

Monday, 17 November 2025

[Open session]

[The accused entered the courtroom]

--- Upon commencing at 12.00 p.m.

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

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

PRESIDING JUDGE SMITH: I note for the record that the accused are all present in court today.

Today we will start with hearing the evidence of Thaci Witness 1DW-007. Before we start with the evidence of the witness, there are some preliminary matters that the Panel would like to address.

To begin with, the Panel will issue the following oral orders.

First oral order.

The Panel notes the Thaci Defence request from 13 November 2025 to not reclassify F03410 as public.

The Panel recalls that in F03452, it instructed the Registry to, among other things, reclassify F03410 within one week of the testimony of 1DW-009. Given that F03410 contains identifying information of a withdrawn witness whose identity is confidential, the Panel grants the Thaci Defence request.

The Panel therefore amends its order in paragraph 91 and 92 of

1 F03452 and orders the Registry to not reclassify F03410, and
2 instructs the Thaci Defence to file a public redacted version of
3 F03410 by Thursday, 20 November 2025.

4 This concludes the Panel's first oral order.

5 The Panel further notes that, on 17 November 2025, the Thaci
6 Defence submitted an urgent request to amend its exhibit list,
7 F03580. The Thaci Defence indicated that the SPO does not object to
8 that request.

9 Can the SPO confirm that?

10 MR. HALLING: We do, Your Honour.

11 PRESIDING JUDGE SMITH: All right.

12 Any objection from any of the other Defence counsel? None seen.

13 Having heard the parties' submissions, the Panel grants the
14 Thaci Defence request F03580 and orders it to submit its amended
15 exhibit list by Friday, 21 November 2025.

16 This concludes the Panel's second oral order.

17 With regards to today's schedule, please note that we will take
18 a lunch break at 1.30 p.m. We will then resume at 2.30 p.m., and
19 continue till the end of today's hearing at 4.30 p.m., with a
20 ten-minute break at 3.30.

21 Now we will proceed with the hearing of the evidence of the
22 Thaci Defence Witness 1DW-007.

23 Please bring the witness in.

24 I'm sorry, do you have something before we begin?

25 MR. MISETIC: Just two matters.

1 One, Mr. President, may we have leave to add the document that
2 was now allowed to be added to our exhibit list, which is DHT12601 to
3 DHT12603, to our queue, please?

4 PRESIDING JUDGE SMITH: Unless there's an objection?

5 MR. HALLING: None, Your Honour.

6 PRESIDING JUDGE SMITH: Yes.

7 MR. MISETIC: Thank you. And --

8 PRESIDING JUDGE SMITH: Granted.

9 MR. MISETIC: Thank you. And the only other question is, am I
10 going straight to 1.30 or do you intend to take a break?

11 PRESIDING JUDGE SMITH: We'll try to go straight to 1.30, but if
12 the witness needs to break, or if anybody needs to break urgently,
13 please let me know.

14 MR. MISETIC: Thank you, Your Honour.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 I'm sorry. Court Officer, do not bring the witness in yet. I
17 have one other thing I didn't notice -- or forgot about.

18 First, as a reminder, in filing F03558, the Panel authorised the
19 following measures under Rule 107 for the present witness: The
20 witness's testimony is limited to defined topics and the scope of
21 cross-examination is limited to the scope of direct examination as
22 well as issues regarding credibility; two, the witness may decline to
23 answer questions on the ground of confidentiality; representatives of
24 the Rule 107 provider are authorised to be present during the
25 testimony of 1DW-007; and, four, the witness is not authorised to

1 testify, either on direct examination or on cross, about any matter
2 or for any purpose other than those specified.

3 The Panel will not entertain questions that cannot be shown to
4 be clearly linked to matters authorised by Rule 107 -- by the 107
5 provider and relevant to the case. Where queried on the point, the
6 questioning party should be ready to state how certain lines of
7 questioning fall within the scope of the Rule 107 authorisation.

8 Now, Madam Court Officer, you may bring the witness in.

9 [The witness entered court]

10 PRESIDING JUDGE SMITH: Good morning, General. Please remain
11 standing.

12 Good morning, General Clark. Could you please remain standing
13 for just a moment. Good morning.

14 THE WITNESS: Good morning.

15 PRESIDING JUDGE SMITH: Could you remain standing for just a
16 moment.

17 The Court Usher will provide you with the text of the solemn
18 declaration which you are asked to take pursuant to our rules.
19 Please read the document to yourself and then repeat it aloud.

20 THE WITNESS: Sure. Conscious of the significance of my
21 testimony and my legal responsibility, I solemnly declare that I will
22 tell the truth, the whole truth, and nothing but the truth, and that
23 I shall not withhold anything which has come to my knowledge.

24 WITNESS: WESLEY CLARK

25 PRESIDING JUDGE SMITH: Thank you, General Clark. Please be

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1 seated.

2 Regarding introductions, the parties and participants may have
3 noticed that we have a representative of the Government of the
4 United States of America joining us this morning.

5 Could you please introduce yourself for the record?

6 MS. GEARHART-SERNA: Thank you, Your Honour.

7 Terra Gearhart-Serna, Deputy Legal Counselor at the US Embassy.

8 PRESIDING JUDGE SMITH: Thank you. Thank you for being with us
9 today.

10 General Clark, today we will start your testimony, which is
11 expected to last approximately two days. As you may know, the
12 Thaci Defence will ask you questions first, and then the remaining
13 Defence teams. Members of the Panel might also have questions for
14 you, and the SPO, of course, can cross-examine you.

15 The Thaci Defence estimate for your direct examination is three
16 hours. The remaining Defence teams will take approximately one hour
17 and 45 minutes. The SPO estimates that it will need four hours. As
18 regards each estimate, we hope that the counsel will be judicious in
19 the use of their time. The Panel may also allow redirect examination
20 by Defence counsel if conditions for it are met.

21 Please, Witness, try to answer the questions clearly, with short
22 sentences. If you don't understand a question, ask the counsel to
23 repeat it, and if you don't understand, ask them to clarify and they
24 will attempt to do so. Also, please try to indicate the basis of
25 your knowledge of facts and circumstances that you will be asked

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1 about.

2 Please also speak into the microphone and wait five seconds
3 before answering a question, and then speak at a slow pace to allow
4 the interpreters to keep up. You are being interpreted in both
5 Albanian and Serbian regularly, so it does take a while, and that's
6 why we ask you to let them catch up.

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

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

14 If you feel the need to take a break at any point or wish for us
15 to repeat anything, please make an indication and an accommodation
16 will be made.

17 Finally, I note that you are accompanied in the courtroom today
18 by Ms. Gearhart-Serna, a representative of the Government of the
19 United States of America. In this regard, the Panel has made a prior
20 ruling that your testimony will be limited in scope, and the
21 representative is in court today to help us with that. Please, if
22 you have any doubt about the scope of your testimony, you may seek
23 leave to ask the Panel or the representative for advice.

24 So we begin now with the questioning. We begin with the
25 questioning from Mr. Misetic representing Mr. Thaci. Please give him

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1 your attention.

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

3 Examination by Mr. Misetic:

4 Q. Good afternoon, General Clark. We have met before, but for the
5 record, my name is Luka Misetic and I am Specialist --

6 A. I have to say, the sound is not coming through clearly. I've
7 got this thing up at full volume. I could hear the Judge, but you're
8 not coming through at all.

9 Q. Okay. How about now, can you hear me now?

10 A. Somewhat better.

11 Q. Okay. If at any point you are having difficulty, just stop us
12 and we will try to fix the problem.

13 A. It's not going to work. With you that far from the microphone,
14 it doesn't come through to my headset.

15 Q. Let me try this. Is this better?

16 A. Go ahead. Let's see if I can understand it.

17 Q. Okay. All right.

18 A. It's just slightly below the level of comfort of my hearing.

19 [Overlapping speakers] ...

20 Q. It's above -- it's too loud or not --

21 A. No, too low.

22 Q. Too low. Okay. I will try like this. And if it becomes
23 difficult for you, we'll stop --

24 A. Okay.

25 Q. -- and we'll try to fix the technical problem. Okay.

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1 Could you please state your full name for the record.

2 A. Wesley K. Clark.

3 Q. And what is your date of birth?

4 A. 23 December 1944.

5 Q. What is your nationality?

6 A. US.

7 Q. Did you give a statement to the Thaci Defence which you signed
8 on October 20th, 2025?

9 A. I did.

10 MR. MISETIC: Mr. Court Officer, could we please put on the
11 screen DHT12546 to DHT12556, please.

12 Q. General Clark, do you recognise the document on the screen?

13 A. Say that again?

14 Q. Do you recognise the document on the screen?

15 A. Yes.

16 Q. What is the document?

17 A. Statement by me.

18 Q. Okay. And is this the record of the statement you gave to the
19 Thaci Defence?

20 A. Well, it should be, but I can only see the first page of it.

21 MR. MISETIC: Okay. Let me ask the Court Officer to turn the
22 page to DHT12556, please.

23 Q. General Clark, is that your signature?

24 A. It is.

25 Q. Did you have a chance to review this document before you came to

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1 Court today?

2 A. Yes, I did.

3 Q. And did you have another chance to review this document last
4 week?

5 A. Yes, I did.

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

8 A. Yes, I did.

9 Q. And in that video conference, were you given an opportunity to
10 make corrections and clarifications to this document?

11 A. Yes, I was.

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

14 A. Yes, I do recall.

15 MR. MISETIC: Mr. Court Officer, could we please have on the
16 screen DHT12595 to DHT12596, please. And if we could scroll through
17 the document so the General can see it. And if we can go to the next
18 page.

19 Q. Subject to these clarifications and corrections that you gave us
20 last week and that we recorded in this note, is the information you
21 provided in the statement to the Thaci Defence accurate and truthful
22 to the best of your knowledge and belief?

23 A. Yes.

24 Q. And subject to these corrections and clarifications recorded in
25 this note, does the information provided in your witness statement to

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1 the Thaci Defence accurately reflect what you would say if you were
2 asked the same questions again in court as you were asked when you
3 provided the witness statement?

4 A. Yes.

5 MR. MISETIC: Your Honour, we move for the admission of the
6 witness statement, DHT12546 to DHT12556, and any associated exhibits
7 that were provisionally admitted by the Trial Panel in decision
8 F03558 paragraphs 26 and 42(d). And we also tender Preparation
9 Note 1, DHT12595 to DHT12596, for admission.

10 PRESIDING JUDGE SMITH: Any objection by SPO?

11 MR. HALLING: We have no objection, Your Honour.

12 PRESIDING JUDGE SMITH: By the other Defence counsel, anything?
13 None heard.

14 DHT12546 to 12556 and DHT12595 to 12596 are both admitted,
15 together with the associated exhibits as enumerated.

16 THE COURT OFFICER: Your Honours, DHT12546 to DHT12556 will be
17 assigned Exhibit 1D00430, and it's currently classified as
18 confidential.

19 And the Preparation Note 1, which is DHT12595 to DHT12596, will
20 be assigned Exhibit 1D00431. And if we can clarify the
21 classification, please.

22 MR. MISETIC: I'm looking into it, but I do believe his
23 statement refers to documents that are protected by Rule 107
24 provider, so we'll have to file a redacted version of the statement,
25 a public redacted version.

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1 PRESIDING JUDGE SMITH: All right. Thank you.

2 THE COURT OFFICER: And for the Preparation Note 1, it's the
3 same; right? It's going to be confidential?

4 MR. MISETIC: Yes.

5 THE COURT OFFICER: Thank you.

6 PRESIDING JUDGE SMITH: Do you wish --

7 MR. MISETIC: Sorry, let me just add, we'll come back to you. I
8 don't think that that has be to public, but I will confirm it at the
9 next break -- that that has be to confidential, but I will confirm
10 it.

11 PRESIDING JUDGE SMITH: You may proceed.

12 MR. MISETIC: Thank you, Your Honour.

13 On November 14, 2025, the Thaci Defence submitted by e-mail a
14 proposed summary of this witness's now admitted Rule 154 statement to
15 the Panel and all parties and participants. We have not received any
16 objection to the proposed summary, so I ask for your leave to read
17 the summary now.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

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

20 General Clark is a decorated former four-star general in the
21 United States Army who served as the Supreme Allied Commander Europe
22 of the North Atlantic Treaty Organisation from 1997 to 2000.
23 General Clark provides evidence about directing NATO's efforts to
24 implement the Holbrooke-Milosevic Agreement from October 1998,
25 enforcing United Nations Security Council Resolution 1199, conducting

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1 the air campaign against Yugoslav forces following Milosevic's
2 refusal to sign the Rambouillet Accords, deploying forces in Kosovo
3 in compliance with the Military Technical Agreement and UN Security
4 Council Resolution 1244, and overseeing the demilitarisation and
5 transformation of the KLA.

6 General Clark states that no one in the NATO chain of command
7 perceived an armed conflict to have continued after June 1999. He
8 also describes being aware of the wave of violence in the summer of
9 1999 following the return of Kosovar refugees, and attributes the
10 violence to various factors, including hatred, revenge, blood feuds,
11 and criminal gangs.

12 General Clark did not believe the KLA leadership was engaged in
13 a coordinated effort to target and attack Serbs or minorities, nor
14 did Mr. Thaci specifically have a motive to engage in such conduct.

15 Finally, General Clark describes various interactions he had
16 with the KLA, the Kosovar Albanian delegation to Rambouillet, and
17 Mr. Thaci specifically. He states he did not see the KLA as a
18 well-integrated top-down organisation with any functioning command or
19 control structure. He also observed the lack of control that
20 Mr. Thaci had over the KLA and that he was only a political person,
21 without military experience, and who had limited influence over the
22 KLA soldiers.

23 Based on General Clark's overall responsibilities and personal
24 observations, he believes it would be unjust to attribute the
25 misconduct of others to Mr. Thaci.

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1 And that concludes the summary, Mr. President.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. MISETIC:

4 Q. General Clark, I'm going to pause here for a minute for the
5 interpreters to catch up to us. And I'm going to start by saying
6 that because you and I both speak English, we're going to have a
7 tendency to pick up the pace in our question and answer, and so I'm
8 going to have to remind myself to take a pause between a question and
9 answer, and I would ask if you could help me out with that as well
10 and sometimes take a pause before answering my question so we can
11 help the interpreters and the court reporter who is transcribing
12 these. So I appreciate your cooperation.

13 I'd like to start with some background questions about who you
14 are.

15 First, as you mention in your statement, you graduated from
16 West Point in 1966 as the valedictorian of your class and went on to
17 be a Rhodes Scholar at Oxford; correct?

18 A. Correct.

19 Q. You then went on to serve for 34 years in the United States Army
20 where you became a four-star general and ultimately the Supreme
21 Allied Commander for Europe; is that right?

22 A. That's correct.

23 Q. You were also the head of US European Command; is that correct?

24 A. That's correct.

25 Q. You served as Supreme Allied Commander for Europe from 1997 to

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1 2000; correct?

2 A. Correct.

3 Q. You say in your statement that prior to that, you were the lead
4 military negotiator for the Dayton Peace Accords in 1995 in your role
5 as the Director of Strategic Plans and Policy for the Joint Staff at
6 the Pentagon. Could you tell us what is the job of the director of
7 strategic plans and policy?

8 A. I was responsible for US military policy and strategy worldwide.
9 So during my time, we had problems with Saddam Hussein in Iraq, we
10 had the drug crisis, we had the ongoing war in Bosnia, we had a
11 crisis with Korea where we almost went to war in Korea and so forth.

12 Q. Thank you.

13 A. We also had to rewrite the US military strategy. This was the
14 post-Cold War world, there was no US military strategy. Starting
15 1994, we rewrote that and also wrote a vision for the United States
16 Armed Forces in the post-2000 period.

17 Q. Thank you, General. You say in paragraph 5 of your statement
18 that during the negotiations of the Dayton Accords in 1995, you
19 mention that you were aware of the George H. W. Bush Christmas
20 warning. Can you tell us what that was and why it was issued?

21 A. Well, first of all, I want to say that -- that when we started
22 the negotiations, I was not aware of this. And the people in -- the
23 diplomats were quite aware of it, but the general public and those of
24 us in the military who'd been elsewhere in December 1992 were not
25 aware of it. But because of violence directed at the Albanian

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1 population by the Serb police and special police, the MUP, inside
2 Kosovo, President Bush, George H. Bush, said that -- directed to
3 Milosevic that he had to stop the violence or the US would respond
4 with its capabilities. It was a veiled reference that we would use
5 military force to stop the repression of the Kosovar Albanian
6 majority in Kosovo.

7 Q. Now, you also mention that you then approached Milosevic at
8 Dayton about his treatment of Kosovar Albanians, and he responded
9 that he would not talk about the issue; is that correct?

10 A. I was with him -- yes, when Richard Holbrooke and I approached
11 him, and he said, "We're not going to talk about this. This is my
12 country, my problem."

13 Q. Okay.

14 A. So he just refused to talk about it. I think we tried more than
15 once. We knew it was a point of contention. We knew there was a
16 challenge there. And he just refused to talk about it.

17 Q. Okay. In paragraph 6 of your statement, you say that you began
18 to focus on Kosovo in the first part of 1998 when you heard reports
19 of a Serb attack on the Jashari family in Kosovo. What were you
20 seeing happening at that time in 1998?

21 A. So I flew in to Macedonia, it must have been the first couple of
22 days of March. We had a US task force there that had been
23 established a few years earlier to police the border between Serbia
24 and Macedonia, and that was called Task Force Able Sentry, and I had
25 not been down to inspect it. I went down to inspect it. I'd been in

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1 command at that point about maybe seven months. Everything seemed to
2 be going well. I landed, I got an immediate call from the US
3 ambassador in Skopje, Ambassador Chris Hill, who said, "You need to
4 come and see President Gligorov right away."

5 I had read the reports, the spot reports of the murder of the
6 Jashari family. There was concern about it. But when I went to see
7 President Gligorov, he explained to me that this was going to spark
8 open conflict.

9 Q. And --

10 A. As he said to me, he said, "These Albanians will fight. They
11 will not roll over. They will not accept this. They will resist
12 this kind of murder."

13 MR. MISETIC: Mr. Court Officer, could we please have on the
14 screen Exhibit 1D00430, please.

15 THE WITNESS: And let me just say, I had -- we had known
16 President Gligorov from the Dayton period. We met with him several
17 times in Skopje. Gligorov was a well-educated man. He was a 1939
18 graduate of Belgrade University. He spoke English, German, French,
19 Serbian, Russian. He was of the old school there. And he was a man
20 who was a very -- very perceptive participant and an observer of the
21 things that were going on in south-east Europe. So he had a lot of
22 credibility with me when he said that.

23 MR. MISETIC:

24 Q. Understood. General Clark, I have your statement on the screen.

25 MR. MISETIC: And if we could please turn to paragraph 7 of your

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1 statement.

2 Q. General, in this part of your statement you discuss the fact
3 that after this Jashari family incident in --

4 A. Say that again a little bit louder.

5 Q. I apologise. You discuss in paragraph 7 that after you met with
6 President Gligorov of Macedonia, you began to design an action plan.
7 What was that plan --

8 A. Yeah, well --

9 Q. -- and why did you design a plan?

10 A. So after I met with President Gligorov, I sent a note back to
11 the Pentagon, to the Chairman of the Joint Chiefs and the Secretary
12 of Defense, warning that Milosevic was going to spark another
13 conflict, and suggesting that the Christmas warning from 1992 might
14 need to be reiterated.

15 And so at that point, the United States and NATO had no policy
16 to Kosovo. And during the period of March, April 1998, Serb attacks
17 on the population in Kosovo increased to the extent that foreign
18 ministers began to talk to the US Secretary of State about this. And
19 so I thought I knew what could be done, but under NATO procedures,
20 there's no authority to plan anything without political direction.
21 So there were no plans.

22 I did speak to the US Secretary of State about it. I did not
23 speak to any foreign ministers. I was instructed by the
24 United States not to.

25 Q. And --

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1 A. But when I -- when I think -- I think what happened was, if I
2 remember correctly, the ministerial meeting in the spring, maybe May
3 1998, I was directed to come up with a plan, and that's -- I don't
4 remember if it was the defence minister's or the foreign minister's,
5 but in any event, that's where I had the direction to come up with a
6 plan. So I had a concept.

7 Q. And you say in paragraph 7 that that plan included an activation
8 order.

9 A. Well, okay. So I had to -- when you're -- in NATO, you have a
10 dual chain of command. So I reported to the military committee and
11 the Secretary-General, but I also reported to the Secretary of
12 Defense through the Chairman of the Joint Chiefs. So I went back to
13 the Chairman of the Joint Chiefs, I explained what I thought could be
14 done, and asked him -- got his permission to speak to the White House
15 about it. So I went over and talked to the White House, and then
16 that's where the plan emerged from. I had to get US permission first
17 to do the NATO plan because it was going to use a lot of US assets.

18 So that plan was a multiple-stage plan. It started with the
19 idea that we would demonstrate US air power by flying around the
20 circumference of Serbia, and then there was a progression. If the
21 ethnic cleansing continued, we would strike in Kosovo. If that
22 didn't persuade Milosevic to stop the ethnic cleansing, then we would
23 strike inside Serbia itself. And if that didn't work, then there
24 were ground options.

25 Now, the reason I came up with this plan was when I had spoken

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1 with Milosevic at Dayton, and I spoke with him many times at Dayton,
2 sometimes in the presence of the delegation, sometimes one-on-one at
3 the direction of Richard Holbrooke. And in one of these meetings, he
4 told me, he said -- he said, "We Serbs, we had no chance against your
5 NATO, your NATO airforce," blah, blah, blah, complaining and whining
6 about this. So I knew that he was very sensitive to NATO air power.
7 So that was the genesis of the plan.

8 Q. Thank you, General. Did you remain actively engaged throughout
9 1998 on what was happening in Kosovo?

10 A. Of course. Yeah, yeah. I mean, this was a painful period,
11 because I remember at one point a brigadier from the Albanian
12 military came to see me, and he said, "Look, we're on the high ground
13 looking into Kosovo. We can see these villages like Drenica and so
14 forth. They're firing mortars into the villages. They're killing
15 our people in there. There's ethnic cleansing going on." It was
16 really unbelievable. After we had stopped the war in Bosnia, and
17 here it was, same people, same process.

18 Q. Thank you, General. Turning your attention to paragraph 9 of
19 your statement.

20 MR. MISETIC: If we could turn the page, Mr. Court Officer.

21 Q. Here, General, you say that, in the summer and fall of 1998, the
22 attacks on Kosovar Albanians by the Serbs units intensified,
23 resulting in Kosovar Albanians fleeing their homes in the villages
24 and escaping to the mountains.

25 You then discuss in paragraph 10 the conclusion of the

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1 Holbrooke-Milosevic Agreement.

2 MR. MISETIC: And if we could scroll down a bit so the General
3 can see the paragraph.

4 Q. First, do you recall the purpose or broad terms of the October
5 Agreement with Milosevic?

6 A. I think the broad terms were he was going to stop the violence
7 and pull the excess military back out of Kosovo. There were three or
8 four different regiments there. There was a military police brigade.
9 I think there was a like -- maybe an armoured -- an armoured
10 regiment, some other forces that were there. He had substantially
11 augmented these forces starting in the spring of 1998, going through
12 the summer, and we had seen this happening.

13 When I -- when Holbrooke went back to see Milosevic in June
14 1998, maybe early July, Holbrooke was at the time awaiting
15 confirmation to be UN ambassador for the United States, but the
16 President sent him back in to talk to Milosevic because they were
17 concerned about what was going on in -- the White House was concerned
18 about what was going on in Kosovo.

19 And so Holbrooke called me. He was with Milosevic. Milosevic
20 said -- he said, "I see your airplanes." This is -- we were flying
21 the airplanes around Kosovo. He said, "I see your airplanes, but
22 these are my people. I would not hurt them."

23 So that was the first phase of this combined operation that we
24 started. So, obviously, he wasn't going to listen to it, and it
25 continued in July and August. And about 400.000 Albanian civilians

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1 fled their villages, went into the mountains, women had babies there,
2 people were afraid. But for the most part, the Serbs were -- they
3 were still focused on trying to eliminate the lawyers and doctors in
4 these villages rather than pursuing the people up into the mountains.
5 So they were just stranded there.

6 I was travelling around Europe, and I remember getting
7 instructed by various European statesmen. One of them was
8 President Meri of Estonia, and he explained to me the policies of
9 guerrilla warfare and the way it had been conducted,
10 counter-guerrilla warfare, by the Soviet Union. And he said -- also,
11 he said, "Look, NATO's given this warning. Milosevic is not
12 responding to it. NATO's losing credibility every single day."

13 Q. Thank you, General. I want to draw your attention to the third
14 item there on the screen. It says part of the agreement called for:

15 "Aerial surveillance and verification by NATO, with Former
16 Republic of Yugoslavia ... Radar and Air Defence Systems either
17 removed from Kosovo or placed in [containment] sites and not
18 operated ..."

19 My question to you is, first of all, territorially, what were
20 you surveilling? What territory were you surveilling?

21 A. Oh, this was Kosovo.

22 Q. And, secondly, whom were you surveilling?

23 A. Well, we were watching to see if there was ethnic cleansing
24 going on. So we were watching the Serb military, the MUP, special
25 police, and ordinary police.

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1 Q. Were you able to surveil any KLA forces?

2 A. Well, there wasn't much to see from the air, and there wasn't
3 much you could do about the KLA. Mostly, they didn't have radios,
4 there was no chain of command. It wasn't like you were watching two
5 forces.

6 Q. In this paragraph, you --

7 A. But let me just say, this paragraph goes over a lot of ground.
8 So between the end of September and the beginning of November -- or
9 beginning of December, I made three trips into Belgrade. I took
10 Javier Solana in once and we sat down with Milosevic, and he said,
11 Milosevic said, "I've withdrawn these forces." And Solana turned to
12 me, he said, "Which forces haven't been withdrawn?" I would name the
13 force. He would say it to Milosevic. Milosevic would turn to
14 General Perisic. Of course, they were speaking Serbian at that point
15 so I couldn't understand it. And then he would say -- Milosevic
16 would come back and say, "It will be withdrawn," angrily, you know,
17 like we had caught him at something. I couldn't tell whether he was
18 angry at us for catching him or angry at Perisic for not telling him.
19 But he was angry. So this went three rounds with Milosevic.

20 So we left. We thought successful meeting. Nothing happened.
21 The forces weren't withdrawn. Went back a week later. I told
22 President Milosevic he needed to withdraw the forces. I said, "If
23 you don't, NATO's going to tell me to execute this plan and execute
24 bombing." He said, "Well, NATO must do what it must do." I said,
25 "Well, now, you don't want that, Mr. President." He said, "No,

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1 you're right." He said, "Talk to the generals." So I went in and
2 talked to the generals. They laid out the map. They said, "Oh,
3 these are terrorists here and here," and they were pointing at
4 various areas of Kosovo, said, "These are terrorists."

5 Well, I said, "Look, you aren't going to defeat people who were
6 fighting for their families by calling them terrorists and punishing
7 the whole population. You can't do it. You won't succeed. All
8 you'll do is make more and more enemies. You've gotta change your
9 tactic." So we had a big argument. So that didn't accomplish
10 anything. But I went back and told Milosevic. He said he would do
11 what he could. Nothing changed.

12 Q. Thank you, General.

13 A. I made a third trip with General Klaus Naumann, and at that
14 point we had a -- we sat down and told President Milosevic what we
15 wanted. He said, "Oh, you're going to have to talk to Mr. Sainovic.
16 He's in charge." So we spent all night working up an agreement. The
17 next morning, it was a Sunday morning, it was time to sign the
18 agreement. President Milosevic showed up about 10.00 in the morning,
19 and he sort of -- he acted like the agreement wasn't very important.
20 He said, "You know," he said, "we know how to handle these Albanians,
21 these murderers, these killers of their own kind." I said, "Well" --
22 he said, "We've done it before." I said, "Well, Mr. President, how
23 did you handle it? What did you do?" He said, "We killed them all."

24 Then he presents the agreement that has been typed up by his
25 people, where it's an agreement to follow through on what the

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1 United Nations got him to agree to and pull back forces and do
2 negotiations. And I said, "Well, Mr. President, I don't see your
3 signature on this agreement." He said, "It's not necessary." I
4 said, "Oh, yes, it's necessary." So he signed it. And we flew back
5 the next morning. Nothing happened again.

6 So I called the US ambassador on an open line and I basically
7 said, "You know, nothing's moving. If something doesn't start moving
8 by nightfall, I'm going to have to report this to NATO, and we're
9 going to follow through on the plan," which means military air
10 strikes. Within two to three hours, stuff started moving.

11 Now, this was all before Ambassador Walker went in with the
12 Kosovo Diplomatic Observer Mission. This was all just trying to get
13 Serbian compliance to what was nominally agreed with
14 Richard Holbrooke.

15 Q. Thank you, General. I'm going to pause here to let the
16 interpreters catch up.

17 A. Okay. I'm speaking too fast.

18 Q. No, no, it's fine. We'll just give them a chance. Thank you.

19 Now, in this paragraph you say that the North Atlantic Council
20 authorised the activation order for limited air strikes which could
21 be executed after 96 hours against Serbia.

22 My question to you is, was this activation order in effect from
23 August 13th, 1998, through the NATO bombing campaign?

24 A. Well, this was the activation order that would -- provided the
25 leverage. Holbrooke asked us to execute it, because when he went in

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1 to see Milosevic the first time, Milosevic was just like he was in
2 the summer. He's, like, not too worried about this. Whatever. So
3 the idea was to do this activation order, which at the time had never
4 been done.

5 MR. HALLING: And apologies, Your Honour, in that question it
6 said "August 13, 1998." If that's in reference to the statement, it
7 says "October 13, 1998."

8 MR. MISETIC: I apologise. It's a slip of -- it's a lapse. So
9 it should be October. I apologise.

10 THE WITNESS: Yeah, it was October.

11 MR. MISETIC:

12 Q. Yeah.

13 A. Because what's important about this is without an activation
14 order, NATO doesn't have any aircraft. This activation order
15 required the nations to identify which aircraft would be provided to
16 NATO in the event of the execution plan.

17 Q. Thank you, General. In the summer and fall of 1998, were you
18 being briefed through various sources of information about what the
19 situation was on the ground in Kosovo?

20 A. Yes.

21 Q. In addition to being informed about the position of Serbian
22 forces on the ground, were you receiving information about KLA forces
23 on the ground in the summer and fall of 1998?

24 A. Not much.

25 Q. Do you recall what information, if any, you had in 1998 about

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1 the structure and command of the KLA?

2 A. Well, there wasn't much really to talk about in terms of the
3 structure. As far as we knew, these were local groups that had
4 emerged more or less spontaneously in response to years of Serb
5 oppression. And especially after the murder of the Jashari family, I
6 think there was a genuine alarm that more was coming, and so it
7 seemed that there were people that were joining up. That was as much
8 as we could really tell.

9 I actually got more information on the KLA from the Serbs than I
10 did from our own sources. The Serbs had circles on a map that would
11 show where the so-called terrorists were. I was looking at it. It
12 was very interesting what they said. They were trying to collect
13 information on it. But, of course, most of these people were just --
14 they were trying to -- they were living at home and they were trying
15 to protect their families as far as we could tell.

16 Q. Thank you, General.

17 MR. MISETIC: If I could turn your attention to paragraphs 17 to
18 19 in your statement. If we could go.

19 Q. Here you discuss the Racak incident, massacre --

20 A. Recak.

21 Q. Recak, yes, the massacre, and your meetings with Milosevic on
22 that subject. You then note that you reduced the notice time to use
23 NATO aircrafts for strikes under the activation order from 96 hours
24 to 48 hours. Why did you decide to reduce the notice time?

25 A. See, I'm trying to see what you're reading here.

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1 MR. MISETIC: If you -- if we could scroll down, please.

2 THE WITNESS: Which paragraph is it?

3 MR. MISETIC: If we can scroll down, please.

4 THE WITNESS: I don't see.

5 MR. MISETIC:

6 Q. Right there in paragraph 19. If you could read it to yourself.

7 A. Just trying to put pressure on Milosevic.

8 Q. Okay. Thank you.

9 MR. MISETIC: If we could turn the page in the statement,
10 please.

11 Q. Paragraph 22, your meeting with Mr. Thaci. If you could read
12 that paragraph to yourself for a second.

13 A. So -- paragraph 22?

14 Q. Yes, sir.

15 A. Yeah. So -- well, let me just say first that I had requested to
16 go to the Rambouillet talks, because I thought that if I went to
17 Rambouillet, I could persuade the Serbs to go along with the
18 agreement. The basic agreement we'd written up at Rambouillet was --
19 it was patterned on what we did in Bosnia. It was to put a
20 UN-sponsored NATO force in to stop the killing, stop the murder.
21 There was no intent to drive the Serbs out. That wasn't the plan.
22 The plan was just to, you know, restore harmony and peace. It worked
23 in Bosnia.

24 And so I thought that I could go there and -- but I wasn't
25 permitted to attend Rambouillet.

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1 Finally, I was asked -- I was allowed to go to meet the KLA
2 Albanian delegation at I think it was Le Bourget airfield. So this
3 was toward the end of the first session of the Rambouillet talks. I
4 flew in and I met them. I told them what the NATO plan was,
5 explained that we meant what we said, and shook hands with them, and
6 that was it.

7 And then days later, they accepted the proposal, the Serbs
8 didn't, and that's what was the trigger to start something.

9 And so I met Mr. Thaci a second time before the campaign began
10 as I recall. And, you know, he was just one of the people there. He
11 was the most presentable. He was the youngest. He was the most --
12 let's say, had a better haircut, better clothes. He was -- as I
13 understood it, he was living in Switzerland. He spoke German, not
14 much English. I spoke not much German. We had a hard time
15 communicating. But -- I -- you know, he wasn't a military commander.
16 Q. And you say in your statement at paragraph 23 that you reached
17 the conclusion that he was not a military commander because he
18 couldn't help you identify any targets and that he didn't have even a
19 rudimentary understanding of military operations; is that correct?

20 A. That's right. When I met with him the third time, I asked for
21 help. We never got any help. I mean, he had no idea what was going
22 on. I showed him a map, I said, "Where are you right now? What's
23 happening here?" We're -- the problem I had as a commander was we
24 had no ground force. We really were relying only on air power. We
25 were trying not to strike civilian targets. We were trying to attack

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1 enemy forces on the ground in Kosovo. And so I was asking him,
2 "Where are they? Where are you? Where are they? What should I
3 strike? What targets are there?" Nothing.

4 Q. Thank you, General. In paragraphs 24 and 25 of your statement,
5 you say you do not believe the KLA had any functioning command and
6 control structure.

7 My question to you is what is the difference between command and
8 control?

9 A. Well, we always say command and control because command is
10 authority, but control is being able to observe it, to respond to it,
11 to correct it, to direct it, to follow up on it. And as far as we
12 could tell, there wasn't any.

13 Now, I did have some observers on the border between Albania and
14 Kosovo, and occasionally they would tell me that they would talk --
15 trying to get information, but -- these were US Special Forces
16 people. But they never got any reliable information either. So it
17 was clear that they were just -- there were independent groups. They
18 were well motivated, I think. They were fighting. We occasionally
19 would hear they captured somebody. At one point I said -- they
20 captured a Russian. I said, "I want that Russian brought up here. I
21 want the world to see the Russians are in here." Nothing.

22 We never could -- you know, was there just no communications
23 there. There was no grip. These were just people -- I guess they
24 were happy to have NATO air power in there. I have no doubt that the
25 Serb military was afraid of them. But in terms of any command and

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1 control or coordinated force, not that I could see.

2 Q. Thank you, General. Did you ever try to explore the possibility
3 of relying on the KLA as a form of troops on the ground?

4 A. No, we tried. We were -- that's what I wanted. I wanted
5 forward observers so we could strike and not make mistakes.

6 In one case, we identified a bunch of Serb vehicles around a
7 building that looked like a headquarters building. There was -- the
8 vehicles were surrounding it. There were antennas, there were
9 communications. And so our intelligence guys identified this as a
10 Serb headquarters, and it was struck. And it turned out it wasn't a
11 Serb headquarters at all. It was Serbs that had put Kosovars they
12 had detained in a holding area inside this building, and the vehicles
13 were surrounding it to prevent the Kosovars from leaving. So it was
14 a terrible friendly fire incident that, you know, my airmen and I
15 felt awful about when we found out what had happened.

16 But that's an example of the fact that we couldn't get any
17 information off the ground.

18 Q. Thank you.

19 MR. MISETIC: Mr. Court Officer, could we please have
20 Exhibit 1D00120 on the screen.

21 THE WITNESS: You've got to speak more loudly, please. I'm
22 sorry.

23 MR. MISETIC: Sorry, General. I was talking to the
24 Court Officer.

25 Q. General Clark, what you see on the screen is a letter from the

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1 Department of State dated May 4, 1999, to the Chairman of the Senate
2 Foreign Operations Committee, Senator Mitch McConnell. And I would
3 just like to ask you a few questions about something the State
4 Department told Senator McConnell in this letter. I'll let you take
5 a look at it. It relates to the issue of members of the Senate
6 wanting to arm the KLA. Were you familiar at the time with any
7 initiatives in Congress to arm the KLA?

8 A. Actually, I really wasn't watching it.

9 Q. Okay.

10 A. Maybe I knew it at the time, but it was -- this was the time at
11 which I was trying to figure out how to ramp up the air strikes to
12 put more pressure on Milosevic inside Serbia. So this was a
13 carryover of some earlier discussions, I guess.

14 MR. MISETIC: If we could go to the third paragraph,
15 Mr. Court Officer.

16 Q. There, the Department of State tells Senator McConnell that:

17 "... there is no political structure in Kosovo or effective
18 command and control of the KLA ..."

19 Is that consistent with your own assessment of the KLA at the
20 time?

21 A. Yes.

22 Q. Okay. Where it says that "there is no political structure in
23 Kosovo," did you also believe there was no political structure --

24 A. Well, I had -- I knew about Mr. Rugova who was in and out of
25 jail, but, yeah, we knew that he had a following in Kosovo. But on

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1 the other hand, it wasn't a politically effective structure.

2 Q. When you say that --

3 A. And if I could say, it wasn't like it was -- it wasn't like it
4 was connected to the armed resistance. If anything, it was separate
5 from the armed resistance as I recall.

6 Q. Yes. Was it -- did you have an assessment of whether there was
7 any civilian control over the KLA?

8 A. No, there was no ...

9 Q. Thank you. Would it have been possible for the KLA to have a
10 functioning chain of command from the top to the bottom without NATO
11 and the United States knowing it?

12 A. No, no.

13 Q. Turning your attention to paragraph --

14 MR. MISETIC: If we could please have the statement back on the
15 screen, 1D00430, please. If we could go to paragraph 27, please.

16 Q. General Clark, in paragraph 27, which is on your screen now, you
17 say that the armed conflict in Kosovo came to an end with the
18 withdrawal of Serb forces pursuant to the Technical Military
19 Agreement in June 1999 and the passage of UN Security Council
20 Resolution 1244.

21 You also say that no one in the chain of command, including the
22 North Atlantic Council, perceived an armed conflict to have continued
23 after June 1999.

24 First, can you tell us, once KFOR came into Kosovo, how was it
25 structured? Do you recall how many zones there were?

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1 A. So we had Kosovo -- we had two NATO forces. One in Albania
2 under General Reith, and it was dealing with the approximately
3 million people who had fled into -- close to a million people,
4 500.000 people, let's say, into Albania. So they had a refugee
5 mission. In the Macedonia we had the ACE Rapid Reaction Corps under
6 General Jackson, so he picked up national delegations. We had
7 Italians, we had French, we had Germans, and so forth, that were
8 moved there, ready to move into Kosovo when the resolution was
9 completed.

10 So if I recall correctly, the resolution was signed on Thursday
11 in New York, on June 10th, around midday, and the Serbs were supposed
12 to move out on the 11th, and NATO was supposed to come in on 12th
13 June. So NATO forces were there and poised and planning to go in.
14 That agreement had followed several days of negotiations between
15 General Jackson representing me and the Serbs along the southern
16 border of Serbia.

17 Q. Thank you, General. Do you recall how many troops, NATO troops,
18 there were in Kosovo after NATO moved in?

19 A. I think we planned for something like 20.000, something like
20 that.

21 Q. Okay. Did you have air support?

22 A. Yes, we had air support.

23 Q. Did you have overhead surveillance of Kosovo?

24 A. We had overhead surveillance.

25 Q. What would KFOR's response have been if Serbia had attempted to

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1 attack Kosovo or the KLA after Serbia had withdrawn its forces?

2 A. Well, NATO would have resisted, of course.

3 Q. If Serbia had attempted to attack Kosovo or the KLA after it had
4 withdrawn its forces, would that have brought Serbia into conflict
5 with NATO?

6 A. Yes, it would have.

7 Q. Was there a real risk, in your view, of resumption of
8 hostilities after Serbian forces withdrew?

9 A. I didn't think there was much of a possibility of Serbian forces
10 resuming hostilities, but we still had the unresolved issue of the
11 Russians that were at Prishtine airfield. And we had been surprised
12 by the Russian move from Bosnia on 11th June down to seize that
13 airfield in Prishtine when the Serbs withdrew. So, you know, you
14 can't ever -- you can't disregard responsibilities for force
15 protection and mission accomplishment. So one of those
16 responsibilities was we had to be prepared if something were to
17 happen.

18 Q. Yes. But I'm trying to get, like, a gauge how realistic a
19 Serbian offensive on NATO you perceived to be at the time?

20 A. Probably wasn't very realistic. But on the other hand, I
21 thought it was appropriate as a commander not to be surprised, not to
22 have never thought about something like this.

23 Q. Thank you, General.

24 MR. MISETIC: Mr. Court Officer, could we please have on the
25 screen Exhibit P04064, please.

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1 Q. General Clark, on your screen is the Military Technical
2 Agreement between KFOR and the Governments of Yugoslavia and Serbia.

3 MR. MISETIC: And if we could scroll down to the bottom of this
4 page, please. Actually, if we can go over to the next page, page 2.

5 Q. It defines two terms:

6 "... Air Safety Zone ... is defined as a 25-kilometre zone that
7 extends beyond the Kosovo province border into the rest of FRY
8 territory. It includes the airspace above that 25 kilometre zone."

9 The next definition is:

10 "The Ground Safety Zone ... [which] is defined as a 5-kilometre
11 zone that extends beyond the Kosovo province border into the rest of
12 FRY territory. It includes the terrain within that 5-kilometre
13 zone."

14 Then if we scroll down to section 4(a), it says:

15 "To establish a durable cessation of hostilities, under no
16 circumstances shall any Forces of the FRY and the Republic of Serbia
17 enter into, re-enter, or remain within the territory of Kosovo or the
18 Ground Safety Zone ... [or] the Air Safety Zone ... described in
19 paragraph 3, Article I without the ... express consent of the
20 international security force ('KFOR') commander. Local police will
21 be allowed to remain in the [Ground Safety Zone]."

22 My question to you is, did the Serbs ever challenge the air and
23 safety zones around Kosovo?

24 A. Well, not during that period that I recall. No.

25 Q. Thank you.

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1 A. They were busy dragging their equipment out and trying to
2 recover their military forces.

3 Q. Thank you.

4 MR. MISETIC: Mr. President, at the request of a provider, I ask
5 if we can move into private session.

6 PRESIDING JUDGE SMITH: Please take us into private session,
7 Mr. Court Officer.

8 [Private session]

9 [Private session text removed]

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15 [Open session]

16 THE COURT OFFICER: Your Honours, we're in public session.

17 Thank you.

18 MR. MISETIC: Thank you.

19 Mr. Court Officer, could we please have on the screen DHT12601

20 to DHT12603, please. And if we could scroll down a bit, please.

21 Q. General Clark, this is a media report that was published in the

22 Irish Times. I believe it's from around 8th July.

23 MR. MISETIC: And if we can scroll down.

24 Q. It talks about:

25 "Ethnic violence [flaring] between Serb and Albanian groups

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1 yesterday in the northern town of Mitrovica on the first day French
2 K-For put ethnic tolerance to the test and lifted the barrier
3 dividing the town."

4 It says:

5 "Shortly after a crowd of 7.000 ethnic Albanians under heavy
6 K-For protection had marched peacefully back into the Serb quarters
7 for the first time to highlight their desire to return to their
8 homes, a standoff began between groups of hardline Serbs and
9 Albanians. They positioned themselves at either" - if we can scroll
10 down, please - "side of the Ieber bridge, which divides the town
11 ethnically, and had been road blocked by Kfor until yesterday. Rocks
12 were hurled from both sides, but French troops moved in and prevented
13 further serious violence by arresting a Kosovar Albanian man who
14 attempted to throw a hand grenade."

15 My question to you is, do you recall this tension in Mitrovice?

16 A. No, I don't recall this incident.

17 Q. Okay. Are you aware of any confrontation between KLA forces and
18 Serb paramilitaries in Mitrovica in early July 1999?

19 A. Well, I'm not aware of any confrontation between Serb
20 paramilitaries and KLA. But I am aware that there were a series of
21 confrontations during this period. I never thought it was KLA. The
22 KLA had said they weren't going to do this, but I did know that there
23 was a lot of pressure on both sides to try to drive Albanians out of
24 the area north of the Ibar river.

25 And this -- I think you got something dated. This is November

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1 16th. Now, what's the date of this incident?

2 MR. MISETIC: If we can go back.

3 THE WITNESS: Was this September?

4 MR. MISETIC:

5 Q. No, it's July. But I'll just show you on the date of the --

6 MR. MISETIC: If we could scroll down a little bit.

7 Q. You see the date there, 8 July 1999 is when it was posted
8 to this --

9 A. Yeah.

10 Q. -- to this Listserv, so it was before that.

11 A. So that was immediately upon the entry, a week or so after the
12 -- no, I guess it would have been like five weeks after we got in
13 there with KFOR. Now, there were a lot of moves like this going on
14 as people were trying to assert their dominance, but I don't think it
15 was organised. I never had the sense it was organised by the KLA.
16 This was individual people. And it ended -- there was a lot of
17 pushing and shoving and ethnic cleansing north of the Ibar river to
18 the extent that I had to go see the French foreign -- French defence
19 minister in early October. I went to the NATO Secretary-General and
20 complained because basically there was an organised Serb effort to
21 cleanse the area north of the Ibar, where Mitrovice was, of
22 Albanians.

23 And I went to see Minister Richard at the instruction of
24 Secretary-General Solano. And he said, Richard told me, "No, I've
25 given orders to the French troops to protect the Serbs in that area

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1 and support them." So I had some difficulty with that. But it's --
2 the way NATO operates is there's a certain amount of national
3 discretion, even under NATO command and control. So I had appealed
4 to him. He didn't change his orders. I later set up a special
5 reinforcement of non-French forces to go up north of the Ibar river
6 into Mitrovica to try to preserve the opportunity for Albanians to
7 live there.

8 The reports I was getting showed that there were Albanian
9 doctors in hospitals and other people that were forced out of the
10 region by the Serbs. And that -- and I figured that was Serb
11 paramilitaries or Serb special forces.

12 Q. Thank you.

13 A. It's just the way Belgrade operated.

14 Q. Thank you, General.

15 MR. MISETIC: Mr. President, I tender DHT12601 to DHT12603 into
16 evidence.

17 PRESIDING JUDGE SMITH: Objection?

18 MR. HALLING: None, Your Honour.

19 PRESIDING JUDGE SMITH: DHT12601 to 12603 is admitted.

20 THE COURT OFFICER: It will be assigned Exhibit 1D00434. And
21 it's currently classified as confidential.

22 MR. MISETIC: It can be public.

23 THE COURT OFFICER: Thank you.

24 PRESIDING JUDGE SMITH: Reclassified as public.

25 MR. MISETIC: Thank you.

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1 Q. General Clark, in your witness statement you also discuss the
2 demilitarisation of the KLA in the summer of 1999. And in paragraph
3 31 of your statement, you state that General Jackson regularly
4 convened meetings with the KLA commander Ceku and the KLA zone
5 commanders in order to implement the demilitarisation of the KLA.
6 You discuss one such meeting that you attended when General Jackson
7 asked you to join a JIC meeting in order to address zone commanders
8 who were resisting efforts to fully surrender arms.

9 My question to you is, did you have an understanding of why
10 General Jackson couldn't just tell KLA commander Ceku to issue an
11 order to complete the demilitarisation and why he needed the Supreme
12 Allied Commander of Europe to directly address zone commanders?

13 A. Well, I never actually addressed that question to
14 General Jackson, but I knew he was having difficulty, because having
15 fought individually, having done their best to protect their own
16 people, and following the resurgence of the Kosovar Albanians back
17 into Kosovo, I think the KLA was able to, at that point, get people
18 together, come together with some kind of an organisation.

19 I had never met General Ceku before. And so I think the concern
20 was they felt like they had been -- their people had been really
21 mistreated, and they were subject to oppression. They weren't sure
22 whether they could trust NATO to protect them. They had seen, no
23 doubt, that UNPROFOR, under the UN, in Bosnia a few years earlier was
24 not particularly effective in protecting the Bosnian people.

25 So I think Jackson wanted me to come down just as a further

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1 reassurance. They had seen me on television. They knew I was the
2 Supreme Commander. He thought I could help them understand that:
3 Give up your weapons. Yes, you can still have an association. We'll
4 call it disaster relief or something like this. But you won't be
5 armed. You're not a military. That's over.

6 And that was a message I conveyed at that meeting, and they
7 bought it.

8 Q. But did you have an understanding of why the zone commanders
9 needed to be present at that meeting?

10 A. Say that again?

11 Q. Did you have an understanding of why the zone commanders needed
12 to be present at a meeting with you?

13 A. Well, I mean, yes, because this was still a pretty -- I figured
14 it was a pretty rudimentary organisation. People -- I assumed -- you
15 know, it wasn't an organised military. It wasn't like the colonels
16 gave orders to the captains, and the captains gave orders to the
17 lieutenants. These were regional localised groups of fighters who
18 sort of banded together to protect their communities. And someone on
19 the outside was trying to help them get weapons, someone was trying
20 to probably give them training or something, but it was never really
21 put together.

22 So my assumption was that after NATO got in, these people
23 actually got to meet each other, got to talk, but there was no real
24 submission to authority. These people were still like, you know, I
25 did my part, I risked my neck on this, you're not going to tell me

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1 what to do easily, I don't trust this. Whatever. I mean, you've got
2 to understand this population.

3 What Milosevic told me was true. I mean, they killed people.
4 And they were subject to systematic ethnic repression for a period of
5 more than a decade before this, where their language was -- they were
6 forced out of government service, where the Albanian language wasn't
7 accepted in schools, and so forth. So these men who fought back,
8 they were pretty independent-minded, I would guess. That was my
9 impression when I met with them and I looked around the group. These
10 were local people who risked their lives to stand up, to fight
11 against oppression.

12 Q. Thank you, General.

13 A. So I think that's -- that was the purpose of my being there.

14 Q. Thank you. You say in paragraph 31 of your statement that in
15 this meeting with the zone commanders, you noted that Mr. Thaci stood
16 alone, off to the side, ignored by the KLA fighters, and that this
17 reinforced your view that Mr. Thaci's influence over the KLA soldiers
18 was limited; is that correct?

19 A. You better ask that question again just so I get it exactly
20 right.

21 Q. Yes. Perhaps we --

22 A. If you could come closer to the mic --

23 Q. Yes, yes.

24 A. -- it'll be better.

25 MR. MISETIC: Why don't we put it on the screen. 1D00430,

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1 please. And if we could go to paragraph 31, please.

2 Q. General, if you read paragraph 31 to yourself and tell me when
3 you're finished, and we'll turn the page so you can finish reading
4 the paragraph.

5 A. Okay. I got paragraph 31.

6 MR. MISETIC: If we could turn the page, please.

7 THE WITNESS: Yes.

8 MR. MISETIC:

9 Q. Yes. So do you recall that at this meeting you saw Mr. Thaci
10 standing alone, while the zone commanders huddled around you and
11 General Ceku, and that this reinforced your view that Mr. Thaci's
12 influence over the KLA soldiers was limited?

13 A. Yeah, I looked at -- I remember looking at Thaci, because he was
14 the spokesman, he was clean-cut, he was somebody who looked more
15 Western than the rest. He didn't look like he had been out in the
16 woods fighting for a year or two. And it was pretty clear that he
17 wasn't in charge.

18 Q. Thank you, General.

19 A. He was there. He was the one I knew best. I'd never met Ceku
20 before. But I couldn't deal through Thaci. He wasn't in charge.

21 Q. Thank you, General.

22 MR. MISETIC: Mr. President, I note the time.

23 PRESIDING JUDGE SMITH: We'll break for lunch right now,
24 General. We'll take an hour off for lunch, and then we'll come back
25 at --

1 THE WITNESS: Okay.

2 PRESIDING JUDGE SMITH: -- 2.30. Thank you.

3 THE WITNESS: Can we do something to -- there's just not --
4 [Microphone not activated].

5 [The witness stands down]

6 PRESIDING JUDGE SMITH: We're adjourned -- did you have
7 something you wanted on the record?

8 MR. MISETIC: No, I just wanted to give you an update on time.
9 I should have about 30 to 45 minutes left, so we should be able to
10 get to the Defence cross-examinations this afternoon.

11 PRESIDING JUDGE SMITH: Very good. Thank you for letting us
12 know.

13 We're adjourned until 2.30.

14 --- Luncheon recess taken at 1.30 p.m.

15 --- On resuming at 2.31 p.m.

16 PRESIDING JUDGE SMITH: So they've done what they can to
17 increase the amplification out of the equipment. And everybody over
18 here and here, please try to remember to try to get in front of the
19 microphone as much as possible.

20 You can bring the witness in.

21 MR. MISETIC: Mr. President, while we're waiting for the
22 witness. We have checked and the Prep Note 1 can be a public
23 document, and we will have to file a public redacted version of the
24 witness statement.

25 PRESIDING JUDGE SMITH: When will you do that?

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1 MR. MISETIC: We can file that by Wednesday.

2 PRESIDING JUDGE SMITH: Fine.

3 MR. MISETIC: Thank you.

4 PRESIDING JUDGE SMITH: Thank you.

5 I'm sorry. The document should be reclassified as public,
6 Mr. Court Officer.

7 THE COURT OFFICER: Thank you, Your Honours. In that case, the
8 Exhibit 1D00431 will be classified as public. Thank you,
9 Your Honours.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Can you hear me better now?

12 THE WITNESS: Yes, I can. Thank you.

13 PRESIDING JUDGE SMITH: Very good.

14 We continue with your testimony. Mr. Misetic has the floor.
15 Please give him your attention.

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

17 Q. Welcome back, General.

18 A. Thank you.

19 Q. We left off discussing your meeting with the zone commanders in
20 September 1999. Are you aware that General Mike Jackson has written
21 a book with his memoirs?

22 A. I'm aware of it. Yes, I am.

23 Q. Okay. Have you read the book?

24 A. Actually, I haven't.

25 Q. Okay. Thank you.

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1 MR. MISETIC: Mr. Court Officer, could we please have

2 Exhibit 1D214 on the screen, please.

3 Q. General, I'm going to show you now an excerpt from
4 General Jackson's book about your meeting with the zone commanders
5 and just ask you if it's consistent with your recollection and if you
6 wish to comment on it.

7 A. Okay.

8 MR. MISETIC: And if we could please go to page 2 of this
9 exhibit. Yes. So that first full paragraph at the top, if we could
10 blow it up so the General can read it.

11 Q. You see there, he says:

12 "I spoke to Wes Clark, who suggested that he should fly in to
13 add weight to the negotiation. That seemed sensible to me. I
14 finally got to bed at 06.30, and was up again at 10.00. Wes arrived
15 at 14.00 hours, and the KLA delegation was with us forty-five minutes
16 later. Wes was in his element, working the room confidently, telling
17 stories about his experiences in Vietnam which had the KLA's zone
18 commanders hanging on his every word. Afterwards he made a rousing,
19 virulently anti-Serb speech that would have had our diplomats reeling
20 if they could have heard what he was saying. It became clear that
21 the differences between the two sides had narrowed. We resolved the
22 issue of the insignia, agreeing on an outline of the shape of Kosovo
23 itself. Off the top of her head, our new Canadian political adviser
24 Wendy Gilmore came up with a wording on one of the remaining issues,
25 access to weapons, which satisfied everybody. More names were

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1 bandied about. Would we be prepared to call the organisation the
2 Kosovo Guard? Silence.

3 "'It sounds too military,' Ceku responded, and then everyone
4 started laughing.

5 "'Hey, that's meant to be my line,' joked Wes. And eventually
6 we settled on the name Kosovo Protection Corps."

7 General Clark, do you have any comment on General Jackson's
8 account?

9 A. It looks fine to me.

10 Q. Okay. Then let me turn your attention to something else you say
11 in your statement, with respect to paragraph 33 of your statement.

12 MR. MISETIC: And if we could take this document down and put
13 back on the screen Exhibit 1D430, please. If we can go to paragraph
14 33, please.

15 Q. And here, you're talking about the post-war violence, and you
16 say that based on the information you had from the ground, you
17 attributed the violence in the summer of 1999 to "various factors,
18 including hatred, score settling, revenge, blood feuds, criminal
19 gangs, and crimes of greed and opportunity."

20 You say that:

21 "Much of this chaos was [the] inevitable reaction to a decade
22 and a half of Serb oppression."

23 And based on this paragraph, I'd like to show you a video.

24 MR. MISETIC: If we could, Mr. Court Officer, have on the screen
25 video 1D00076, please. I'm going to play the video and ask if this

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1 is consistent with what you say in paragraph 33.

2 Q. Just for your purposes, I'm sure you'll recognise the person,
3 but it's a video of Mr. Ken Bacon, the spokesman of the Pentagon at
4 the time, and it's a press briefing in the Pentagon on 5 June, so
5 before Resolution 1244 and before the entry of NATO forces into
6 Kosovo.

7 MR. MISETIC: And we can play the video.

8 [Video-clip played]

9 "... I don't think that Kosovo is going to be a very happy place
10 for Serbs when NATO comes in, and the -- and the -- I don't think
11 Serbs will want to stay there. I think they'll want to return to
12 Serbia. We don't know how big the Serb minority is there. It
13 could -- it's probably about a hundred thousand, could be a little
14 more than that. But as Kosovar Albanians flow back in, our
15 assumption is that many Serbs will probably return to Serbia.

16 "It sounds like you're encouraging the Serbs who now live in
17 Kosovo then to leave.

18 "I'm not encouraging them at all. I'm just stating what we
19 anticipate the facts will be."

20 MR. MISETIC:

21 Q. General Clark, Mr. Bacon there says that the Pentagon
22 anticipates that the Serbs will leave Kosovo when NATO forces enter.
23 Can you tell us why there was an anticipation that the Serbs would
24 want to leave Kosovo?

25 A. Ken Bacon wasn't speaking for me, and I wasn't -- I never

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1 focused on that. What we focused on was re-establishing a climate of
2 order. But what we know in every circumstance like this is that if
3 you don't have police who speak the language who go in immediately on
4 something like this, it gets out of control.

5 Now, my experience started with the intervention in Haiti in
6 1994, and the Republicans in Congress were insistent that our US
7 military went in after General Cédras left and we put
8 President Aristide back in. They said, "Well, you're going to do
9 this, but we don't want our soldiers as policemen." So we wrote
10 carefully the rules of engagement where they couldn't get involved in
11 police activities. And it lasted one day in which the troops were
12 there, and there was some kind of violation between Haitians, and the
13 press immediately jumped on it and said, "What's the matter? US
14 troops are standing there. They're not stopping the violence." I
15 had to rewrite the rules of engagement and send them out through
16 their command that afternoon.

17 So this is -- this is what always happens in these
18 circumstances, and I just want to make sure that the Court
19 understands this.

20 Let me explain it a different way. In Afghanistan, when US
21 forces went into Afghanistan, and NATO forces went in, again, we
22 didn't always speak the language. We didn't always have interpreters
23 available. People were coming up and say, "So-and-so stole my
24 bicycle," and blah, blah, blah, and you just don't have any way of
25 dealing with this stuff. And the records on Afghanistan show that

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1 actually the US forces were drawn into these kinds of quarrels
2 between families in Afghanistan.

3 So when we put NATO forces in Kosovo, right away, we -- and I
4 gave very clear instructions to Mike Jackson, you know, that it was
5 going to be peaceful and not to let reverse ethnic cleansing take
6 place. And we deployed forces, we went to the Serb monasteries, we
7 did everything we could to sort of hold down the violence. But, you
8 know, people are angry. I mean, this is life and death. This is
9 murder. This is people whose possessions were taken away, who were
10 fearful for their lives, who have seen their homes destroyed by
11 neighbours and looted by neighbours. You just can't imagine the
12 passion that was there in these people.

13 I don't think even we understood it until I went back in with
14 Solano. It was on or about the third week in July. We went into
15 Prishtine. And it was just -- we were just going in there to visit
16 the UN, really, and stop by KFOR. And hundreds of thousands of
17 people poured out on the streets and had swarmed us. And there's
18 this passion of what we did by lifting the Serb oppression was so
19 powerful. The resentments and the fear was so deep that this kind of
20 spontaneous violence, it was almost inevitable.

21 Q. Thank you, General.

22 MR. MISETIC: Mr. Court Officer, if we could please have
23 Exhibit 1D96 on the screen, please.

24 Q. Now, before we play this video, General, in paragraph 34 of your
25 statement, you say that, in the summer and early fall of 1999, you

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1 never received any intelligence or information that the KLA
2 leadership had any plan to target Serbs or minorities; is that
3 correct?

4 A. That's correct.

5 Q. You also say that you did not believe that the KLA leadership
6 engaged in a coordinated effort to target and attack Serbs or
7 minorities; is that correct?

8 A. That's correct.

9 Q. You also say that you do not believe that Mr. Thaci had a motive
10 to engage in such conduct; is that correct?

11 A. That's correct.

12 MR. MISETIC: I'd like to play now this video of you on
13 PBS NewsHour on 1 July 1999, so roughly three weeks after NATO's
14 entry into Kosovo. I'd like to play the video for you and then ask
15 you a few questions.

16 [Video-clip played]

17 "Margaret Warner has our interview with US Army General Wesley
18 Clark, the Supreme Allied Commander of NATO. She spoke to him
19 earlier this evening.

20 "Welcome, General.

21 "Thank you, Margaret.

22 "I want to talk to you first about the KFOR mission in Kosovo.
23 Secretary of State Albright said yesterday, when she was up at the
24 UN, the people of Kosovo are not safe. Is that true?

25 "Well, I think that this is a period of sorting out that's going

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1 on. There are hundreds of thousands of people coming back. There
2 have been some terrible things done in that country. There are all
3 kinds of emotions running rampant. And there are Serbs still there,
4 some of whom may have participated in that, others who are just
5 afraid they're going to be taken for guilty because of their
6 ethnicity. There are gypsies who are also being discriminated
7 against. And so there's some legitimate efforts to get property
8 back. There's some revenge taking, there's some score settling. One
9 doesn't really know, but it's a very difficult time. Our troops are
10 there, we're doing everything we can, but, of course, we're not
11 police.

12 "Do you think if Serbs continue to leave and they don't come
13 back, do you think that in any way undercuts the credibility of what
14 NATO went to war for, this multi-ethnic ideal as you put it?

15 "Well, I think we have to temper the ideal with reality. And we
16 don't know how widespread Serb popular participation in the
17 atrocities really were. And so maybe a lot of these people helped
18 themselves to their neighbour's property, participated in some masked
19 banditry and worse mischief while the ethnic cleansing was going on.
20 We just don't know. And so some of the people that are leaving may
21 well consider themselves as real targets for international justice as
22 well as for Albanian revenge. It's a little hard to generalise. But
23 as I said, the ideal is we'd like to promote a multi-ethnic society.
24 And, by the way, the KLA leadership has called for the same thing.

25 "And do you think they're genuine?

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1 "I think they are."

2 MR. MISETIC:

3 Q. Okay. So, General, there you said, on 1 July 1999, that you
4 thought the KLA leadership was genuine in its call for a multi-ethnic
5 society. And you have clarified in the preparation session that we
6 held that, by implication, this also includes Mr. Thaci.

7 My question to you is, did you ever receive any other briefing,
8 information, or intelligence which led you to subsequently change
9 your conclusion that the KLA leadership and Mr. Thaci were in favour
10 of a multi-ethnic Kosovo?

11 A. No, I never received any information that would contradict what
12 I said in that video.

13 But I do want to, if I could, take just a minute to explain to
14 the Court -- to give you an example of what these feelings were like
15 at the time.

16 So sometime in, must have been, mid-April, our A-10 pilots
17 overhead in -- flying in Kosovo during the air campaign saw a column
18 of tractors in the vicinity of Drenica and these tractors were loaded
19 with people. Now, we're flying at over 20.000 feet, so they're
20 looking down with 10-power binoculars, that's all we had, and they're
21 seeing this column of tractors with people on it stopping at homes,
22 and the homes are then set on fire. And we're like, what is this?
23 So the pilot came in and he attacked the column of tractors thinking
24 these were Serbs that were going and attacking the Albanians.

25 The next day, Milosevic brought the international press corps

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1 down to look at the scene, and it turned out that the people on the
2 tractors, or at least as the way it was set up by the Serbs, these
3 were farmers that were killed by these -- our own aircraft. So we
4 did an investigation. The pilots swore that they would not have
5 mistaken this. They were brokenhearted when they were confronted
6 with the facts.

7 And years later, when I travel around, sometimes people come and
8 visit me and Albanians talk to me and so forth. Two or three years
9 ago, a guy I met in an airport said, "Yeah, I was in that column on
10 those tractors." I said, "You were in the column on the tractors in
11 Drenica when you were attacked by the" -- he said, "Yes." I said,
12 "Why were you burning homes?" He said, "Oh, we would burn those
13 homes because the Serbs were going to come in and take those homes,
14 and we didn't want the Serbs to have them." I said, "Okay." I guess
15 that's the explanation.

16 I mean, that's what the feelings were, the anger, the passion,
17 the fear. You just have to appreciate what this was like for the
18 people on the ground in Kosovo, so fearful, so determined that they
19 would, you know, burn their own property rather than let the Serbs
20 have it.

21 So, yeah, it was really tough to tell people afterwards, "Just
22 settle down. Everything's going to be okay. Don't worry about it.
23 The police will take care of everything." There were no police,
24 so ...

25 Q. Thank you, General. I would like to ask you to explain to the

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1 Court how you received information about what was happening in Kosovo
2 and what kind of information you received. So if you don't mind, I'd
3 like to go step by step and first ask you: Would you read
4 lower-level reports of incidents that were occurring on the ground?

5 A. I -- well, let's talk about when this was. So basically, I got
6 all of the incident reports. I tried to read as much raw intel as I
7 could. And, you know, the intel folks knew I was really interested
8 in Kosovo, so I got a lot of stuff on it.

9 Q. In the summer of 1999?

10 A. Yeah. Summer of -- starting in the summer of 1998.

11 Q. And --

12 A. I was reading as much as I could, every incident report that we
13 could get, and so -- so yeah. And on into the summer of 1999, of
14 course.

15 Q. Thank you. Would you receive intelligence reports and reports
16 from KFOR commanders?

17 A. Yes, yes.

18 Q. Before going into Kosovo in country would you receive briefings?

19 A. Yes.

20 Q. Once in Kosovo, would you receive a personal briefing from
21 General Jackson?

22 A. Yes. Yeah.

23 Q. Did you consider yourself fully informed about what was
24 happening on the ground?

25 A. I would consider myself as fully informed as I could be given

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1 that I was a strategic commander. Mike was on the ground, he was the
2 operational commander. So he was in it day to day, hour by hour,
3 living there, so I'm sure he knew more than I did.

4 Q. Okay. Then let me turn to a document.

5 MR. MISETIC: And, Mr. President, due to provider restrictions,
6 I would ask that we go into private session.

7 PRESIDING JUDGE SMITH: Into private session, Mr. Court Officer.

8 [Private session]

9 [Private session text removed]

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1 [Private session text removed].

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15 [Open session]

16 THE COURT OFFICER: Your Honours, we're in public session.

17 Thank you.

18 MR. MISETIC: Thank you.

19 Q. General Clark, in paragraph 52 of your statement, you say that
20 you do not believe it would be just to attribute the misconduct of
21 others to Mr. Thaci. Could you please explain why you feel that way.

22 A. I don't think Mr. Thaci had control over this -- over the people
23 that were doing this. I mean, first of all, it's not clear that the
24 violence was perpetrated by KLA members in the first place. A lot of
25 this was just individual people as far as we could determine. And I

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1 talked to Mike Jackson about this, and he was obviously talking to
2 his commanders, and they were in contact with the KLA people who were
3 in the various zones and areas of responsibility. So I don't think
4 it was KLA. But even if it was, there was no control, there was no
5 control mechanism here when this thing happened. It's not something
6 that -- where you could give an order and expect it to be obeyed.
7 These are people who were in a resistance mode, fighting for their
8 lives.

9 And, you know, I look at -- if you look at comparable histories
10 of other circumstances like this, and there's just a wonderful volume
11 put out on the American Revolution, and you look at what happened in
12 the American Revolution, you see the same kind of -- sort of
13 passions, free, against the British in this case by the American
14 colonists who had -- once they had felt the weight of what the
15 British were about and they found some traitors or loyalists among
16 their group, they took action. It wasn't anything organised, it just
17 happened. And that's the way these things happen as far as I can
18 tell.

19 And we never had any information. We wanted to stop it.
20 Believe me, if we had had information it was organised by the KLA, we
21 would put our foot down really hard on it. We didn't have that
22 information. We thought the KLA was helping us. And you have to
23 understand, at this time, the KLA understood very clearly that they
24 would not have what they had, which was the removal of Serb forces,
25 had it not been for NATO. And they had no means to protect

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Cross-examination by Mr. Dixon

1 themselves against a resurgence of Serb forces coming back in if NATO
2 and KFOR weren't there. So this was a pretty clear case of the
3 motive being they should listen to and do what KFOR said as best they
4 could, and I think that's what was happening.

5 Q. Thank you, General, for answering my questions.

6 MR. MISETIC: That concludes my direct examination. Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 Mr. Dixon.

9 MR. DIXON: Thank you, Your Honours. I do have just a few
10 questions.

11 PRESIDING JUDGE SMITH: No problem. Go right ahead.

12 Cross-examination by Mr. Dixon:

13 Q. Thank you. Good afternoon, General Clark. My name is
14 Rodney Dixon. I act for Mr. Kadri Veseli. And I have just got a few
15 additional questions to ask you. I hope my voice is clear enough.

16 A. When you turn toward the mic, it's a lot more clear.

17 Q. Right. I'll make sure I do that.

18 A. I got it turned up. Okay.

19 Q. Thank you.

20 General Clark, you were asked a number of questions earlier
21 about the wave of violence in the summer of 1999, and you gave
22 evidence about what were the causes of that. You, in a further
23 interview with the Defence for Mr. Thaci, gave some information about
24 that which was recorded in what we call Preparation Note 2.

25 Do you remember that note which was read back to you which you

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1 confirmed?

2 A. What specifically was that note? Read it to me so I can --

3 Q. Okay. I'll do that.

4 A. Yeah.

5 Q. That might be the quickest way. I'll read out what you said to
6 see whether this is your statement.

7 A. Yeah.

8 Q. You said that:

9 "... it was not just about revenge ..."

10 MR. DIXON: And I'm reading from paragraph 2 here for those
11 following in the court.

12 Q. So:

13 "... not just about revenge. The Albanian population owned more
14 of the land, and there was an element among the Serbs of 'you have
15 something we want'. Starting with the death of Tito, Serbian
16 nationalism had been raging for 15 years, including the expectation
17 they were the superior civilisation, and were pushing the Albanians
18 out of their own civilisation and governments. It was ethnic
19 cleansing at all levels; not just government, but also neighbour to
20 neighbour. When NATO came in to enforce a more equitable solution, a
21 lot of people who had been committed to ethnic cleansing therefore
22 would have wanted to depart."

23 Is that an accurate account of your evidence?

24 A. Yes.

25 Q. And when you say here that "a lot of people who had been

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1 committed to ethnic cleansing therefore would have wanted to depart,"
2 are you referring to parts of the Serb population in Kosovo wanting
3 to leave?

4 A. No, that's my expectation.

5 Q. And do you know if that happened in reality?

6 A. You know, we never had really accurate population statistics
7 because the population statistics were -- they were politically
8 motivated. So we never really knew whether there were 200.000 Serbs
9 there or 100.000 Serbs. No one ever knew, no one could tell us.
10 Because we knew that I think some -- if my memory is right here, the
11 last census was 1990 or -- I think it was 1990. And so Milosevic and
12 his people had rigged the population census to show what they wanted
13 show.

14 Q. Yes. And you were aware, as you've said here, that there were
15 significant land disputes in the territory of Kosovo.

16 A. Well, just in general. I don't know any specific -- I don't
17 know the specific land disputes. What I know is that there was some
18 envy, and some land grabbing, and some barn grabbing, and some
19 equipment grabbing, and so forth. When the conflict started and the
20 Kosovar population was being ethnically cleansed, there were Serbs
21 there, we got reports of them, taking advantage, stealing property
22 and that kind of thing.

23 But in general, of course -- let me just digress here and just
24 talk a little more broadly about this.

25 Q. Mm-hmm.

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1 A. So I've done a lot in Eastern Europe, and I've looked at it for
2 many, many years. I was fluent in Russian from courses at
3 West Point. I went to the Soviet Union in 1964, spent ten days
4 travelling around. I did the first US-Russian Joint Staff talks, the
5 first US-Ukrainian Joint Staff talks when I was J5 in the 1990s. I
6 visited Moscow. I knew Russian generals, went and looked at Russian
7 training, and had a pretty good sense for Eastern Europe. And I also
8 was stationed in Germany during the Cold War, did my homework, and so
9 forth.

10 There's a sort of pan-Slavism that emerged in the 19th century
11 that never really went away in Eastern Europe, and I think that that
12 pan-Slavism was reflected in many ways. When I talked to the
13 Romanian minister of defence in 1998 and I asked him whether they
14 wanted to be members of NATO, he said, "Of course." And I said,
15 "Why? Does it have anything to do with Russia?" He said, "Of
16 course." And I asked him could he describe some incidents or
17 something that I could explain this to Washington, and he said,
18 "Certainly." And I thought he was going to tell me that the Russian
19 ambassador had pushed him at a conference or something and been rude
20 to him. Instead he said -- he said, "In 1878, we allowed the Russian
21 forces to come through en route to what was later Yugoslavia, and
22 they came back and stole our province of Bessarabia from us."

23 And when I was in Bulgaria during the time I was NATO commander,
24 the foreign minister told me, she said, "Today Russia is weak, but
25 someday Russia will be strong again, and before then, Bulgaria must

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1 be in NATO." And you're asking yourself: Why is this? What is
2 this? And today you see the very same manifestations in the conflict
3 between Russia and Ukraine.

4 And I don't mean to lecture here, I just want to explain that
5 there's a sort of gradient of superiority that runs from Moscow out
6 and down. So if you're not native Russian and you're a lesser Slav,
7 you're lesser. And if you're not a Slav, you're not a human being.
8 And I think these Albanian people were basically treated that way,
9 and they felt that way, and I think that's the way they were handled
10 by their Serb neighbours. Just a sort of ethnic superiority that was
11 enforced.

12 Q. Yes, thank you, General Clark, for that explanation. I wanted
13 to ask you about another matter in the preparation note, and that's
14 at paragraphs 6, 7, and 8. Don't worry, you don't need to look at
15 it. I'll read it out again just to confirm that that is your
16 evidence. This is in relation to questions you were asked about the
17 information, the raw information that you had available to you during
18 your time there in 1998 and 1999, and whether you thought there were
19 any gaps in your knowledge. You said:

20 "When asked to explain how [you] received information, [you]
21 stated that he read just about every report that was written. [You]
22 received message traffic that [you] read every morning, and also
23 received reports including incident and intelligence reports, as well
24 as reports from commanders. He cannot remember every single incident
25 today, but he was fully informed of them at the time.

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1 "Before going to Kosovo, [you] would be 'totally briefed up'.
2 Once in Kosovo, [you] would also receive General Jackson's personal
3 impressions - although [you] did not think that General Jackson would
4 have more information than [you]. [You] would then be briefed with a
5 series of tools - there may have been PowerPoints, but also various
6 reports, lists of incidents, etc. He would already be familiar with
7 the locations, the names of villages, the friction points, and the
8 names of the actors involved. It was a day-by-day effort on [your]
9 part to keep up with what was going on in Kosovo. So, once on the
10 ground, he would always have asked General Jackson for his
11 impressions and opinions, but [you] would also have been informed by
12 his team beforehand."

13 And then you went on to say that:

14 "... it was absolutely not possible for the KLA to have a
15 functioning chain of command, from the top to the bottom, without
16 NATO and the United States being aware of it."

17 Now, is that a correct and accurate account of your evidence?

18 A. Yes --

19 MR. HALLING: Objection, that's a compound question, and at
20 least the second sentence at paragraph 7 is contradicted by page 59
21 of the realtime transcript.

22 PRESIDING JUDGE SMITH: Sustained.

23 MR. DIXON: Well, he -- I've asked him if that's his evidence.
24 He can say whether he agrees with it or not.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 THE WITNESS: Well, I want to clarify something. I don't want
2 to say that I knew more than Jackson did. I want to say that the
3 imagery, the electronic stuff that I got might have been more than
4 Jackson got. But Jackson was on the ground and people would have
5 said things to him that he might or might not have reported. But if
6 it was an incident, it came up in an intelligence summary.

7 MR. DIXON:

8 Q. Yes. And my question really was -- or what I was putting to you
9 was that you had previously said that these were all the sources of
10 your information, the ones that I've read out. Are they the correct
11 description of the sources that you had access to on a day-by-day
12 basis?

13 A. Yes, I had -- I had secret intelligence, I had top secret
14 intelligence, I had stuff that can't be talked about, I had incident
15 reports, I had diplomatic cables. We were hearing from the
16 United Nations and Bernard Kouchner and so forth. Yeah.

17 Q. And that information that you've described then in some detail,
18 that would have included any information that was available about the
19 KLA itself?

20 A. Oh, of course. If we'd ever had information that the KLA was
21 doing this thing, we'd have come down really hard on them.

22 Q. And that information would have also included any documents
23 produced by the KLA, would it not have?

24 A. I would think so. I don't remember seeing any KLA documents.

25 Q. But the sources would have -- if they had them, they would have

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1 described them and given you that information; is that right?

2 A. I would think so.

3 Q. There's just one final matter, General, that I wanted to ask you
4 about, and that was in relation to what you said in your evidence
5 earlier on today when you were looking at whether or not you had
6 forward observers who could provide information about strikes, this
7 was during --

8 A. [Overlapping speakers] ...

9 Q. -- the NATO bombings in March 1999, so that no mistakes would be
10 made. And I just wanted to ask you a few questions, sir, to be clear
11 about this.

12 You were saying that you didn't have any forward observers from
13 any quarter of the KLA; is that right?

14 A. That's right.

15 Q. So you didn't have any information about Serb positions at that
16 time from any quarter of the KLA; is that right?

17 A. That's right.

18 Q. And when you say here that your intelligence guys had identified
19 a Serb headquarters, you highlighted that as one example, that was
20 information that had been given to you by your intelligence service.
21 It wasn't any information that you received from the KLA; is that
22 correct?

23 A. That's correct.

24 Q. Thank you, General.

25 MR. DIXON: Those are my questions. Thank you, Your Honours.

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

2 Mr. Roberts.

3 MR. ROBERTS: No questions. Thank you.

4 PRESIDING JUDGE SMITH: Mr. Ellis.

5 MR. ELLIS: Yes, around ten minutes, if I may, Your Honour.

6 PRESIDING JUDGE SMITH: Sure.

7 Cross-examination by Mr. Ellis:

8 Q. Good afternoon, General. My name is Aidan Ellis and I represent
9 Mr. Jakup Krasniqi. I'm trying to angle the microphone as best I
10 can, but you'll --

11 A. No, I've --

12 Q. -- of course, let me know if you can't hear --

13 A. -- got you loud and clear.

14 Q. Great. So I have a couple of questions for you based on the
15 statement that you gave to the Thaci Defence.

16 MR. ELLIS: If we could have on the screen, please, what's now
17 been admitted as 1D00430. And it's paragraph 26 on page DHT12552.

18 Q. And I'll read it to you as well, General. It says:

19 "During the war, however, I would regularly give interviews and
20 make statements praising the KLA as a well-organised force. In
21 actuality, that was not the case. The intended audience of my
22 comments was Milosevic. I knew he would be listening. I needed to
23 project strength to Milosevic to hasten his surrender. The
24 statements did not reflect NATO's or my assessment of the KLA's
25 actual military capacities."

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1 Do you recall giving that evidence to the Thaci Defence?

2 A. Yes.

3 Q. And it's normal, isn't it, General, in a conflict to use public
4 statements to project strength to your adversaries?

5 A. Well, it should be normal. If you're not doing it, you're not
6 using one of the principal tools. In this case, based on my
7 relationship with Milosevic, and what we knew was going on in
8 Belgrade, I knew that he was listening to me. The night of the first
9 strikes, his generals told him that they had shot down several NATO
10 aircraft, and then I had to give a press conference saying there'd
11 been no losses.

12 And so we knew that I had certain credibility with Milosevic,
13 and that's why I always said, "We're winning, he's losing, and he
14 knows it." And so, yes, so I was going to use whatever instruments
15 of information warfare I could use to persuade Milosevic to stop.
16 And, in fact, I will -- I'll just share this with the Court.

17 Admiral Jim Ellis early on in the bombing campaign had dinner --
18 he was the commander in Naples of the southern side of NATO, and he
19 was my direct subordinate. Jackson actually worked for Ellis in the
20 theatre. And Ellis had dinner with an Italian retired general who
21 had fought the Albanians in 1942 when Italy invaded Albania, and the
22 retired Italian general went on at great length about how vicious and
23 barbaric these Albanians were, and how they instilled deep fear in
24 the Italian soldiers in that campaign. So I thought that might have
25 carried over a little to the Serbs and their concerns about actually

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1 coming face-to-face with the KLA, and so I built up the KLA for that
2 reason.

3 Q. [Microphone not activated].

4 A. I lost you. Yeah.

5 Q. There we go. It's right, isn't it, that the instruments of
6 information warfare can include making statements exaggerating your
7 own military strength and organisation?

8 A. Happens every day.

9 Q. And it can also involve speaking as though you have clear
10 knowledge of the situation on the ground even if perhaps the
11 information you receive is incomplete in reality?

12 A. Correct.

13 MR. ELLIS: Could I have on the screen, please, DHT05384. There
14 should be both a video and a transcript, please. Thank you. Are we
15 able to have that on part of the screen and the transcript on the
16 other part? Thank you. If we could play the video from 00:54
17 seconds, please.

18 [Video-clip played]

19 "... whole thing about the situation on the ground is that,
20 despite the statements of President Milosevic and the boasts of his
21 military leaders some two months ago, they did not finish off the KLA
22 in five to seven days. They, in fact, have made the KLA even
23 stronger than it was before. It's very much a functional
24 organisation. It has a strengthened command and control, it has
25 increased manpower, and it's very much still active throughout

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1 Kosovo. Serb forces are" --

2 MR. ELLIS: I think we can leave it there. Thank you.

3 Q. First of all, General, is that you we see in the video making
4 that statement?

5 A. Yes. Yeah.

6 Q. And would you agree with me that this is an example of what
7 we've just discussed, making a public statement exaggerating the
8 strength and organisation of the KLA?

9 A. Yeah. But I do think they received additional support, I do
10 think people joined it during the fight because they had to, and I do
11 think that they were doing the best they could to put command and
12 control together in there. They just weren't very successful at it
13 by our standards.

14 Q. Yeah.

15 A. In other words, they could know where there was -- I think the
16 KLA might have known where there was specific really cruel Serb
17 attacks on the population, but to be able to actually do a
18 coordinated response, to report it to NATO, to do anything like this,
19 no, it wasn't getting through.

20 Q. Exactly. The sentiment that this was very much a functional
21 organisation was not your assessment of their military capacity at
22 the time.

23 A. No.

24 Q. No.

25 A. That was my wish list.

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1 Q. Yes.

2 MR. ELLIS: That can come down. Thank you. I just want to ask
3 you finally about another paragraph in your witness statement, which
4 was 1D430, paragraph 19 this time, which is 12550. Oh, I'm sorry,
5 paragraph 18.

6 Q. It's right, isn't it, that you were sent to meet with Milosevic
7 after the massacre at Recak?

8 A. That's right.

9 Q. And at that time, the international community wanted the ICTY to
10 be allowed to investigate whereas Milosevic wanted his own people to
11 do it.

12 A. That's right.

13 Q. Before lunch, you spoke a little bit about Serbian
14 disinformation after the conflict, and I think you referred a moment
15 ago to rigging a population census before the conflict.

16 A. That's right.

17 Q. It's right, isn't it, that there was also Serbian disinformation
18 during the conflict in 1998, 1999?

19 A. No doubt about it.

20 Q. And the reason that you and the international community didn't
21 want Milosevic's people to do the investigation into Recak is because
22 you understood that there was a risk they would tamper with the
23 evidence or would look to blame the KLA for what had happened.

24 A. Look, when Milosevic -- when I asked him to have the
25 International Criminal Tribunal come in, he said no. He said, "We're

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1 already doing the investigation," he said, "and I know what it will
2 show." I said, "Well, Mr. President, if you already know what the
3 outcome is, what kind of an investigation is it?" He says, "I know.
4 I know what the outcome is." You see, so, I mean, there wasn't any
5 concern about disinformation. He was going to tell you he was going
6 to rig the investigation.

7 Q. Thank you, General.

8 MR. ELLIS: Those are my questions.

9 THE WITNESS: Yeah.

10 MR. ELLIS: Thank you, Your Honours.

11 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

12 We're going to take the ten-minute break.

13 General, we're going to give you a ten-minute comfort break and
14 then we'll come back to the courtroom.

15 THE WITNESS: Okay. Thank you. It's working really well now.

16 [The witness stands down]

17 PRESIDING JUDGE SMITH: We'll be adjourned for ten minutes.

18 --- Break taken at 3.29 p.m.

19 --- On resuming at 3.42 p.m.

20 PRESIDING JUDGE SMITH: You can bring the witness in.

21 [The witness takes the stand]

22 PRESIDING JUDGE SMITH: All right. General Clark, we begin now
23 with the cross-examination by Mr. Halling from the Special
24 Prosecutor's Office.

25 Cross-examination by Mr. Halling:

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1 Q. Good afternoon, General Clark. We haven't met before, but my
2 name is Matt Halling, and I'm a Prosecutor with the SPO. Can you
3 hear me all right?

4 A. Got you loud and clear.

5 Q. Thank you.

6 MR. HALLING: The first item we would like to show the General,
7 I'll give the ERN now, is video 129433-19, and from timestamp 07:52
8 to 08:58, and then on the other half of the screen the transcript
9 page 129433-19-TR-ET, page 3.

10 Q. General, I would like to start with your understanding of the
11 KLA. You were talking earlier today about the Adem Jashari attack.

12 MR. HALLING: This is at pages 15 and 16 of the realtime
13 transcript.

14 Q. You gave an interview in July 2022 with David Rapaport. There
15 was part of it that I wanted to direct you to and then ask a
16 question.

17 A. Okay.

18 MR. HALLING: So with that in mind, if the Court Officer could
19 please play the video.

20 [Video-clip played]

21 "... some people who call themselves the Kosovo Liberation Army
22 decided that Serbia was just oppressive, and they did small things
23 like ambush a couple of policemen and so forth. And the Serbs
24 cracked down brutally. It was a real effort to go after them. And
25 in February 1998, they went after the -- who they considered the

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1 ringleader, a man named Adem Jashari. Like many Albanians, he had an
2 extended family, he owned property. So, anyway, they were besieged
3 by the Serb police. The Serb police put two rings around his
4 farmhouse, one ring facing in and one ring facing out, so none of his
5 neighbours could interfere, and they put him under siege. And,
6 anyway, when they broke in, they lined the people up on the floor and
7 shot them, women, children, babies, right through the head. So this
8 was an explosive incident, and it really triggered the start of what
9 later became the Kosovo action for NATO. From that moment on, the
10 Serbs escalated their oppression. This also spurred the recruitment
11 for the Kosovo Liberation Army. And Albania, who was not directly
12 involved in this" --

13 MR. HALLING: We can stop there.

14 Q. Yes. So, General, in the video played, you're describing the
15 same Adem Jashari incident that you discussed in your testimony, and
16 this occurred in the first part of 1998; correct?

17 A. Correct.

18 Q. Now, when you talk about then the KLA doing small things like
19 ambush a couple of policemen and so forth, you're talking about what
20 the KLA was doing then before February 1998?

21 A. Yes. I'm not sure on that, because I -- I don't know if that
22 was before or after. I know it was before we entered in the summer
23 of 1999 -- or in the spring of 1999. But -- so I don't have the
24 specific incidents and I don't have the specific date.

25 MR. HALLING: All right. With that in mind, if we could put

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1 Communiqué 36 on the screen. This is P279. And if we could have it
2 in English and Albanian.

3 Q. Now, Witness, you were saying earlier today also that you don't
4 remember seeing any KLA documents.

5 A. That's right.

6 Q. Yes.

7 MR. HALLING: I'll just wait for the English version to be put
8 on the screen as well.

9 Q. So I understand from what you were saying earlier today that
10 you've not seen a KLA communiqué or a declaration like this before.

11 A. I never saw this.

12 Q. Yes. So here at the beginning, it's talking about 11 and 12
13 September 1997:

14 "... by decision of the Central Staff, the KLA armed units
15 carried out a synchronised operation throughout the whole
16 1st Operative Zone. The operations were carried out in the
17 subregions of Drenica, Erenik, Pashtrik, Dukagjini, Karadak, and
18 Llapi. They attacked in a lightening operation the police stations
19 in," and then 12 locations are listed.

20 Is this synchronised attack on 12 police stations the sort of
21 ambush of a couple of policemen you were referencing in your
22 interview?

23 A. Well, it could be. But, you know, the information that got out
24 may be different than the information that they're communicating
25 here. I don't remember ever seeing -- well, let's see. This was --

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1 I would just have become NATO commander a couple months before. I
2 don't remember seeing anything that indicated synchronised operations
3 by the KLA, at least that we knew about at NATO.

4 Q. So I understand from your answer then you wouldn't know if this
5 ambush was done with RPGs?

6 A. I wouldn't know whether it was a synchronised ambush or not. It
7 would have been reported as an incident of something. Maybe they did
8 have RPGs. If we knew it, it would have been reported. But I don't
9 remember seeing any notice of this.

10 Q. You just said maybe it was done with RPGs, but I understand --

11 A. Well, you said RPGs --

12 Q. You wouldn't --

13 A. I don't know.

14 Q. You wouldn't know who would have obtained such weapons; correct?

15 A. Well, I'm not sure I understand your question. If you're the --
16 I'm not -- I haven't read the whole thing, but if you say that -- if
17 you say that they say that they attacked with RPGs, then they must
18 have gotten the RPGs from someone, and probably they would have come
19 from the Serbs themselves.

20 Q. Putting aside the communiqué, did you ever hear about the KLA
21 General Staff or Central Staff taking credit for other actions like
22 this one?

23 A. I did not.

24 Q. Okay.

25 MR. HALLING: Your Honours, at this point we would like to admit

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1 the video extract. And so again, for the record, that's 129433-19,
2 just timestamp 07:52 to 08:58. And for the transcript, it would just
3 be the first page, just to see what the interview is, and then
4 page 3.

5 PRESIDING JUDGE SMITH: Any objection?

6 MR. MISETIC: No objection.

7 PRESIDING JUDGE SMITH: 129433-19 from timestamp 07:52 to 08:58
8 is admitted. And also 129433-19-TR-ET page 3 is admitted.

9 MR. HALLING: Yes. And page 1 as well, Your Honour, just to see
10 who the interview is with.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. HALLING: Correct, page 1 and 3.

13 PRESIDING JUDGE SMITH: All right. Admitted.

14 THE COURT OFFICER: And they will be assigned Exhibit P04512.
15 And they are currently classified as confidential.

16 MR. HALLING: These can be public.

17 PRESIDING JUDGE SMITH: Reclassified as public.

18 THE COURT OFFICER: Thank you, Your Honours.

19 MR. HALLING: Now, for the Court Officer, the next item that I'm
20 going to pull up is SPOE00406173 to 00406230.

21 Q. General, I wanted to ask you, are you familiar with a book by a
22 man named Henry Perritt entitled "Kosovo Liberation Army: The Inside
23 Story of an Insurgency"?

24 A. I haven't read that book.

25 Q. The Thaci Defence had notified to us an intent to show it to

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1 you, but there were a couple of aspects of this book that I wanted to
2 ask you about. I'll just wait for it to be put up on the screen.

3 MR. HALLING: The first page -- when it's ready. If we can now
4 go to page SPOE00406177 just to start with the acknowledgements in
5 the book so that you're familiar with who the author is crediting.

6 Q. You can see on the -- in the second paragraph on the page, if we
7 scroll down, you can see sort of towards the middle that:

8 "Before long, Hashim Thaci and Commander Remi also expressed
9 enthusiastic encouragement and support, and we were off and running."

10 He's explaining how he made the book.

11 MR. HALLING: And if we go to the next page.

12 Q. We can see on the left side were the people who were kind enough
13 to work through chapter drafts. Hashim Thaci is listed there. And
14 I'll spare you the names, but there are also multiple people on this
15 page credited providing information in the book who are also current
16 and former Defence team members in this case. But the page I want to
17 ask you about --

18 MR. MISETIC: Mr. President, can I ask --

19 THE WITNESS: It's very interesting, they've got --

20 MR. MISETIC: Excuse me.

21 THE WITNESS: They've got Dave Grange and Bill Nash, two US
22 generals who were never in Kosovo.

23 MR. MISETIC: Mr. President, my objection is to the extra
24 commentary. It's the second time that Mr. Halling has attempted to
25 insert commentary to the witness that's unnecessary, and I object.

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1 MR. HALLING: We are just trying to orient the General as to
2 where this book has come from. We're going --

3 PRESIDING JUDGE SMITH: The objection is overruled at this time,
4 but let's be careful.

5 MR. HALLING: Yes. The page now to go to would be SPOE00406218.
6 Q. And if we scroll down the page, page 62 on the left side,
7 there's something here that says: "KLA's strategic Goals and
8 Objectives." And Mr. Perritt says the following. I'll only focus on
9 the two objectives I'm interested in. Objective 3, KLA's goal of:

10 "Eliminate key members of the Serb police, military, and
11 security apparatus, including ethnic Albanian collaborators and
12 spies;"

13 And then if we go up to the top of the page again and on the
14 right side, number 7:

15 "Build international sympathy, by implanting into geopolitical
16 discourse the ideas that the Serb forces in Kosovo represented a
17 foreign occupation and persistently violated human rights, that
18 resistance was building and could not be eliminated, and that the KLA
19 fighters were not terrorists."

20 The author then adds:

21 "The KLA did not confront as sharp an internal inconsistency in
22 pursuing its objectives as Milosevic did in pursuing his ... The
23 principal strategic problem for the KLA was to manage the conflict
24 between the third objective and the seventh. In the end it managed
25 to do that masterfully, although postwar prosecution of KLA leaders

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1 ... reopens the issue of whether the KLA legitimately pursued the
2 third [objection]."

3 General, were you aware that these were goals of the KLA?

4 A. I wasn't aware of these specific goals, but they do only make
5 sense. And I never assumed that the KLA had no strategy or no
6 intent. It's one of the things that you have to wrestle with in
7 something like this. But when I looked at the balance of evidence
8 that was available to me, what was happening on the ground, what the
9 implications were in Bosnia, for Bosnia, for the military mission
10 in -- stabilisation mission in Bosnia, as well as the human rights
11 considerations in Kosovo, it seemed to me that the balance was pretty
12 clear.

13 Q. I wanted to go to one other page of this book just to see how
14 this also compares with the evidence you received.

15 MR. HALLING: SPOE00406188.

16 Q. And it should be on the right side of the screen where the
17 paragraph is -- provides:

18 "Thaci often was the bridge between the Planners in Exile and
19 the Defenders at Home. A thinker and a political guy, he appears in
20 some photographs in a jacket and tie, with everyone else around the
21 table in military uniform. But he also was a fighter. He stayed in
22 Jashari's house in 1992 for two months after the Serbs came to arrest
23 him. He and Jashari held a rifle and had their [pictures] taken
24 together. Later, Thaci was a constant presence on the battlefield
25 who often participated in armed conflict and thereby earned respect

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1 from both KLA camps."

2 This information didn't come to your attention, did it?

3 A. Not the way it's presented exactly in the book, but I always had
4 the impression that, yes, there were people on the outside of Kosovo
5 who wanted to get rid of the Serb oppression, and Thaci was a guy who
6 was coming in and out of Switzerland and other places, and, yeah, we
7 presumed him to be the contact. Now, the details of how it worked, I
8 didn't have, no. But I don't see anything in this -- I have to say
9 that it doesn't seem surprising to me.

10 I mean, we never thought that the people in Kosovo had no
11 connection to the outside, no thought of a strategy, that they were
12 simply people who were the average farmer who would occasionally
13 shoot at a policeman. We always knew there was something more than
14 that behind it.

15 But, you know, if I can just reflect on this. I mean, the
16 American Revolution had a lot of bold talk and strategies and so
17 forth done by the Continental Congress, and yet they didn't exactly
18 have an effective command and control arrangement for a long time.
19 So the fact that there is someone literate writing things like this
20 and can think through the things logically is not necessarily an
21 indication that they have effective command and control, and I think
22 that's the point that you're asking me to comment on.

23 Q. That wasn't my question. My question was whether you had this
24 information before.

25 MR. HALLING: If we could go to SPOE00406215.

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1 Q. This passage references a picture of Hashim Thaci and
2 Adem Jashari. And in the lower right-hand corner, have you ever seen
3 that picture of --

4 A. No, I haven't.

5 Q. -- Hashim Thaci holding a weapon with Adem Jashari?

6 A. No, I haven't. No.

7 Q. You actually don't know if Hashim Thaci fought or not. You only
8 know that peopler told you he was a political leader; correct?

9 A. That's right.

10 MR. HALLING: Your Honour, we would like to admit the pages of
11 the book that were used with the witness. So this would be from
12 within SPOE00406173 to 00406230, the acknowledgement pages which are
13 SPOE00406177 to 178, and the pages used, then, 188, 215, and 218 are
14 the last three numbers of each ERN.

15 PRESIDING JUDGE SMITH: Any objection?

16 MR. MISETIC: No objection.

17 PRESIDING JUDGE SMITH: So from SPOE00406173 to 00406230, pages
18 177 to 178, page 406188 and 406215 and 406218 are all admitted.

19 THE COURT OFFICER: Thank you, Your Honours. Those six numbers
20 will be admitted with Exhibit P04513. They are currently classified
21 as public. Thank you.

22 MR. HALLING: Thank you.

23 Q. General, earlier today you were talking about how you stayed
24 actively engaged throughout 1998 about what was happening in Kosovo;
25 correct?

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1 You nodded, but just to note for the record so it appears in the
2 transcript.

3 A. Yes, I did.

4 Q. Thank you. Were you aware of attacks by the KLA against
5 civilians in the summer of 1998?

6 A. I may have heard about this. I don't have a specific
7 recollection of an incident, but it does sort of ring a bell.

8 Q. If I could just name a few incidents just to see if it refreshes
9 your recollection. Did you hear allegations that the KLA kidnapped
10 and murdered Serbian mineworkers at Bardh i Madh, also known as
11 Belacevac, in mid-1998?

12 A. I didn't hear that.

13 Q. Were you aware of the KLA kidnapping and killing Serbian
14 civilians in July 1998 in connection with its offensive at Rahovec,
15 which is also known as Orahovac?

16 A. I did not hear that.

17 Q. I'll try one more. Were you aware of the KLA detaining a
18 political delegation at Qirez in September 1998?

19 A. I did not hear that.

20 Q. Okay. When you said that you don't remember seeing any KLA
21 documents then, am I correct that that means that you're not familiar
22 with the contents of any KLA regulations?

23 A. That's correct.

24 Q. Same with any orders or reports or any minutes or information
25 from KLA meetings?

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1 A. That's right.

2 Q. Can you identify any KLA General Staff commanders or deputy
3 commanders?

4 A. At the time this was going on, no. Now, when I met the first
5 time with the KLA -- let me back up. The Russians -- I had a Russian
6 deputy as NATO commander, and as the action was heating up in the
7 fall of 1998, and we were concerned about putting an activation order
8 and so forth, he brought in to me the Russian view. And he said --
9 he said, "The KLA doesn't really exist." He said, "These people are
10 all Chechen terrorists." So I said, "Well, can you give me some
11 evidence on this? I'm happy to look at it." So a couple of weeks,
12 maybe three weeks later, he brought in a book of -- purporting to
13 show that the KLA was filled with Chechens and he sort of -- I looked
14 at it, I said, "This doesn't -- I mean, that doesn't track with
15 anything I've read." He sort of smirked and indicated that he knew
16 it was complete disinformation from Russian intelligence. Now, maybe
17 I'm wrong. Maybe you've got information there were Chechens in
18 there, but I've never heard it from any source but the Russians.

19 So there was -- you know, there was active efforts on many sides
20 to sort of see who these people were and what they were. The first
21 time I met them was -- and the first time the names meant anything to
22 me was when I met the delegation at -- during the Rambouillet talks.
23 And even then, there were, I think, eight, eight of them. But their
24 positions and so forth, they may have said them, but it didn't mean
25 anything to me.

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1 Q. What were the names of the KLA zone commanders you met at the
2 Rambouillet talks?

3 A. I don't know if they were zone commanders, and I don't remember
4 who all was there. Maybe Ramush Haradinaj was there. I don't
5 remember.

6 Q. Do you know the names of the KLA's operative zones, the names
7 that they gave them?

8 A. No.

9 Q. And you mentioned Ramush Haradinaj. Do you know where in Kosovo
10 he commanded or how he was appointed?

11 A. No.

12 Q. Okay.

13 A. But, again, I haven't read the book. And maybe our -- someone
14 in our intelligence agency was collecting this information, or maybe
15 we were just woefully deficient in intelligence collection, but I
16 never saw any of that.

17 Q. So am I correct that the first meeting that you know you were
18 speaking with zone commanders was the meeting just before the end of
19 the demilitarisation period, which would be in September 1999; is
20 that right?

21 A. I don't know. I'm not sure who was there. I think we -- we
22 quoted a 4 August meeting, and that may have had commanders in it as
23 well.

24 Q. Okay. But in that meeting, you talk about meeting with
25 Hashim Thaci and Agim Ceku. You don't remember meeting any zone

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1 commanders before that meeting you were describing earlier in your
2 evidence with the Thaci Defence about demilitarisation?

3 A. I don't. No, I don't remember, because when you go into a
4 meeting like this and there's people sitting around the table, you
5 often don't know everybody in the room. And unless you've written it
6 down, you wouldn't remember the names.

7 Q. I understand. Again, just to try some names to see if it does
8 refresh your recollection, have you heard of someone named Azem Sylja?

9 A. Doesn't ring a bell.

10 Q. Sokol Bashota?

11 A. Doesn't ring a bell.

12 Q. Now, you mentioned in your preparation session that you didn't
13 know very much about Kadri Veseli, Rexhep Selimi, or Jakup Krasniqi.

14 A. No, but I'd seen their -- those names before.

15 Q. Do you know what any of their responsibilities were during the
16 war?

17 A. No.

18 Q. Now, I want to talk a little bit about the way that NATO worked
19 at the time you were describing in your statement. But before
20 getting to that, just to talk about the statement itself. Are you
21 able to approximate how many times you met with the Thaci Defence in
22 the taking of this statement that you have been shown at various
23 points today?

24 A. Maybe three times.

25 Q. Have you ever been informed of what crimes are charged in this

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1 case?

2 A. Not specifically.

3 Q. I think that answers my next question, but just to be sure, have
4 you read the indictment or any of the pre-trial briefs in this case?

5 A. I have not.

6 Q. Now, getting back to NATO, you talked about the degree of
7 information that you received. And you also talked in your statement
8 about getting information from seasoned and experienced people on the
9 ground, and this is also including intelligence information. That's
10 right? Now, again you nodded, but just --

11 A. Yes.

12 Q. -- to note for the transcript.

13 A. Yes.

14 Q. Thank you. Was that intelligence information that you got
15 during the air campaign ever wrong?

16 A. Hard to say. Must have been wrong in some cases. The
17 information about the headquarters was wrong, but it was -- it was
18 validated. We flew over the thing for two days to look at it before
19 we struck it. So, yeah -- but you don't always get everything right.

20 Q. Now, when you say "the information about the headquarters was
21 wrong," can you explain a little more about the incident that you're
22 recalling there?

23 A. Yeah. There was a -- what later turned out to be a collection
24 point run by the Serb military, or maybe by the MUP, in which
25 Albanian civilians were put inside a building, the building was

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1 surrounded by Serb vehicles, and there were some radio transmissions,
2 and so forth, from there. And from that, it was surmised that this
3 was a Serb regional headquarters of some type and so it was taken out
4 as a target. And it turned out that we killed -- I think the number
5 was 80 innocent civilians.

6 Q. And you consider that to be a failure of intelligence that you
7 weren't able to know that --

8 A. Absolutely.

9 Q. And in your position as SACEUR - and you talked about command
10 and control quite a bit earlier today - it was you who had command
11 and control over the NATO forces throughout the air campaign and KLA
12 demilitarisation; yes?

13 A. Yeah, I had strategic control.

14 Q. Now, in the context of military command and control, there are
15 disagreements; is that right?

16 A. That's right.

17 Q. And actually you said once in the past that, "Wars are
18 punctuated by sharp disagreements of judgment. The goal is victory."
19 Do you still believe that?

20 A. Yeah.

21 Q. These disagreements could extend to subordinates not following
22 your orders?

23 A. They could.

24 Q. Now, you talked earlier, and this is on page 34 of the realtime
25 transcript, about the Prishtine airfield. I want to ask a couple

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1 more questions about this.

2 A. Please.

3 Q. General Mike Jackson, as KFOR commander, he was one of your
4 subordinates; yes?

5 A. He was actually not my direct subordinate. Admiral Jim Ellis
6 was my subordinate. He was Jim Ellis's subordinate. Let's be very
7 clear on that.

8 Q. But in the context of the chain of command you were in, you were
9 authorised to give direct orders to General Jackson?

10 A. I did not give direct orders. I gave them through
11 Admiral Ellis.

12 Q. Okay. Is it true, though, that you ordered General Jackson in
13 June 1999 to take the Prishtine airport ahead of a Russian effort to
14 do the same?

15 A. Not quite.

16 Q. Please explain where it is correct.

17 A. So on Tuesday, June the 7th, I had a call from the French Chief
18 of Defence who said, "Something's going on with Prishtine airfield."
19 I said, "What?" He said, "Something's going to happen there. I
20 don't know what it is." The next morning in my video teleconference
21 with Admiral Ellis and Mike Jackson, I mentioned this report and
22 asked General Jackson to be prepared to -- for some contingency,
23 however he would respond, whatever he thought that was, and to brief
24 me on the plan. That was on Wednesday.

25 On Thursday, I didn't get a briefing on the plan. And on

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1 Friday, when the Russians withdrew their battalion from Bosnia and
2 started toward Kosovo, Madeleine Albright, Secretary of State, was
3 there, and it was difficult to reach Admiral Ellis. I couldn't get
4 him. He was tied up with her. So Mike Jackson -- I had given Mike a
5 warning order to be prepared, but I wanted to be briefed on what his
6 plan was, because I didn't know what the plan was. So he then went
7 through British channels to tell his Chief of Defence that he thought
8 it was a bad idea to execute his plan. Well and good. I'd never
9 seen his plan. I gave no such order to execute his plan and would
10 not have done so without seeing it.

11 Q. Yes.

12 MR. HALLING: Now, if we could ask the Court Officer to please
13 pull up DHT11103 to DHT11632 at page DHT11538.

14 Q. General, you wrote a book called "Waging Modern War"; correct?

15 A. Yes, I did.

16 Q. And I want to show you a page of the book where you're
17 recounting some of the exchange with General Jackson. And on the
18 page in question, and I'll just wait for a moment for it to appear on
19 the screen.

20 MR. HALLING: Yes. So it's 11538. Yes. So if we scroll down a
21 little.

22 Q. So here you're describing the sequence of events related to the
23 incident we've been discussing.

24 "'SACEUR, can I have a word with you in my office now?' Jackson
25 said as we were leaving the briefing.

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1 "Once inside, it was a frank discussion. Amidst the serious
2 issues Jackson seemed angry and upset. There was a lot of emotion.
3 I had expected to discuss the issues. I hadn't expected the
4 emotional tenor, but I probably should have."

5 And then a little further down the page, it says:

6 "'Sir, I'm not taking any more orders from Washington,' Jackson
7 said.

8 "'Mike, these aren't Washington's orders, they're coming from
9 me.'

10 "'By whose authority?'

11 "'By my authority, as SACEUR.'

12 "'You don't have that authority.'

13 "'I do have that authority. I have the Secretary General behind
14 me on this.'

15 "Sir, I'm not starting World War III for you ...'

16 A. Well, now, it wasn't said -- if I could just explain. It wasn't
17 exactly said like that.

18 Q. It's your book. How was it said?

19 A. Well, one of things that you get in trouble for is writing your
20 own book. So this is a very, very famous line that's done a lot in
21 many -- and used many times. But it was not said as you said it,
22 like, "Sir, I'm not starting World War III for you." I can promise
23 you, it was said in a much more provocative way. And so, as I say
24 here, "I tried to turn down the temperature." Now, what I was trying
25 to do was prevent a confrontation because we were hearing reports

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1 that the Russians were loading aircraft and preparing to bring in
2 their forces into Prishtine airfield. And I want to just -- if you
3 want to get the full -- I'm not quite sure where you're -- what
4 you're driving -- I don't want to interrupt. Go ahead and ask the
5 question, and then I'll go back and fill in what's missing.

6 Q. The question that I have is just you were talking to someone who
7 was downstream from you in the chain of command, and they're talking
8 about an order, you called it a warning order in an earlier answer,
9 and he wasn't doing it. That's fair to say, isn't it?

10 A. No, it isn't. He actually -- he didn't execute the mission on
11 Friday. I never gave him an order to execute it.

12 Now this was something entirely different. This was a different
13 incident. Can I explain that?

14 Q. Go ahead.

15 A. So on the morning of Friday, June 11th, when I called -- or when
16 I found out the Russians had left, I called the Secretary-General and
17 he said, "Well, can't you put some troops in there and take that
18 airfield in Prishtine before the Russians get there?" And I said,
19 "We'll try." I called back to the Pentagon. The Secretary of
20 Defense couldn't be disturbed. The Vice-Chairman of the Joint Chiefs
21 said, "Well, why don't you just put an officer up there and see
22 what's going on?" Well, that wasn't going to work. And so that's
23 when I tried to get ahold of Mike Jackson. But he told me he had a
24 plan, but I didn't know what the plan was. And before I could ever
25 find out what the plan was, everybody was awake by that time, and so

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1 the British Chief of Defence had talked to the Secretary of Defense
2 -- or the British, maybe, Minister of Defence, and they decided just
3 to let the Russians do what they're going to do. Forget about it.
4 So that's why nothing happened on Friday.

5 Jackson told me not to worry, he would have his forces there
6 early on Saturday morning. I said, "Well, when will they start?" He
7 said, well, you know, "Right away."

8 So at 8.00, nothing happened; 10.00, nothing happened; at noon,
9 almost nothing was moving. And I later -- you know, I asked Mike
10 what was going on. He just couldn't get these forces moving. And so
11 he finally got to the airfield. It must have been around 5.00 or
12 6.00. And he went on to the airfield, and he was, according to --
13 this is his report to me, there was a Russian BMP that circled his
14 Humvee, and he decided to leave the airfield rather than get in
15 trouble with the Russians. And so nothing was done.

16 So the instructions that I had hoped he would follow were to get
17 to the airfield and be on the airfield so that they couldn't
18 reinforce. Now that he couldn't do.

19 Then I got a call from Washington saying just have him land a
20 couple of helicopters or a helicopter on the airfield to block the
21 runway, so I passed this to Admiral Ellis. Admiral Ellis passed it
22 to Jackson. About 10.00 p.m. that night, Ellis called me back and
23 said, "Jackson is refusing to put the helicopter there. He says it's
24 too dangerous because there's thunderstorms in the area." And so I
25 said, "Okay, well, don't worry about it. I'm flying down the next

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1 morning, and I'll see Jackson." So that's where it was left.

2 Now, then the question was what were we going to do about
3 blocking the runways, and that's where we got into this emotion
4 before we ever came up with a plan.

5 Q. Were the runways blocked with helicopters in the end?

6 A. Nope.

7 Q. And despite the --

8 A. But I want to make something very clear: As a commander, I
9 would never have ordered Mike Jackson to do something that he thought
10 he couldn't do or shouldn't do without a full discussion of it and
11 understanding what his objections were. Before we could ever get to
12 that, we had this blowup over who was in charge.

13 Q. And --

14 A. So we never got to that point.

15 Q. And despite this heated discussion, and even the challenge to
16 authority, even after this happened, you were still very comfortable
17 with General Jackson's KFOR leadership, including over the American
18 contingent; correct?

19 A. Yes.

20 MR. HALLING: Your Honour, there's going to be multiple pages of
21 "Waging Modern War" that we would admit in the course of the
22 examination. We can admit them as we go. This first page we would
23 ask to admit now, it's page DHT11538.

24 PRESIDING JUDGE SMITH: Any objection to that page?

25 MR. MISETIC: No.

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1 PRESIDING JUDGE SMITH: DHT11538 is admitted.

2 THE COURT OFFICER: It will be assigned Exhibit P04514,
3 currently classified as public.

4 MR. HALLING: Thank you.

5 Q. Now, General, we don't have much more time today. I'll finish
6 my questions for you tomorrow. But just to turn briefly before we
7 end to the period after the Military Technical Agreement and the KLA
8 demilitarisation agreement were signed in June 1999. Just to start.
9 And this is apparent from various comments you've made across your
10 statement and also earlier today.

11 Is it fair to say that Slobodan Milosevic could not be trusted
12 to keep his promises?

13 A. Yes and no.

14 Q. Can you explain what you mean?

15 A. Milosevic would, if enforced, superficially keep promises. But
16 I wasn't satisfied that there was not some intent to sabotage the
17 NATO mission in some way and to possibly even regain control of all
18 or parts of Kosovo.

19 Q. All right. Because the October 1998 cease-fire agreement you
20 discussed in your statement, Slobodan Milosevic doesn't comply with
21 it, does he?

22 A. He didn't sign it. See, this is the key. What he doesn't
23 sign -- it's like he told me in the third meeting I had, he said,
24 "Mr. Sainovic, he says I don't have to sign." I said, "No,
25 Mr. President, you do have to sign it."

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1 Q. And even after that interaction and he signs it, compliance was
2 then even only temporary; correct?

3 A. Yes. I think what happened in that case is there was a Russian
4 military delegation visiting Belgrade. It would have been in
5 December. And I don't have any specific intelligence on this, but it
6 was my assumption that the NATO potential campaign was discussed by
7 the Russians, and the Russians basically said, "Don't sweat it. Air
8 power won't do it. Go ahead and clean these people out the way you
9 want to," because after the 1st of the year, the same forces that had
10 been withdrawn were brought back in.

11 Q. And you were talking earlier today about the investigation into
12 the Recak massacre, and you thought he was going to rig that
13 investigation --

14 A. I did.

15 Q. -- and it was insincere, his offer to do so?

16 A. Right.

17 Q. So to turn now to Mitrovice in the summer of 1999. You were
18 asked about Mitrovice. You were shown a media report. The KLA was
19 threatening further military actions over what the Serbs were doing
20 in Mitrovice in the summer of 1999, weren't they?

21 A. That I don't know. We didn't -- that wasn't reported to me as a
22 KLA threat.

23 MR. HALLING: Your Honour, we'd like to show a document at this
24 point. Because of restrictions of the provider, it requires private
25 session.

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1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. HALLING: It only takes a few minutes.

3 PRESIDING JUDGE SMITH: Into private session, please.

4 [Private session]

5 [Private session text removed]

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Witness: Wesley Clark (Private Session)

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1 [Private session text removed]

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we're in public session.

11 Thank you.

12 MR. HALLING: Thank you, Your Honour. Noting the time, I

13 believe that we're finished for today.

14 PRESIDING JUDGE SMITH: General Clark, we're finished for today.

15 You've had a long day, and I hope you get some rest tonight, and

16 we'll see you tomorrow morning at 9.00.

17 THE WITNESS: Thank you.

18 PRESIDING JUDGE SMITH: Thank you --

19 THE WITNESS: Okay. Thank you very much.

20 PRESIDING JUDGE SMITH: Thank you for being with us.

21 THE WITNESS: Thank you, Your Honour. Thank you.

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: Some guidance, Mr. Halling, on your

24 timetable.

25 MR. HALLING: We are still forecasting to finish in the second

1 session tomorrow.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. HALLING: So after the 11.00 break but ending before
4 1.00 p.m.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 --- Whereupon the hearing adjourned at 4.29 p.m.

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