 words: "US Secretary of State James Rubin ..."

21 Do you see that?

22 A. But I'm not -- I wasn't Secretary of State.

23 JUDGE METTRAUX: Well, you've been upgraded by the article. Do
24 you see that paragraph, Mr. Rubin?

25 A. I do, sir. Your Honour, I do see that.

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1 JUDGE METTRAUX: It says this:

2 "US Secretary of State James Rubin yesterday said: '[US
3 Ambassador Christopher Hill] has reported to the secretary as
4 follows: that the KLA, the Kosovar Liberation Army General Staff has
5 asked him to tell Secretary Albright that they have approved the
6 agreement as negotiated at Rambouillet and that they have authorised
7 its signature."

8 Do you see that?

9 A. I do see it, Your Honour.

10 JUDGE METTRAUX: Do you recall making such a statement, maybe
11 not as Secretary of State?

12 A. I recall that we had indications prior to Paris that they would
13 sign, so this would be consistent with that.

14 JUDGE METTRAUX: And I have a statement here from Mr. Thaci
15 himself. I won't show you the video unless you want me to, but it's
16 from an interview Mr. Thaci gave.

17 And the ERN for counsel is 0697758-07-TR-ET, starting at page 1,
18 where Mr. Thaci is recorded as saying:

19 "The position of the General Staff of the Kosovo Liberation Army
20 will be the position of opinions achieved in Kosovo."

21 Again, is that consistent with the statement that Mr. Thaci
22 would make directly to you, Mr. Rubin?

23 A. Yes.

24 JUDGE METTRAUX: We can take the document down. Thank you.

25 Now, you've discussed very briefly something with Mr. Misetic

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1 yesterday I want to go back to just in order to make sure I have
2 understood you properly, and it's also something you have said in
3 your preparation session of 8 September 2025. So I'll ask for your
4 benefit that the note be brought up. It's DHT12025, please.

5 And for the record, the discussion of yesterday was at page 44
6 and following of the realtime transcript.

7 So that's the record that was taken of your meeting with the
8 Defence, Mr. Rubin.

9 And if we can go to page 2, please. And I'll ask you to focus
10 on paragraph 5, which I'll ask you to quickly scan for us.

11 A. I've scanned it.

12 JUDGE METTRAUX: So do I understand correctly from this account
13 that, on 19 June 1999, that is two days before the actual signing of
14 the demilitarisation agreement, you already knew that Mr. Thaci would
15 be its signatory; is that correct?

16 A. Be its signatory, correct. If they chose to sign it. But, yes,
17 we understood. That's why I came. Because we understood he was the
18 one who needed to sign it, if it were to be signed.

19 JUDGE METTRAUX: Thank you. And there is another part of your
20 -- this time your statement, which is now Exhibit 1D262, that I would
21 like to take you to. There is no need to bring it up. I'll read it
22 for you. It's at paragraph 34 of your signed statement. It says --
23 you are recorded as saying:

24 "I do not know" --

25 You're being asked -- sorry, Mr. Rubin. You're being asked

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1 about the signature of Mr. Thaci on the demilitarisation agreement
2 and the caption or the description that is given of his position, and
3 here is your recorded answer:

4 "I do not know why the signature block named Thaci as the
5 'Commander in Chief UCK'. I believe they were trying to demonstrate
6 democratic credentials. One of those with civilian control of
7 military."

8 Do you recall saying this and you stand by it?

9 A. I recall saying it. Upon reflection, I believe that -- first of
10 all, I don't know why that signature block was there. I never
11 noticed it at the time. I think what happened, and I don't know
12 this, but it's best of my understanding in retrospect, that they were
13 preparing it for someone else to sign, the document. That's --
14 because there was a long document already there before Hashim Thaci
15 and I arrived that was prepared for someone else to sign.

16 Then as they got close to completion, they - the British and the
17 NATO rep - were told no, Mr. Thaci is going to sign it. And then we
18 went through a series of adjustments of the document.

19 My best guess on something that's probably not knowable is that
20 they thought Agim Ceku was going to sign it, who was --

21 JUDGE METTRAUX: Let's --

22 A. -- described as -- you asked me to -- to the best of my -- you
23 asked me if I remember saying it and then you asked me if I still
24 believed it.

25 JUDGE METTRAUX: My question -- yes. My question is much

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1 simpler. I'm not asking for you to hypothesize at this stage,
2 Mr. Rubin. I'm just asking you whether the statement I've read to
3 you was made and whether you stood by it.

4 A. Well, that's why I answered it that way, because I don't want to
5 stand by it precisely. I don't want to stand by it precisely
6 because, on reflection, I think that was one thought, which was to
7 show they had civilian control of the military, they had democratic
8 values, they want -- those were one of the ways you showed you were a
9 democracy. You would have civilian control of the military. And he
10 was clearly a civilian, dressed in civilian clothes, every time I met
11 him.

12 But upon reflection, when you ask me do I stand by it, that's
13 why I'm reflecting on it, because in reflection, if I were to give a
14 more thoughtful answer, I would say I don't know. But my best guess
15 is that it wasn't prepared for him and that it was prepared for
16 Mr. Ceku, and then at the last minute, when they found out Mr. Thaci
17 had to sign it, they didn't change the signature block. That's my
18 best guess. "They" being those who prepared the actual typing of the
19 document at the time in the mountains.

20 JUDGE METTRAUX: Thank you. Sticking with the first version or
21 the first guess, to use your word, that of civilian control, would
22 you agree that if you wanted to verify whether the military part of
23 the KLA was subject at that point to any form of civilian control,
24 you'd have to know a bit how it's working internally - orders,
25 reports, meetings, records of meetings - if you wanted to verify

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1 whether any such thing existed? Would you agree with that?

2 A. No, I wouldn't agree with that, sir, because, Your Honour, we're
3 dealing with a group that has never governed, that is not a country,
4 that is not an army, that is not a military structure, and they are
5 trying to appeal to the West, to the Western values. So they say a
6 lot of things that Western leaders want to hear: We will be
7 tolerant, we will not seek retributive justice, we want civilian
8 control of the military, we want democratic values. This is my
9 understanding of what they were saying to us. Whether they would
10 follow through on it only became clear in time.

11 So I don't think the procedures of the KLA General Staff, which
12 I didn't really think existed, nor the KLA structure, which I never
13 really saw other than that moment where I really understood how
14 amorphous it was, would have -- I would have wanted to verify that
15 because I was trying to communicate in -- a desire on their part to
16 appeal to us, which wouldn't have been actually true. It would be
17 just an aspiration. And so I couldn't verify it in that way because
18 I didn't think that would be appropriate.

19 I was trying to explain why this anomaly existed, and I do
20 regard it as an anomaly.

21 JUDGE METTRAUX: Do you know who appointed Agim Ceku to be the
22 chief of the General Staff of the KLA?

23 A. I do not know who appointed him.

24 JUDGE METTRAUX: Do you know, perhaps, who Agim Ceku reported to
25 at that time?

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1 A. I know only that General Reith, my military contact, called him
2 the commander of the KLA over and over again. General Reith said
3 that to me. They all treated him like the commander. So to my mind,
4 since, again, I didn't regard them as a highly organised structure,
5 they were a new organisation, they didn't really have a structure,
6 but the guy who knew them best, who had worked with them for the
7 longest, said to me Ceku was the commander, the commander. That's
8 what he called him, the commander.

9 JUDGE METTRAUX: Do you know who Mr. Ceku reported to at the
10 time?

11 A. I -- sir, I -- Your Honour, I think I said I didn't know that
12 when I was trying to explain what I did know and what I didn't know,
13 Your Honour.

14 JUDGE METTRAUX: So you don't know of any reporting, for
15 example, that he would make to the so-called provisional government
16 or to any of its ministers; correct?

17 A. We didn't really regard -- the provisional government was an
18 aspiration, not a reality. There was no provisional government.
19 They just said they wanted to create one. And at that time they were
20 under attack, they were all in separate places, there was no place
21 there could be a government. All of them were in different
22 locations. There was no way to describe them as a provisional
23 government. So I most certainly didn't think that Mr. Ceku --
24 General Ceku, who was called General Ceku, was reporting to a
25 provisional government. That was an aspiration, not a reality, sir,

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1 Your Honour.

2 JUDGE METTRAUX: Thank you. Can the Registry please bring up
3 ERN 103211-05-TR-ET. And maybe I'll play the video if it's available
4 to the Registry. It's now Exhibit P4228. And if the video is not
5 uploaded, the transcript will do.

6 If we could start the video at maybe a minute and 20-something
7 seconds so that you get a bit of context.

8 And, Mr. Rubin, if it's easier for you, please look at the
9 bottom of the page --

10 A. I see it, sir.

11 JUDGE METTRAUX: -- under 01:31.

12 A. I see it.

13 JUDGE METTRAUX: And if we could scroll the transcript a little
14 bit so that the entire answer is apparent. Thank you.

15 [Video-clip played]

16 THE INTERPRETER: [Voiceover] "Some houses have been torched down
17 which is a phenomenon that is well known. The Kosovo provisional
18 government has announced self-restraint" --

19 JUDGE METTRAUX: We were getting some interference.

20 THE WITNESS: I can read it if that's helpful.

21 [Video-clip played]

22 THE INTERPRETER: [Voiceover] "What would the KLA's reaction in
23 this case be?

24 "Any decision of the Kosovo provisional government to that
25 effect would be considered an order for the Kosovo Liberation Army.

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1 Thus we, as a General Staff, ordered and instruct all our forces to
2 maintain self-restraint from offensive actions and not attack the
3 retreating Serbian forces. This is what is happening on the ground,
4 but we are reserving the right to self-defence and protection of the
5 civilian population in case of attack or provocation."

6 JUDGE METTRAUX: Thank you. That's enough.

7 First, did you hear Mr. Ceku referring to a General Staff again?

8 A. I did.

9 JUDGE METTRAUX: And did you hear him suggest that any decision
10 of the Kosovo provisional government to that effect would be
11 considered an order for the Kosovo Liberation Army? Did you hear
12 that?

13 A. I heard that but I regarded it as propaganda.

14 JUDGE METTRAUX: So while he's speaking to other high-ranking
15 members of the KLA, in your view, Mr. Ceku is engaging in propaganda
16 with his colleagues --

17 A. He's speaking publicly. It's an interview. This is an
18 interview. So I regarded this as a public statement. And I often
19 heard KLA representatives, from many different communiqués issued,
20 acting as if there was a provisional government. I went to
21 extraordinary lengths to explain to counsels that we didn't think
22 there was a provisional government, we didn't speak about a
23 provisional government, there couldn't be a provisional government
24 because there wasn't a country. There wasn't a -- control over their
25 territory. There wasn't anything that could be called a government.

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1 They had an aspiration to have a provisional government. But he
2 is now describing what he wants the world to hear: That we are a
3 military responding to a civilian government, which is a precise way
4 of communicating democratic values in the precise way I speculated as
5 to why it said "commander-in-chief," to show the world that they do
6 have democratic values, that their military, their commander -- their
7 commander, General Ceku, is responding to a civilian authority.
8 Precisely what I would assume a group like the KLA would want to
9 manipulate the public into believing that that's the way things
10 worked back then, when my observation was there was no provisional
11 government, we weren't prepared to recognise it. There was no
12 government. There was just people fighting for their lives in a war
13 zone.

14 JUDGE METTRAUX: So I'll summarise. And I think it can be
15 answered in a yes or no, and if it's not accurate or not complete,
16 please conclude it. But in your view, there was no General Staff, no
17 Provisional Government of Kosovo to speak about, and all of their
18 respective members were pretending to be members of entities that did
19 not exist.

20 A. That doesn't resemble anything I said today, and I'm very, very
21 sorry if I ever gave that impression. That's not what I intended. I
22 was merely pointing out, Your Honour, that in a situation of a war
23 zone, when you're actually observing it, when you're actually there
24 on the ground, when you're participating in a high-stakes negotiation
25 with a group of people who are trying to win their freedom, they are

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1 trying to present a view to you that they are an organised military
2 so that they can get weapons from you. If they didn't purport to be
3 an organised military with a General Staff, it would be harder for
4 them to get weapons from the West.

5 So I pointed out that that was a normal thing for a group like
6 that to do, to purport to be more organised and more -- describe the
7 way -- than they really were; and, secondly, to try to communicate to
8 the Western audiences, through public statements and others, that
9 they were operating under civilian control and democratic principles.
10 So not that they -- the way you described. I didn't mean to diminish
11 them in any way. I was merely pointing out that they were aspiring
12 to these things as a group who were fighting for their freedom and
13 have never had government and had been oppressed and never saw their
14 opportunity to govern.

15 And so in their description of what they wanted us to believe
16 about them, to help them, they often exaggerated, which I would have
17 done too if I were in their situation. But it was my job as an
18 outsider to distinguish between what I saw and what they wanted me to
19 believe in order for them to get what they wanted, which we didn't
20 want to give them. Weapons to an organised structure, not possible
21 for the reasons I told counsel in the -- lack of a command and
22 control, the lack of an organised structure. Provisional government,
23 aspiration. Civilian control, aspiration, not reality.

24 JUDGE METTRAUX: I'll touch a last subject, and I'll try to ask
25 you questions that can be answered shortly, and it has to do with the

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1 phone call that you organised for Mr. Thaci with President Clinton.

2 Am I right to understand that this phone call that you organised
3 was in a way a reward - and use a better word if you can find one -
4 that you gave Mr. Thaci for agreeing to the change of wording in the
5 demilitarisation agreement that you discussed earlier?

6 A. Yes and no, Your Honour. I knew I could arrange that phone
7 call. It was something -- a congratulatory call. I had arranged in
8 advance with the National Security Adviser that if I needed and
9 wanted to, the President would be available. And I had to make a
10 decision on the spot whether to authorise the call. When I saw that
11 there was, you know, a moment when it might be actually useful, when
12 it would be a useful incentive when a meaningless change was
13 requested by General Jackson, that seemed to be the right time to
14 pull out this last card I had in my pocket as a diplomatic
15 negotiator, a call with the president of the United States.

16 Truth is, I might have done it anyway. I don't know. I might
17 have done it after they signed rather than before they signed. Or, I
18 forget, he might have even done it after he signed. In other words,
19 I might have done it without the word change. But I had it in my
20 pocket.

21 JUDGE METTRAUX: And that call, President Clinton only had it
22 with Mr. Thaci on that occasion; is that right?

23 A. Correct.

24 JUDGE METTRAUX: Not with Mr. Ceku?

25 A. He had it with the signer of the agreement. Yes, sir,

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1 Your Honour.

2 JUDGE METTRAUX: And do you recall in what capacity
3 President Clinton was talking to Mr. Thaci? And we have the record
4 of this call, so if it's useful to you, I'll show it to you. But
5 using your memory, do you remember in what capacity --

6 A. Leader.

7 JUDGE METTRAUX: President Clinton refers, consistent with what
8 you've just said has -- at the end of the call, he says that he
9 admired Mr. Thaci's leadership. Do you recall that?

10 A. That would sound exactly like something President Clinton would
11 say.

12 JUDGE METTRAUX: And he was a leader of what in your
13 understanding?

14 A. "Leader" is a term you use for someone who is making a hard
15 decision. He's leading his country. And so this is not a term of
16 art designed to mean anything legally. This is the term of art you
17 use. As Gerry Adams -- Madeleine Albright gave an example. He
18 wasn't the commander-in-chief of the IRA, but he was a leader of the
19 IRA's decision to become a political entity that would then make
20 peace with its neighbours or its occupiers. And in much the same
21 way, we felt Hashim Thaci, a civilian, dressed as a civilian, always
22 seemingly a civilian, although associated with the KLA, was a leader
23 who was asked to sign this agreement, and President Clinton was
24 praising his leadership, which he showed on many, many occasions.
25 And everything he promised me he would do he did as a leader would.

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1 JUDGE METTRAUX: And for the record, if that assists, the phone
2 call, the record of the phone call is at 021080.

3 Can we please see Exhibit 1D148, please.

4 That's a document you will be familiar with, Mr. Rubin. You've
5 seen it, I think, before.

6 And if we could scroll it down a little bit so that Mr. Rubin
7 has a bit of context, please.

8 A. I recall it pretty well now.

9 JUDGE METTRAUX: And if we could go to -- it's DHT01536, I
10 believe. And it appears in several places, but I'll focus on that
11 one. If you can look at point 4 in that summary, it says:

12 "The Secretary," referring to Madam Madeleine Albright, "met
13 with KLA representative Krasniqi at Ambassador Vershbow's residence
14 April 12 at the request of KLA leader and Kosovo 'provisional
15 government' [Prime Minister] Hashim Thaqi."

16 So was your understanding, the understanding of the US
17 administration at the time, to the extent you can answer that, was
18 that Mr. Thaci was the KLA leader or KLA leader and Kosovo
19 provisional government PM at the time?

20 A. Your Honour, I note the author of the cable very correctly used
21 quotes around "provisional government." Very importantly.

22 JUDGE METTRAUX: What about the previous?

23 A. The KLA leader? That's -- I thought of him as a KLA leader. I
24 didn't think of him as "the KLA leader" but "a KLA leader."

25 But you neglected to mention the quotes. The quotes are really

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1 important here. The reporter, again, a junior official in the NATO
2 embassy, is writing down. He doesn't work on Kosovo all the time.
3 He hears them call themselves the -- he hears Krasniqi say
4 Hashim Thaci's the provisional government PM, so he writes that down,
5 but he knows that's weird, we don't recognise any government, so he
6 puts it in quotes to show that we don't recognise the government. We
7 don't think there's a government. He's making us know that that's
8 their words, not his words.

9 JUDGE METTRAUX: Thank you, Mr. Rubin, for your patience. Those
10 were my questions. Thank you very much.

11 PRESIDING JUDGE SMITH: We'll have to be here again tomorrow
12 morning.

13 I'm sorry, if you want to say something, say it aloud.

14 THE WITNESS: I'd love to stay and finish if I could, because it
15 would be a lot easier for me to stay as long as you need me, Your
16 Honour, than to stay overnight --

17 PRESIDING JUDGE SMITH: The problem is we've got to go to
18 Judge Gaynor, then we've got to have the -- the attorneys have
19 another shot at you as well, so it's just going to take a while.

20 THE WITNESS: If it's up to me, I would stay. But if it's up to
21 you, I know you -- you can't do that, but I just wanted to offer to
22 stay.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 THE WITNESS: I understand, Your Honour. I better get a hotel
25 room, you're saying.

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1 PRESIDING JUDGE SMITH: Yes, you will stay until tomorrow.

2 THE WITNESS: I'm sorry to hear that, Your Honour.

3 PRESIDING JUDGE SMITH: All right. You're excused from the
4 courtroom. Thank you for being with us today. We'll see you
5 tomorrow at 9.00. We'll do our best to be efficient tomorrow
6 morning.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: Anything further from anybody yet this
9 afternoon? Nobody stood up. Okay.

10 We're adjourned until 9.00 tomorrow.

11 --- Whereupon the hearing adjourned at 4.28 p.m.

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