

1 Wednesday, 17 September 2025

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 I note that the accused are all present in court today.

12 Today we will continue to hear the evidence of Thaci Defence
13 Witness 1DW-003. Before we start hearing the evidence of the
14 witness, there are some preliminary matters the Panel would like to
15 address.

16 First, there are several oral orders.

17 First, in F03216, the Panel admitted into evidence transcripts
18 of recordings from the detention facilities dated 3 September 2023.
19 These transcripts were assigned the exhibit number P03660. In filing
20 F03233, the SPO requested that revised versions of these transcripts
21 replace those previously tendered and admitted into evidence. The
22 revised versions of the 3 September 2023 transcripts were disclosed
23 on 4 June 2025 in Disclosure Batch 1706.

24 May I confirm that there is no objection to the replacement of
25 the transcripts?

1 From the Defence?

2 MR. MISETIC: No objection.

3 PRESIDING JUDGE SMITH: No objection is heard from the Defence.
4 From Victims' Counsel?

5 MR. LAWS: No objection, Your Honour.

6 PRESIDING JUDGE SMITH: After having heard the parties and
7 participants, the Panel orders that the transcripts in exhibit F03660
8 be replaced with the revised version provided in Disclosure Batch
9 1706.

10 This concludes the Panel's first oral order.

11 Second, in F03456, the SPO requested that filing F03241 be
12 reclassified as public and notified that it has no objection to
13 F03456 being reclassified as public. Therefore, pursuant to
14 Rule 82(5) of the Rules, the Panel orders that F03241 and F03456,
15 including any translations thereof, be reclassified as public.

16 This concludes the Panel's second oral order.

17 Third, pursuant to paragraph 39(d) of the Decision on Thaci
18 Defence Request for Admission of Documents Through the Bar Table,
19 which is F03467, the Thaci Defence indicated via e-mail on Friday,
20 last week, that it has no objection to the reclassification as public
21 of proposed Exhibit 019701 to 019714, pages 019711 to 019712,
22 admitted in that decision.

23 May I confirm that there is no objection to the reclassification
24 as public of this item?

25 SPO?

1 MR. PACE: No.

2 PRESIDING JUDGE SMITH: And Victims' Counsel?

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

4 PRESIDING JUDGE SMITH: If there is no objection -- I'm sorry.

5 Any objection from anybody in the Defence? No. All right.

6 The Panel orders that 019701 to 019714, pages 019711 to 019712,
7 including any translations thereof, be reclassified as public.

8 That concludes the oral orders.

9 We will now continue with the evidence of the Thaci Defence
10 Witness 1DW-003.

11 Madam Court Officer, please bring the witness in.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: Good morning, Witness.

14 THE WITNESS: Good morning.

15 PRESIDING JUDGE SMITH: Today we will continue with your
16 testimony. I remind you to please try to answer the questions
17 clearly, with short sentences. If you don't understand a question,
18 feel free to ask counsel to repeat the question or tell them you
19 don't understand and they will clarify. Also, please remember to try
20 to indicate the basis of your knowledge of the facts and
21 circumstances upon which you will be questioned.

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

24 Please also remember to speak into the microphone and wait five
25 seconds before answering a question, and then speak at a slow pace

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1 for the interpreters to catch up.

2 If you feel the need to take a break, please make an indication
3 and we will accommodate that.

4 Lastly, as for the US representative, thank you for joining us
5 once again this morning. I remind you that if at any time you need a
6 moment to speak with the witness or wish to address the Panel, please
7 raise your hand in order to be granted permission to do so by the
8 Panel.

9 We will now continue with the questions by Panel Judge Gaynor.
10 Judge Gaynor.

11 JUDGE GAYNOR: Thank you very much, Judge Smith.

12 WITNESS: JAMES RUBIN [Resumed]

13 Questioned by the Trial Panel: [Continued]

14 JUDGE GAYNOR: Good morning, Mr. Rubin. I want to ask you a
15 couple more questions about the *de facto* position held by Mr. Thaci
16 at Rambouillet and also by his conduct at Rambouillet.

17 And in order to do so, I'd like to ask Madam Court Officer to
18 bring up video 12879102, and to play from 44 minutes exactly to
19 46:40.

20 Now while that's coming up, Mr. Rubin, just for your
21 information, this is an excerpt from a documentary broadcast, I
22 believe in the year 2000, called "Moral Combat, NATO at War,"
23 broadcast by the BBC and the reporter is Allan Little. So we'll
24 watch a portion of it and then I'll ask you some questions.

25 [Video-clip played]

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1 "Focus now shifted to the Albanian delegation. They'd elected
2 the young and inexperienced KLA man Hashim Thaci as their leader.
3 The entire delegation urged him to accept, but he refused because the
4 agreement on offer did not include a referendum on independence.

5 "The delegation appointed Thaci for a leader not knowing that
6 they may become his prisoners.

7 "It was a formidable yes on all sides except when it came to
8 Thaci, who was very, very strained. And he said no.

9 "Thaci was really blunt to the delegation, stating that, look,
10 this document, this actual presentation is completely unacceptable.

11 "He used the language which could be -- which could be
12 understood as threatening.

13 "And whoever signs it now, I would treat him or consider him as
14 the enemy of -- as the enemy of the nation."

15 JUDGE GAYNOR: Now, Mr. Rubin, am I right in understanding that
16 those two gentlemen you saw speaking there are two non-KLA members of
17 the Albanian delegation at Rambouillet; is that right?

18 A. Yes, that was my understanding.

19 JUDGE GAYNOR: Did you know those two men yourself?

20 A. I knew Mr. Surroi.

21 JUDGE GAYNOR: And were you aware or had you heard anything to
22 indicate that Mr. Thaci had been making implicit or explicit threats
23 to them?

24 A. I should here distinguish between physical threats and what I
25 would call moral threats. So I was not aware of any physical

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1 threats. I was aware, however, of the powerful ideological pressures
2 of being for or against independence as something that was considered
3 primal to the movement of a liberation movement in a time of war.

4 So threats to me -- Madeleine Albright made threats to
5 Hashim Thaci saying -- threatened him if he didn't sign, he'd leave
6 the people defenceless against Serbian mass murder. And later, of
7 course, I heard the threats through Mr. Demaci, who was a man -- and
8 I want to add now, if you'll let me, Your Honour, yesterday when I
9 was asked a lot of questions about Mr. Demaci, I didn't add some
10 important points. This was a man who had a status in their movement
11 that I later learned was the equivalent of Nelson Mandela, someone
12 who had been in prison for dozens of years and had this powerful
13 moral authority over the liberation movement, where being for or
14 against the leader was -- so the threats were not physical --

15 PRESIDING JUDGE SMITH: Mr. Rubin --

16 THE WITNESS: You used the words "threats." I'm trying to be
17 responsive.

18 PRESIDING JUDGE SMITH: Mr. Rubin, this isn't being responsive.
19 This is way beyond what the question was. So just answer the
20 questions. That's all.

21 JUDGE GAYNOR: Sure. I just want to clarify. It might be the
22 Irish accent. I said implicit or explicit threats. I didn't say
23 physical threats in my question.

24 But I'd just like to move on in the video, please.

25 Madam Court Officer, could you play now and play on and stop at

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1 46:40

2 [Video-clip played]

3 "... now wielded among the Kosovar Albanians. Thaci's
4 intimidation of his fellow delegates did not stop a warm relationship
5 developing between him and his international sponsors.

6 "He was somebody who was a younger member of the delegation,
7 more my age, and so there was a certain natural rapport. I think I
8 used to tease him a little bit about how he might look good in a
9 Hollywood movie, and I think he appreciated that kind of a -- sort of
10 a basic, you know, teasing back and forth.

11 "Thaci did not respond to this flattery. The Americans sent for
12 their diplomatic big gun. Madeleine Albright arrived at ... focused
13 on getting a yes from Thaci. She spent four days wooing him.

14 "When we got there, it was very evident that Mr. Thaci was kind
15 of a leader, and we actually compared him to Gerry Adams.

16 "She insisted on him making a sort of symbolic choice.

17 "Perhaps here was a leader who had a goal but was able to be a
18 part of a political solution.

19 "Which Thaci partly liked and more disliked. He liked the idea
20 of now, okay, he's being ushered into ..."

21 JUDGE GAYNOR: We've paused at 46:43.

22 Mr. Rubin, the part that I want to ask you about are the
23 statements made by the Secretary of State Madeleine Albright in which
24 she appears, to me at any rate, to be referring to Mr. Thaci very
25 emphatically as a leader. She's not referring to Adem Demaci. She's

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Questioned by the Trial Panel (Continued)

1 not referring to Mr. Thaci in terms to suggest that he's some kind of
2 foreign minister. She's saying he's the leader. And would you care
3 to comment upon that at all?

4 A. Yes, Your Honour. I think she chose her words carefully.
5 Secretaries of state do that, as I do. And I think the words she
6 used was not "the leader" but "a leader," and there is a huge
7 difference. "The leader" is a singular phrase. "A leader" in this
8 context, comparing him to Gerry Adams, which is a very important
9 comparison, a leader of a group who is going to, we hope, lead his
10 nation to freedom. "A leader." And so that's the words that
11 President Clinton used with him and Madeleine Albright used and I
12 used. We wanted him to become a leader of a nation, that they could
13 eventually have their freedom.

14 And so since you've asked me about the phrase, and you've used
15 "the leader," I would only, Your Honour, correct you to say that I
16 heard her say "a leader," and that's the way I thought of him, as a
17 leader of a group. The leader of the delegation chosen by the
18 self -- chosen by the Albanian delegation, Kosovar Albanian
19 delegation at the meeting, he was one person who was like the
20 chairman, like the Judge is the chairman, the Presiding Judge. But
21 he is a leader, you are Judges. He is not the Judge, he's a Judge.
22 But having this leadership position in the context of Rambouillet.

23 So even if she once called him the leader of the delegation,
24 that would be accurate, and I really think that's an important
25 distinction between asking people to show leadership. That's what we

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1 wanted him to do. Leading his people away from the use of force
2 towards peace, which is hard, and you need to inspire them. And
3 that's what did she was referring to, I believe, and someone who
4 knows her extremely well, as well as I think any human being on the
5 subject of Kosovo.

6 JUDGE GAYNOR: Thank you very much. I'd now like to switch
7 topics.

8 And I understand from your evidence over the past two days that
9 you came to certain conclusions about the structure of the KLA and
10 the command and control system within the KLA based mainly on your
11 interactions with the KLA leaders at Rambouillet and then, later on,
12 the 72 hours in the summer of 1999 that you spent with some of the
13 zone commanders; is that right?

14 A. Yes, Your Honour.

15 JUDGE GAYNOR: Now, during your observations with them or at any
16 other time, did you review contemporaneous internal communications of
17 the zone commands or the KLA General Staff?

18 A. If I did, I wouldn't be able to discuss them.

19 JUDGE GAYNOR: Did you review any written internal
20 communications at the brigade level?

21 A. Again, if I reviewed such things, and especially with my
22 colleague here from the State Department, I wouldn't be able to
23 discuss them.

24 JUDGE GAYNOR: Did you review any internal communications at the
25 battalion level?

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1 A. Answer is the same, Your Honour.

2 JUDGE GAYNOR: Were you aware of the --

3 A. With the only exception -- and I should say here, from what I
4 reviewed, there were no such things as battalions, brigades, and
5 units in the KLA. We didn't believe they were such a military with
6 those kind of formal organisational structures, and nothing I saw
7 ever gave me to believe there were such structures.

8 So while I may have reviewed things about the KLA that I can't
9 discuss, I can assure you I never reviewed anything that would have
10 described battalion level, brigade level, or a unit level such as,
11 you know, divisions or armies or regiments or anything that we in the
12 West come to understand as part of a formal military structure.
13 There were no such things to our knowledge.

14 JUDGE GAYNOR: And did you understand that the KLA operated or
15 did not operate a uniformed military police service?

16 A. I was aware that they had uniforms. I was aware that they had
17 uniforms. Some of them did, some of them didn't. As you may have
18 noticed on the video yesterday, half of them had uniforms, half of
19 them didn't. We didn't regard them in the formal way of having a
20 military -- MPs we would call them in the United States, military
21 police, or brigade level commanders, or general staffs. Things like
22 that that you are describing, we didn't see it that way.

23 JUDGE GAYNOR: Did you ever see soldiers with PU on their
24 armbands?

25 A. I suspect I did, but I don't recall that.

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1 JUDGE GAYNOR: In terms of publications directed at the general
2 public, did you have the opportunity to review communiqués that the
3 KLA published in the Albanian-language press?

4 A. I often read such communiqués but regarded them as an effort to
5 make the KLA to be more significant than it was, so I didn't regard
6 them as verbatim descriptions of anything other than what I would
7 call manipulations [Overlapping speakers] ...

8 JUDGE GAYNOR: Okay. Now in reaching --

9 THE INTERPRETER: The interpreters kindly ask the speakers to
10 pause between question and answer.

11 JUDGE GAYNOR: I will.

12 In reaching your conclusion that the KLA was a somewhat chaotic
13 disorganised entity with no structure, did anyone within the
14 State Department, to your knowledge, conduct a comprehensive analysis
15 of large volumes of internal KLA communications at the General Staff
16 zone command brigade level to your knowledge?

17 A. Your Honour, I was someone given enormous authority by the
18 secretary of state and the president. There were no -- no
19 information denied to me if I sought it. In the course of my work, I
20 reviewed as much material as I could. Anything of the sort that
21 you're describing would constitute intelligence information that I,
22 with my State Department colleague here, am going to be very
23 reluctant to get into.

24 But I should repeat that I never saw any documents that I recall
25 describing the kind of structured analysis based on a structured

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1 force. I didn't say they had no structure or had no -- they just had
2 what we would call more of a clan, gang, group structure than what we
3 would call a formal military structure. But should there be such
4 information about examining their capabilities militarily, that would
5 have fallen into the category of intelligence information that I have
6 been advised to be wary of.

7 But I'm trying to respond to your question, and I know that I'm
8 going on too long, and I apologise. These are complex, subtle
9 matters, and I can't just give you a "yes" or a "no." I can't.

10 JUDGE GAYNOR: Okay. I want to move to another subject.

11 You've given evidence about your concerns about retaliatory
12 violence against the Serbs, and you've given evidence about
13 allegations that the KLA was involved in the drugs trade and organ
14 trafficking. I want to put all that to one side for one moment, and
15 I want to focus on the plight of persons who disappeared, who went
16 missing, and the last time they were seen was when they entered KLA
17 custody.

18 Now, did you in your dealings with Mr. Thaci, whether in 1999 or
19 whether more recently, did you ever discuss this issue with him?

20 A. I'm sure I did.

21 JUDGE GAYNOR: And did he show an interest in getting to the
22 bottom of it and finding out what happened to those disappeared
23 persons?

24 A. Again, to be responsive to your very important question, I have
25 to say that I had dozens of conversations with Mr. Thaci over a long

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1 time. And when issues arose of that kind, I was asked and authorised
2 and acted to do what the American people would expect their
3 representative to do, to ask about it, to inquire about it, to ask
4 him to look into it, and my impression was that he tried to be
5 responsive to my exhortation.

6 However, as I indicated in questions yesterday, my job was not
7 an investigator, my job was not a prosecutor, my job was not the
8 human rights representative. So I would not have said, "Okay, we've
9 heard about case X. Please tell me everything you know about that
10 case. Please describe all the details you know and all the details
11 you're going to find out and report back to me in a month." We're
12 talking about a war.

13 JUDGE GAYNOR: Okay.

14 A. So the answer to your question is effectively no.

15 JUDGE GAYNOR: Very well. Those are all my questions. Thank
16 you very much.

17 A. Thank you.

18 PRESIDING JUDGE SMITH: All right.

19 We'll start with the SPO. Any questions that arise from the
20 Judges' questions that you would like to ask?

21 MR. PACE: No.

22 PRESIDING JUDGE SMITH: I'm sorry, I should have started over
23 here. After two and a half years, I'm so used to going in a
24 particular way. It's hard to teach old dogs new tricks.

25 Go ahead, Mr. Misetic.

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Further Re-examination by Mr. Misetic

1 MR. MISETIC: Thank you very much, Your Honour. Good morning to
2 you.

3 Further Re-examination by Mr. Misetic:

4 Q. And good morning, Mr. Rubin. This will hopefully be the last
5 time I am asking you any questions.

6 A. Thank you for that.

7 Q. Yes, I'm sure you're pleased to hear that. So this again -- as
8 I instructed you yesterday, my questions now will be limited to just
9 following up on questions that were asked of you by the Judges and
10 we're not going to go outside the scope of that. Okay?

11 A. Again, thank you for that.

12 Q. Yes. So let me begin with the questions that were put to you by
13 Judge Barthe yesterday. That's the first Judge that questioned you
14 yesterday.

15 This question that you were asked about how you heard -- or
16 whether you heard that he, Mr. Thaci, had been threatened at
17 Rambouillet. Do you recall that question?

18 A. I do.

19 MR. MISETIC: I'd like to put up on the screen, please --

20 Q. And I believe your answer was someone in the US delegation may
21 have told you that but couldn't you recall who; is that correct?

22 A. Yes.

23 MR. MISETIC: If we could please have on the screen DHT01481 to
24 DHT01482, please.

25 Q. And I will preface this, Mr. Rubin, by telling you this is a

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1 book written by Ambassador Hill. We are familiar with your views on
2 Ambassador Hill, and we don't need --

3 A. I will refrain from such comments.

4 Q. Yes, we don't need to discuss that. I just want to ask you if
5 you agree with something that he wrote. Or whether it refreshes your
6 recollection.

7 While that's being pulled up, was Ambassador Hill a member of
8 the US delegation at Rambouillet?

9 A. Yes, one of the leading members.

10 Q. Okay. This is the cover page of the book that he published.

11 MR. MISETIC: And if we could go to the next page in this
12 excerpt. Yes. And if we could go to the second paragraph, and I'll
13 read it out loud. It says:

14 "Just before the recess that was set to be called two weeks into
15 the process, Thaci, to our great concern, left the conference on
16 February 18, returning two days later with even tougher demands. He
17 never said where he had gone, though the suspicion was that he went
18 to see Adem Demaci, the firebrand self-appointed political leader of
19 the KLA, who had refused to take part in Rambouillet. For months,
20 Demaci had made outlandish and outlying pronouncements to the press
21 in Pristina, so much so that the Serbs never interfered with him,
22 such was his contribution to their argument that the KLA was simply a
23 group of crazed radicals.

24 "'Why can't you agree to this?' I asked Thaci, truly not
25 understanding whether he comprehended the near-fatal consequences for

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1 the Kosovars of a 'no' answer.

2 "It is you who doesn't understand,' he replied. 'If I agree to
3 this, I will go home and they will kill me.'"

4 Mr. Rubin, does Ambassador Hill's account refresh your
5 recollection on who in the US delegation may have told you that
6 Mr. Thaci had said he had been threatened?

7 A. Yes.

8 Q. And who might that have been?

9 A. My guess is it was Chris Hill because -- but more likely,
10 Chris Hill told Mr. O'Brien, who was one of my closest friends and
11 still a close friend. Most likely Jim O'Brien communicated, because
12 they were very close, what Chris Hill had heard. That now strikes me
13 as the most likely way I learned of it.

14 MR. MISETIC: Thank you. Mr. President, I tender DHT01481 to
15 DHT01482.

16 PRESIDING JUDGE SMITH: Any objection by the SPO?

17 MR. PACE: No.

18 PRESIDING JUDGE SMITH: DHT01481 to DHT01482 is admitted.

19 THE COURT OFFICER: Your Honours, that will be assigned
20 Exhibit 1D371.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. MISETIC: Thank you.

23 Q. Mr. Rubin, you were asked by Judge Barthe yesterday and again by
24 Judge Gaynor this morning some questions about conversations you had
25 with Mr. Thaci after the war about his need to do more or something

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1 to that effect. Do you recall those questions?

2 A. I do.

3 MR. MISETIC: I'd like to pull up an interview you gave to the
4 Charlie Rose programme in April 2000. And if we could please pull up
5 on the screen 128836-05, beginning at the 07:27 mark, please. I'm
6 sorry, is there a video? Yeah.

7 THE COURT OFFICER: Just to check, it's marked confidential but
8 it can be shown?

9 MR. MISETIC: It can be public, yes.

10 [Video-clip played]

11 "... and that they've pretty much done what would be expected of
12 them if you look at the history of rebel movements giving up arms, so
13 we shouldn't expect more than they have done so far, and that
14 whatever activities they have been engaged in, in terms of real acts
15 of violence against Serbians, should be excused?

16 "On the contrary, what I'm saying is how rare it is for a rebel
17 movement to give up weaponry so quickly. They did that. That was my
18 first mission. The second mission was last month, and that was a
19 very different mission. And that was one where Secretary Albright
20 and the President sent me and Ambassador Hill from the White House to
21 Kosovo, and our message was different that time. Our message to
22 Mr. Thaci, to Dr. Rugova, and to all of the Kosovar Albanian leaders,
23 was disappointment. That we were profoundly disappointed with their
24 failure to use all the abilities they have, all the persuasiveness
25 they have, all the energy they have, to stop Albanians from

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1 committing retribution against Serbs. But when we talk about this,
2 and as disappointed as we are, and as clear as I was in condemning
3 that, we have to remember, there is a big, big difference of
4 retribution violence than an organised campaign of mass murder and
5 mass expulsion by the State, which is what Slobodan Milosevic and his
6 regime have done. There is violence, there is retribution that's
7 unacceptable to us, and I went there and I condemned it. And I
8 looked Mr. Thaci and Dr. Rugova and all the leaders in the eye and
9 said: Those of us who worked so hard to help you are disappointed.

10 "The assumption is, rightly or wrongly - and you can tell us -
11 it is -- it's more former members of the KLA than it is people that
12 have been supportive of Dr. Rugova.

13 "Well, look, Dr. Rugova has widespread popular support.
14 Mr. Thaci has developed a political party and it tends to be amongst
15 those who picked up arms and fought the Serbs. And so, yes, there is
16 more of a problem with organised violence amongst the KLA, but
17 Dr. Rugova and Mr. Thaci have an equal responsibility. Dr. Rugova
18 has moral authority in Kosovo. And what I was saying to him and to
19 Mr. Thaci equally was use whatever levers you have to stop this.
20 Because it's people doing this, it's not an organised system of
21 violence in the same way that it was with Milosevic. And if
22 Dr. Rugova and Mr. Thaci and Dr. Qosaj and all of the leaders don't
23 use every ounce of their energy to stop this, they will harm their
24 relations with the United States.

25 "Speaking of Mr. Hill, who has the admiration of a lot of people

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1 for his work there ..."

2 MR. MISETIC:

3 Q. I was just waiting for the interpretation to finish, Mr. Rubin.

4 Do you recall giving that statement to Charlie Rose?

5 A. I do.

6 Q. And did what you said to Charlie Rose in April 2000, did that

7 accurately reflect your conversations with Dr. Rugova, Mr. Thaci,

8 Mr. Qosja, and any other Albanian leaders you were with the month

9 before?

10 A. Yes, it does. And in retrospect, I'm quite pleased with the

11 precision of the words I used all those years ago.

12 Q. You talked there about use of persuasion and that Dr. Rugova was

13 someone of moral authority. What -- were you encouraging them to use

14 their moral influence?

15 A. I think in the course of the -- yes, and I need to explain that.

16 In the course of these discussions over the last three days, I've

17 tried to distinguish between the precision of an organised government

18 and an organised military and an organised society, because in my

19 dozens of trips to Kosovo during those years, I developed a firm

20 impression that, given that 90 per cent of these people were

21 oppressed for dozens and dozens of years, they did not have an

22 organised government. They did not have an organised police force.

23 They did not have an organised military. And those who had moral

24 authority in a society oppressed like that are the ones who can be

25 most persuasive to individual families who are the ones most likely

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1 to conduct retributive violence when their families have been
2 murdered. There is huge anger.

3 So I believe that the most effective way to prevent retributive
4 violence, as I indicated in that interview, is to get those with
5 moral authority to urge families who lost a brother, a sister, a
6 whole wing of their family from mass murders not to retaliate with
7 violence.

8 And in that society, moral authority is exponentially more
9 powerful to people's decision-making and actions than any written
10 phrase on a paper about who they are and what job they have and what
11 structure they have. That's what makes people change their minds
12 about what they're going to do. That's my experience from being in
13 multiple war zones, and particularly in this one where the people
14 were suddenly free after dozens of years of being murdered and
15 slaughtered.

16 Q. Thank you.

17 A. They could -- that's -- those are the people who could affect
18 them, and that's why I said that, and that's the point I've been
19 trying to make the last couple of days.

20 Q. Thank you. In the beginning of the clip, you say:

21 "What I'm saying is how rare it is for a rebel movement to give
22 up weaponry so quickly. They did that. That was my first mission.
23 The second mission was last month, and that was a very different
24 mission ..."

25 And then you say that you went on a mission with Ambassador Hill

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1 to the region the month prior. So if this is April 2000, is it --
2 does it refresh your recollection then as to when that trip took
3 place when you had these discussions with Mr. Thaci?

4 A. It does. I knew it was a substantial number of months after the
5 war ended, which was June 1999, and this was a second mission and it
6 looks like it was March 2000. Shortly before I left the government,
7 the administration asked me to go to Kosovo, where I had moral
8 authority and people listened to me. Crowds formed, people wanted to
9 hear me, and I wanted to tell them we have a risk of a new conflict
10 in the Presevo valley. And I both raised cases that I was aware of
11 that was appropriate for me to raise from the past, but mostly what I
12 was doing was telling: Don't let this happen again by rising up in
13 the Presevo valley.

14 And later on, I have to say I was -- my heart was warmed because
15 the Presevo valley didn't explode in violence that people thought it
16 would, because of what Hashim Thaci, the leader of a political party,
17 did to object to his people rising up in political violence.

18 So, yes, it reflects -- it refreshes my memory. It's now clear
19 that I went in roughly March 2000. I left the government I believe
20 in May. And this was my last trip to the region as a government
21 official till I came back under Biden.

22 And, again, I have to tell you, this is a society that had been
23 destroyed, and I wanted to help them do the right thing.

24 Q. Thank you. I want to turn to a different --

25 MR. MISETIC: We can take that down.

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1 Q. I want to turn to a different question you were asked yesterday.
2 Judge Barthe asked you about the statement in your witness statement
3 where you said that at Rambouillet he was a traitor almost if he
4 agreed to the deal. And there was some discussion back and forth
5 about how that word "traitor" or that phrase "traitor, almost" came
6 to be in your statement.

7 MR. MISETIC: If we could please have Exhibit 1D279 on the
8 screen, please.

9 Q. This is again the book that reprints your *Financial Times*
10 article.

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

13 Q. That paragraph under the title "How We Reached a Compromise," it
14 says -- we start with "Albright" in the middle:

15 "... Albright returned to Paris by car to sleep for a few hours.
16 That night, I went on a long walk with Thaci. It was cold outside
17 but he refused to take my coat. He was worried. He said he was
18 under the pressure of the KLA commanders in Kosovo and its financiers
19 from Europe. They would consider him a traitor."

20 The question there, "They would consider him a traitor," as it's
21 written in the *Financial Times* article, was that something that
22 Mr. Thaci said? In other words, he was under the pressure of the KLA
23 commanders in Kosovo and its financiers from Europe, and they would
24 consider him a traitor, or was that an assessment you made of the
25 situation, if you can recall?

1 A. First, I have to say, since this is the umpteenth time this book
2 has come up, I didn't authorise the publication of this book.

3 Q. Yes.

4 A. And I just need the Court to understand that I wrote an article
5 in the FT, and somebody translated it into Albanian and then
6 translated back into English, so a lot of words got lost in
7 translation.

8 Having said that, I can't imagine -- I can't remember ever, and
9 I think I would remember, that he would call himself a traitor. But
10 I think I was trying to sum up the problem in English in a -- what we
11 would call a colloquial way, the problem he was facing to act in
12 contravention of the decisions and actions and desires of his
13 higher-ups and other supporters in Europe, financial supporters, and
14 in the region in the KLA. So it's a word I chose based on my
15 assessment of what he was telling me, but I doubt very much it was a
16 word he would use. Although, it was apparent to me that he was under
17 extreme pressure.

18 Q. Understood. Turning to a different question you were asked. Do
19 you recall being asked about the arrest warrant and how you found out
20 about it? And I believe you said that you believe Mr. Thaci told you
21 in Paris that there had been an arrest warrant issued for him.

22 A. I recall the testimony. And I just have to say, you know,
23 because I've been spending a lot of time thinking about everything I
24 said. Some of this stuff gets jumbled up in your mind, and I can't
25 actually remember who told me precisely about the arrest warrant,

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1 whether it was something I read, whether it was something he told me.
2 I think he told me about the difficulty of his situation, how he
3 needed to travel over mountains, hide. But where and when and how
4 the arrest warrant came into my head, I honestly can't precisely
5 remember.

6 MR. MISETIC: Okay. Let me call up a document.

7 KSC-BC-2020-06-SITF00451824 to 00451839, please. If we can go to
8 page 2, please.

9 Q. This is a translation of what purports to be a Serbian arrest
10 warrant for Mr. Thaci. Do you see that on the screen?

11 A. Yes.

12 Q. If we scroll to the bottom of the page, the date is 2 March
13 1999, so between the Rambouillet conference and Paris. Is that
14 consistent with what you heard, as you said just now, about an arrest
15 warrant having been issued by the Serbian authorities for Mr. Thaci?

16 A. Yes.

17 MR. MISETIC: Mr. President, I tender this page of the exhibit
18 into evidence.

19 PRESIDING JUDGE SMITH: Any objection?

20 MR. PACE: No.

21 PRESIDING JUDGE SMITH: So KSC-BC-2020-06-SITF00451824. Is that
22 the page number, that last -- 24?

23 MR. MISETIC: I can't see it. No, I believe it should be 25 if
24 I'm not mistaken. Can we see the number on the page? 25, yes.

25 PRESIDING JUDGE SMITH: That page 25 is admitted.

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1 THE COURT OFFICER: Your Honours, that will be assigned
2 Exhibit 1D372, and I note it's marked confidential.

3 MR. MISETIC: It can be public.

4 PRESIDING JUDGE SMITH: Reclassify this as public, please.

5 MR. MISETIC: Thank you.

6 Q. Mr. Rubin, as you just noted earlier, you were asked a lot of
7 questions about Adem Demaci, so I'm going to ask you a few more --

8 A. Okay.

9 Q. -- about Adem Demaci.

10 MR. MISETIC: Let me take you to Exhibit DHT12050 to
11 DHT12052-ET, please. Now, this is a report -- a newspaper report
12 from 24 February 1999 of a press conference given by Albin Kurti who
13 at that time was the secretary to Adem Demaci. Do you see that?

14 A. Yes.

15 Q. And the headline is there's "No political decision without
16 Adem Demaci's consent." And if we scroll down to the third
17 paragraph, it says:

18 "Albin Kurti said in today's press conference that Adem Demaci
19 has urgently travelled to Ljubljana today to have important meetings
20 with high-level representatives of international diplomacy and
21 politics."

22 Do you know why Adem Demaci -- or do you have any idea as to why
23 Adem Demaci would travel to Ljubljana on 24 February to meet with
24 international representatives?

25 MR. PACE: Objection, Your Honour. It calls for speculation.

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1 The witness has said he's never even met Adem Demaci.

2 MR. MISETIC: He doesn't have to have met him, Mr. President.

3 PRESIDING JUDGE SMITH: Overruled.

4 You may answer that if you know.

5 THE WITNESS: Thank you. Yes, I understood that he was going to
6 meet diplomats in Slovenia, and later I understood because that's
7 where he called Madeleine Albright from, from Slovenia. So that was
8 exactly what it says there, that he was going there to have
9 diplomatic discussions. And when Madeleine Albright reached him, it
10 was, as I recall --

11 PRESIDING JUDGE SMITH: Just a second.

12 THE WITNESS: Yes?

13 PRESIDING JUDGE SMITH: Mr. Rubin, once again you're getting
14 beyond the question. The question was just did you know what was
15 going on and you did.

16 Go ahead.

17 MR. MISETIC: Thank you.

18 If we could go to the next page, please. Towards the bottom of
19 the page.

20 Q. In response to a question, Mr. Kurti says:

21 "'The departure of the Albanian delegation to Rambouillet in
22 France was a gesture of goodwill,' said Kurti while answering a
23 question as to why a delegation of 15 members went to Rambouillet
24 when they are not authorised to sign and added that with this
25 gesture, [the] KLA has shown that it is 'ready also to sacrifice

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1 something only to give the solution of the Kosovo issue a chance, as,
2 unlike the Serb regime, it is interested in a political settlement."

3 What is said there, is that consistent with what you ultimately
4 experienced in Rambouillet, that the delegation went there but said
5 it didn't have the authority to sign?

6 A. Some -- yes, some of the members who didn't -- said that, yes.

7 Q. And which members in particular?

8 A. Hashim Thaci.

9 Q. Thank you.

10 MR. MISETIC: Mr. President, I tender this exhibit into
11 evidence.

12 PRESIDING JUDGE SMITH: Any objection, Mr. Pace?

13 MR. PACE: No.

14 PRESIDING JUDGE SMITH: DHT12050 to 12052-ET is admitted.

15 THE COURT OFFICER: Your Honours, that will be assigned
16 Exhibit 1D373. I note there is an Albanian in Legal Workflow. Is
17 that meant to be part of the exhibit?

18 MR. MISETIC: If that could be added, that's fine.

19 PRESIDING JUDGE SMITH: You will also add the Albanian
20 translation then, please. Thank you, Madam Court Officer.

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

22 Q. Mr. Rubin, yesterday it was put to you at provisional transcript
23 pages 137 to 138, and this is what was put to you by Judge Mettraux:

24 "And it would seem, doesn't it, that the only figure, at this
25 stage at least," meaning immediately after the first Rambouillet

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1 conference concluded, "... the only figure that, at this stage at
2 least, who was still opposed to Rambouillet was Demaci; correct?

3 "A. I don't know that. I just know that -- what I'm reading.
4 I don't know whether there was anyone else."

5 MR. MISETIC: If we could have Exhibit 1D251 on the screen,
6 please.

7 Q. Mr. Rubin, this is a different version of the exhibit that
8 Judge Mettraux showed you. It's identical. But you'll recall where
9 you were promoted to secretary of state yesterday?

10 A. I won't forget that easily.

11 Q. Yes. You see that paragraph?

12 A. Yes.

13 Q. Okay. I'm interested in actually the paragraph above that
14 paragraph. Okay? And it says:

15 "The Independent (London) reported today that at a ceremony [on]
16 Saturday," which we know is March 6th because the article is March
17 9th and Saturday was March 6th, "marking the first anniversary of the
18 killing of KLA founder Adem Jashari by Serbian security forces, KLA
19 chief of staff Suleyman Selimi 'warned...that the rebels would not
20 accept a compromise. 'Halfway measures to independence are
21 unacceptable unless they lead to full independence,' he said.'"

22 Do you see that?

23 A. Yes.

24 Q. Now, do you know who Sylejman Selimi was at the time?

25 A. I can't honestly say I remember his name at the time.

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1 Q. Do you know who Agim Ceku's immediate predecessor was?

2 A. No.

3 Q. It says in the article that he is the KLA chief of staff, and he
4 is making statements at least appearing to oppose any agreement
5 that's short of independence. Do you see that?

6 A. I do.

7 MR. MISETIC: Now I would like to show you a US document, 1D310,
8 please.

9 Q. This is a report of the Congressional Research Service. Are you
10 familiar with the Congressional Research Service?

11 A. Yes.

12 MR. MISETIC: If we could please go to page 17.

13 Q. This is a chronology of events prepared by the Congressional
14 Research Service, and you'll see that at the entry on 2 March:

15 "The KLA designated Hashim Thaci leader of a provisional Kosovar
16 government. The move [appears] to sideline further the leadership of
17 Ibrahim Rugova ... The following day, Adem Demaci resigned from his
18 position as political adviser to the KLA. Demaci again rejected the
19 Rambouillet accords."

20 So just keep that in mind, the resignation is either 2 March or
21 3 March. Then we have an entry that says:

22 "Former Senator Bob Dole met with members of the ethnic Albanian
23 delegation in Macedonia, rather than in Kosovo. Dole urged the
24 Albanian delegation to sign the peace accords, calling them the 'best
25 possible deal.' Hashim Thaci did not attend the meeting with Dole."

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1 Then on 8 March:

2 "After a long meeting with US envoy Christopher Hill in
3 Pristina, the KLA agreed to accept the Rambouillet peace agreement."

4 I would just ask you to keep those dates in mind.

5 We also know, and this Panel has received evidence, that on
6 5 March - and this is P1264, beginning at SPOE001228805 - that the EU
7 special envoy for Kosovo, Wolfgang Petritsch and his deputy Jan
8 Kickert travelled to Kosovo and met with leaders of the KLA,
9 including Sylejman Selimi, whose name I just showed you, Rame Buja,
10 Jakup Krasniqi, Fatmir Limaj, and Rexhep Selimi in order to encourage
11 them to agree to the Rambouillet accords.

12 Do you know why an EU delegation would have to meet with senior
13 leaders of the KLA on 5 March, three days after Adem Demaci resigned?

14 MR. PACE: Objection, Your Honour. Now we're asking for him to
15 speculate about an EU delegation, so not even the US authorities.
16 There is no foundation for this.

17 PRESIDING JUDGE SMITH: He can ask him if he knows.

18 Do you know?

19 THE WITNESS: I'm pretty sure I know.

20 MR. MISETIC:

21 Q. Can you tell us what you know?

22 A. During that time, the EU delegation leaders and the American
23 delegation leaders were very, very anxious to be sure that the
24 Kosovar Albanian delegation would sign the Rambouillet accords. And
25 it would be extremely relevant, important, and necessary for them to

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1 travel to confirm that.

2 Q. Okay. You were shown a US code cable of 25 February 1999 by
3 Judge Mettraux, and you'll recall that cable where it's reported or
4 recorded that Mr. Krasniqi and a Mr. Rame Buja said that "they would
5 'take care of Demaci'." Do you remember that document?

6 A. Yes.

7 Q. Okay. They are now both at this meeting with Sylejman Selimi,
8 Fatmir Limaj, Rexhep Selimi, discussing whether they would or would
9 not agree to the Rambouillet accords. My question to you is do you
10 have any knowledge of why Mr. Krasniqi and Mr. Rame Buja would have
11 attended that meeting if, as Mr. Hill suggested in the cable of
12 25 February, it was only Adem Demaci that needed to be taken care of?

13 A. Again, my understanding was nailing down the specific agreement
14 of all the members of the delegation at Rambouillet was an open
15 question until they signed the agreement, and efforts to meet with
16 leaders of the KLA who were the most sceptical at Rambouillet, who
17 now we hoped had taken to Kosovo our offer to use military power if
18 they did sign, would change their minds and would make more and more
19 of them willing to agree to it.

20 So everything that was going on then was towards that purpose.
21 So that's the reason why they would be meeting, that's the reason why
22 we would want to meet with them, and one meeting wouldn't be enough.
23 You would want to do as much meeting as possible until the signature
24 happened.

25 Q. Thank you. I'm sorry for being repetitive here, but my next

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1 question is along similar lines: If Adem Demaci resigned on 2 March
2 and he was the only obstacle to signing, why did Senator Dole travel
3 to the region on 5 March?

4 A. Again, we did not believe there was any single figure who was
5 the decisive reason for or against signing Rambouillet. Senator Dole
6 was acting as a -- again, he was a leading Republican senator, but he
7 agreed with the policies of the Clinton administration. He was
8 helping us nail down the signatures of the Kosovo Albanians where he
9 had powerful support in that community.

10 And so getting all the people you needed to meet with, as many
11 as possible, ensuring that they would sign when they came to Paris,
12 was an all-out, all-hands-on-deck type of diplomatic effort,
13 senators, me, Chris Hill, everybody.

14 Q. My last question before the break. You just mentioned Chris
15 Hill and an all-out diplomatic effort. And I showed you in this
16 chronology on this screen, on 8 March Christopher Hill had a long
17 meeting with the KLA, five or six days after Adem Demaci resigned.
18 Can you tell us why Mr. Hill would have had to go to Prishtine on the
19 8th if Mr. Demaci was the only obstacle?

20 A. I would repeat as simply as I could. Whatever summarises what I
21 just said, that would be the reason.

22 Q. Thank you.

23 MR. MISETIC: Mr. President, it's a good time for a break.

24 PRESIDING JUDGE SMITH: We'll give you a ten-minute break at
25 this time. Please do not speak with anyone about your testimony.

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1 [The witness stands down]

2 MR. MISETIC: Mr. President, I have about 15 minutes left. And
3 the next witness should be here now, just so you're aware.

4 PRESIDING JUDGE SMITH: Thank you very much.

5 We're adjourned until 10.10.

6 --- Break taken at 10.01 a.m.

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

8 PRESIDING JUDGE SMITH: Before we start, please everyone silence
9 your phones, alarms, notifications, so that we don't get interrupted
10 during any part of the testimony.

11 You may bring the witness in now.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: Mr. Misetic will have about 20 minutes,
14 he said, so please give him your attention.

15 MR. MISETIC: Thank you, Mr. President. Could be much less
16 actually.

17 Q. Mr. Rubin, yesterday you were asked by Judge Mettraux a question
18 which was along the lines of wouldn't you need to see internal orders
19 and reports and the like to understand who was in charge. Do you
20 remember that question?

21 A. Yes.

22 Q. You've now been here for a third day. Do you recall whether
23 anyone, at any time, including while you have testified here, has
24 ever shown you an order issued by Hashim Thaci to anyone in the
25 military wing of the KLA?

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1 A. I have not seen such an order.

2 Q. Do you recall whether anyone, at any time, including while you
3 have testified here --

4 THE INTERPRETER: Interpreter's note: The transcript is not
5 working.

6 MR. MISETIC: Is he even here? Is the court reporter here? We
7 started without the court reporter apparently.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 THE WITNESS: Life.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. MISETIC: Shall I start again, Mr. President?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. MISETIC: Okay. Thank you.

14 Q. We'll start again, Mr. Rubin. Do you recall yesterday being
15 asked a question by Judge Mettraux in which he suggested to you that
16 you would need to look at internal orders and reporting and the like
17 in order to understand who was in charge?

18 A. Yes.

19 Q. You have now been here for a third day. Do you recall whether
20 anyone, at any time, including while you have testified here, has
21 ever shown you an order issued by Hashim Thaci to anyone in the
22 military wing of the KLA?

23 A. I've not seen such an order.

24 Q. Do you recall whether anyone, at any time, including while you
25 have testified here, has ever shown you a report sent by the KLA

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1 military wing to Hashim Thaci?

2 A. No, I've never seen such a thing.

3 Q. Do you know whether Hashim Thaci was even in Kosovo at all for
4 most of the time period between November 1998 and June 19th, 1999,
5 other than the times that you were communicating with him via
6 satellite phone during the NATO bombing campaign?

7 A. I'm not aware of his movements, and I believe all the times I
8 spoke to him it was while he was in Kosovo.

9 Q. Well, you spoke to him in Rambouillet.

10 A. Right. I'm saying during the time of the bombing. I thought I
11 was -- I was only answering during the time of the bombing. So, yes,
12 I saw him Rambouillet, Paris, and Kosovo only.

13 Q. Yes. If he was not in Kosovo at all for most of that time
14 period, how, if at all, would that affect your impression
15 that Mr. Thaci did not appear to be someone who was in charge of the
16 military wing of the KLA?

17 MR. PACE: Your Honour, the witness said he doesn't know about
18 the whereabouts, and I don't know how this last question arises from
19 the Judges' questions. Perhaps counsel can point us where
20 specifically this arises from?

21 PRESIDING JUDGE SMITH: Please make it as narrowly defined as
22 possible defined as possible what you're talking about, the areas
23 you're talking about.

24 MR. MISETIC: Yes.

25 Q. You were asked many questions about your impressions of his

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1 *de facto* authority. Do you recall that?

2 A. Yes.

3 Q. Okay. My question to you is if he was not in Kosovo for most of
4 the time period other than the NATO bombing campaign, would that
5 affect your impression of Mr. Thaci's authority with the military
6 wing of the KLA?

7 MR. PACE: Objection, Your Honour. The question is necessarily
8 hypothetical, "if." If there's a foundation, a foundation can be
9 made. And, again, the witness has said he doesn't know where he was,
10 so we cannot engage in hypothetical situations where the witness
11 already said he is not able to say one way or another --

12 PRESIDING JUDGE SMITH: The objection is overruled.
13 Go ahead.

14 MR. MISETIC: Thank you.

15 Q. You may answer the question if you remember it.

16 A. It would affect my impression.

17 Q. How would it affect your impression?

18 A. It would further confirm my view that he wasn't the leader of
19 the military wing of the KLA.

20 Q. Thank you. One final question. Again, it relates to something
21 Ambassador Hill has said, and I'm just going to ask you whether you
22 agree with him.

23 MR. MISETIC: If we could please have DHT09232 to DHT09350,
24 please.

25 Q. And just to orient you, this is an interview -- a lengthy

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1 interview that Ambassador Hill gave in 2002, so 23 years ago.

2 MR. MISETIC: And if we could please go to page DHT09320.

3 Q. And at this page, just to give you an orientation, he's
4 discussing that period between Rambouillet and Paris here. And the
5 question that's put to him by a person name Blerim Shala is:

6 "The key player there was Thaci. So, when you went to the KLA
7 headquarters you, more or less, found guys with very positive mood."

8 Ambassador Hill answers:

9 "I felt that there was a very positive mood. There was this
10 question of where was Thaci ..."

11 "Shala: ... during this first period ..."

12 Ambassador Hill:

13 "I don't know if you recall, but senator Dole, he was having a
14 lot of fun on this question 'where was Thaci'. They were telling me
15 that Thaci was coming back in the country, and at that point I had
16 suspected, it was pretty clear to me that Thaci was not any kind of
17 top commander."

18 Is what Ambassador Hill there says consistent with the
19 impressions you formed of Mr. Thaci's role in your dealings with him
20 in 1999?

21 A. Absolutely consistent. That he was not any kind of top
22 commander. That's the way I put it myself.

23 MR. MISETIC: Thank you. Mr. President, I tender this page of
24 the exhibit.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 MR. MISETIC: DHT09232 to DHT09350 is the range, and the
2 specific page is DHT09320.

3 PRESIDING JUDGE SMITH: Any objection?

4 MR. PACE: The only objection, Your Honour, is as to context.
5 Counsel put context on the record. But just submitting this page
6 doesn't tell us when this is being discussed. If counsel could point
7 if it's the previous page that does that, then I have no objection to
8 both those. But without it, we don't know what this related to.

9 MR. MISETIC: We can go back -- I would be willing to put in the
10 previous two pages for context if you wish. So DHT09318 to 20.

11 PRESIDING JUDGE SMITH: All right.

12 MR. PACE: That works for us.

13 PRESIDING JUDGE SMITH: All right. DHT09318 to 09320 is
14 admitted.

15 THE COURT OFFICER: Your Honours, that portion will be assigned
16 Exhibit 1D374.

17 PRESIDING JUDGE SMITH: Thank you.

18 Go ahead.

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

20 Q. Mr. Rubin, that does actually conclude my questioning, so I'm
21 very grateful for your time and for coming to The Hague. Thank you
22 very much.

23 MR. MISETIC: And thank you, Mr. President.

24 MR. DIXON: Your Honours, I just have a few matters to follow up
25 on if I may.

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Further Cross-examination by Mr. Dixon

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. DIXON: I understand in relation to the Judges' questions I
3 do as has happened all the through the Prosecution's case.

4 PRESIDING JUDGE SMITH: [Microphone not activated]. If it's
5 specifically for the Judges' questions, yes, go ahead.

6 MR. DIXON: It arises only from the Judges' questions.

7 Further Cross-examination by Mr. Dixon:

8 Q. Mr. Rubin, good morning. I have only a few more follow-up
9 questions from the Judges to put to you.

10 First of all, His Honour Judge Mettraux yesterday asked you this
11 question. And this is at transcript page 150 of the realtime
12 transcript. He said:

13 "So I'll summarise. And I think it can be answered in a yes or
14 no, and if it's not accurate or not complete, please conclude it.
15 But in your view, there was no General Staff, no Provisional
16 Government of Kosovo to speak about, and all of their respective
17 members were pretending to be members of entities that did not
18 exist."

19 And you answered:

20 "That doesn't resemble anything I said today ..."

21 And you went on to say this:

22 "If they didn't purport to be an organised military with a
23 General Staff, it would be harder for them to get weapons from the
24 West.

25 "So I pointed out that that was a normal thing for a group like

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1 that to do, to purport to be more organised and more -- describe the
2 way -- than they really were."

3 Do you remember giving that answer yesterday to that question
4 from Judge Mettraux?

5 A. Yes.

6 Q. So it's correct then, isn't it, Mr. Rubin, that your evidence is
7 that people in the KLA were referring to a General Staff, they were
8 referring to brigades and zones, but that the real question that you
9 were addressing is whether they were a properly organised military
10 unit or not, and you were saying that that was not the case, they
11 were exaggerating it; is that right?

12 A. Precisely.

13 Q. Thank you. I'm going to go to one further matter in relation to
14 a question asked by Judge Gaynor this morning. You will recall that
15 he asked you, and this is at page 8 of the realtime transcript from
16 today:

17 "And I understand from your evidence over the past two days that
18 you came to certain conclusions about the structure of the KLA and
19 the command and control system within the KLA based mainly on your
20 interactions with the KLA leaders at Rambouillet and then, later on,
21 the 72 hours in the summer of 1999 you spent with some of the zone
22 commanders; is that right?"

23 You said:

24 "Yes ..."

25 Then you were asked a lot of questions about what documents you

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1 may or may not have seen. I'm not going to tread on that ground
2 because I know how sensitive it is, but you did say further down, and
3 this is at page 11, that:

4 "I was someone given enormous authority by the secretary of
5 state and the president. There were no -- no information denied to
6 me if I sought it. In the course of my work, I reviewed as much
7 material as I could."

8 Do you remember saying that?

9 A. I do.

10 Q. And I referred you on day one, some time ago now, to paragraph
11 11 of your statement where you indicated that each day, in 1998 and
12 1999, you did review all materials that were coming through to you
13 from cables, from the intelligence, and from media as well?

14 A. Yes.

15 Q. So it's right then, isn't it, Mr. Rubin, that your evidence is
16 this: That in all of your experiences over that time, all of your
17 meetings, and the review of all the materials that you have said that
18 you covered, whether you had been able to be specific about that or
19 not for the reasons that we know, that you have never seen anything
20 in all of that which shows the KLA to be a well-organised military
21 force with a vertical command structure? In fact, it lacked
22 organisation and its members exaggerated its organisation; is that
23 correct?

24 A. Perfect summary of my testimony.

25 Q. Thank you.

1 MR. DIXON: Your Honours, those are my questions.

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

3 Witness, this appears be to the end of our association in the
4 courtroom. Thank you for being with us. You are excused now with
5 our thanks, and you are released from any further obligation to the
6 Court.

7 THE WITNESS: May I say thank you and it's been a privilege to
8 be here. And however long it took, it was a really powerful
9 recollection of a very, very important time in history that I'm
10 pleased to be able to help.

11 PRESIDING JUDGE SMITH: You may leave the courtroom now.

12 I would also like to thank the representative of the US
13 Government for being with us. You've been helpful and courteous and
14 I'm sure a great aide to the witness, so thank you for being with us.

15 [The witness withdrew]

16 PRESIDING JUDGE SMITH: We'll take about a ten-minute break, and
17 then we'll be ready to call your next witness. Is that going to be
18 sufficient time?

19 MR. MISETIC: It is for me, Mr. President. I just want to
20 make -- the witness is here, I believe. So as long as he's in the
21 waiting room, that's fine.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 --- Break taken at 10.28 a.m.

24 --- On resuming at 10.39 a.m.

25 PRESIDING JUDGE SMITH: I want to correct my somewhat previous

1 garbled message. You cannot have your phone on -- you can't even
2 have your phone. So are we clear on that? No phones in the
3 courtroom. I'm sorry if I was giving a mixed signal.

4 What we'll do is we will bring the new witness in, we will get
5 through as much as we can till 11.00. But the accused haven't had a
6 break out of the courtroom since starting, so we'll do a regular
7 half-hour break at 11.00, and then pick it up again after that.

8 So please bring the witness in.

9 For the record, this is for Thaci Defence Witness 1DW-001.

10 [The witness entered court]

11 PRESIDING JUDGE SMITH: Good morning, Witness.

12 THE WITNESS: Good morning.

13 PRESIDING JUDGE SMITH: Witness, the Court Usher will provide
14 you with a text of a solemn declaration which you are asked to take
15 pursuant to our Rules of Procedure 141(2). Take a look at it and
16 then read it aloud.

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

21 WITNESS: PAUL WILLIAMS

22 PRESIDING JUDGE SMITH: Please be seated.

23 THE WITNESS: Thank you.

24 PRESIDING JUDGE SMITH: Witness, today we will start your
25 testimony, which is expected to last approximately 1.5 days, one and

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1 a half days.

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

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

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

17 In the event you are asked by the Thaci Defence to attest to
18 some corrections made regarding your statements, you are reminded to
19 confirm on the record that the written statement, as corrected by the
20 list of corrections, accurately reflects your declaration.

21 Also, please speak into the microphone and wait five seconds
22 before answering a question so that the interpreters can catch up.

23 During the next days while you're giving evidence in court, you
24 are not allowed to discuss with anyone the content of your testimony
25 outside of the courtroom. If any person asks you questions outside

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1 the Court about your testimony, please let us know.

2 Please stop talking if I ask you to do so and also stop talking
3 if you see me raise my hand. These indications mean that I need to
4 give you an instruction. If you feel the need to take a break at any
5 point or wish us to repeat anything, please make an indication and an
6 accommodation will be made.

7 So we begin first with the direct examination by Mr. Misetic,
8 representing the Thaci Defence.

9 Go ahead, Mr. Misetic.

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

11 Examination by Mr. Misetic:

12 Q. Good morning, Dr. Williams.

13 A. Good morning.

14 Q. We have met before, but for the record, my name is Luka Misetic,
15 and I am Specialist Counsel for Mr. Hashim Thaci. Could you please
16 state your name for the record.

17 A. Paul Williams.

18 Q. And what is your date of birth?

19 A. June 3rd, 1965.

20 Q. And what is your nationality?

21 A. I'm an American.

22 Q. Did you give a statement to the Thaci Defence which you signed
23 on July 17, 2025?

24 A. Yes.

25 MR. MISETIC: If the Court Officer could please call up DHT10224

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1 to DHT10230.

2 THE INTERPRETER: Interpreter's note: The speakers are kindly
3 asked to pause between question and answer for the purpose of
4 interpretation. Thank you.

5 MR. MISETIC:

6 Q. Do you recognise this document, Dr. Williams?

7 A. Yes.

8 Q. Is this a record of the statement you gave to the Thaci Defence?

9 A. Yes.

10 MR. MISETIC: And if we could turn to the last page, DHT10230.

11 Q. Is that your signature, Dr. Williams?

12 A. Yes.

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

15 A. Yes.

16 Q. And did you have another chance to review this document last
17 week?

18 A. Yes.

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

21 A. Yes.

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

24 A. Yes.

25 Q. Did you make any corrections or clarifications to this document?

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1 A. No.

2 Q. Is the information you provided in the statement to the Thaci
3 Defence accurate and truthful to the best of your knowledge and
4 belief?

5 A. Yes.

6 Q. Does the information provided in your witness statement to the
7 Thaci Defence accurately reflect what you would say if you were asked
8 the same questions again in court as you were asked when you provided
9 the witness statement?

10 A. Yes.

11 MR. MISETIC: Your Honour, we move for the admission of the
12 witness statement DHT10224 to DHT10230, and the two associated
13 exhibits that were provisionally admitted by the Trial Panel in
14 decision F03447.

15 PRESIDING JUDGE SMITH: Any objection?

16 MR. PACE: No.

17 PRESIDING JUDGE SMITH: DHT10224 to DHT10230 is admitted along
18 with the two associated exhibits previously referred to.

19 THE COURT OFFICER: Your Honours, the statement DHT10224 to
20 DHT10230 will be assigned Exhibit 1D375. The first associated
21 exhibit, which is within range DHT10231 to DHT10260, pages DHT10231
22 to DHT10234 will be Exhibit 1D376. And for the second associated
23 exhibit, pages DHT10235 to DHT10237, within the range also mentioned
24 previously, will be assigned Exhibit 1D377.

25 PRESIDING JUDGE SMITH: Thank you.

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1 THE COURT OFFICER: Your Honours, I note they're all classified
2 confidential.

3 MR. MISETIC: [Microphone not activated].

4 PRESIDING JUDGE SMITH: Please reclassify them as public.

5 MR. MISETIC: Yes.

6 PRESIDING JUDGE SMITH: And you may proceed.

7 MR. MISETIC: They can all be public. Thank you, Mr. President.

8 On 12 September 2025, the Thaci Defence submitted, by e-mail, a
9 proposed summary of this witness's now admitted Rule 154 statement to
10 the Panel and all parties and participants. We have not received any
11 objection to the proposed summary. So with your leave,
12 Mr. President, I now propose to read the summary.

13 PRESIDING JUDGE SMITH: Leave is granted. Go ahead.

14 MR. MISETIC: Thank you.

15 Paul Williams was the *pro bono* legal adviser to the Kosovar
16 delegation at the Rambouillet conference in February and March 1999.
17 He assisted the Kosovar delegation with the drafting of their
18 proposals and negotiation of the Rambouillet agreement. He also
19 attended meetings with the Kosovar delegation, international
20 political figures, and the Kosovo diaspora, and gave briefings to the
21 press on behalf of the delegation.

22 He provides evidence about the delegation's decision-making
23 process and their goals as well as discussions about the need to
24 demilitarise and transform the KLA.

25 Dr. Williams also provides evidence about his interactions with

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1 all members of the Kosovar delegation including Hashim Thaci. His
2 observations and the impressions he formed from these interactions
3 led him to conclude that Thaci did not have authority to sign the
4 Rambouillet agreement and that he needed the approval of the regional
5 commanders to do so.

6 He also observed the KLA's *ad hoc* and decentralised structure,
7 the level of authority wielded by the regional commanders, and the
8 ideological sway of Adem Demaci.

9 And that concludes the summary, Mr. President.

10 PRESIDING JUDGE SMITH: Thank you.

11 MR. MISETIC:

12 Q. Dr. Williams, I will remind both of us once again that we are
13 both native English speakers and need to pause between question and
14 answer in order to give the court reporter and the interpreters a
15 fair opportunity to stay up to speed with us. So I know you
16 understand that, and I see you're already making the effort, but I
17 will remind us both.

18 Dr. Williams, in your now admitted statement, you explain that
19 you are a professor of law and international relations at American
20 University in Washington DC, and that you are the co-founder of the
21 Public International Law and Policy Group, a non-profit organisation
22 which provides *pro bono* legal assistance to parties involved in peace
23 negotiations, post-conflict constitution drafting, and war crimes
24 prosecutions.

25 My first question is when was the Public International Law and

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1 Policy Group formed?

2 A. 1994.

3 Q. You also state, as part of your background, that you have
4 provided assistance to numerous international criminal tribunals and
5 have worked on the creation of domestic war crimes tribunals. Can
6 you tell us a bit more about your familiarity in 1999 with
7 international humanitarian law.

8 A. In 1999, I was deeply familiar with international humanitarian
9 law based upon my two years at the Department of State in the Office
10 of the Legal Adviser, where I was the lawyer on the European Affairs
11 Bureau dealing with the dissolution of the Soviet Union and the
12 dissolution of Yugoslavia. Part of my portfolio included
13 contributing to the American draft of the UN Security Council
14 resolution creating the Yugoslavia tribunal. Also, part of my
15 portfolio included interacting with Cherif Bassiouni and the
16 commission of inquiry relating to the situation in Yugoslavia.

17 I was also -- I can shorten if you'd like, so just jump in.
18 Give me the hand raise if you need me to be more brief.

19 I was also responsible for clearing the noon press briefings,
20 which oftentimes had questions relating to international humanitarian
21 law atrocity crimes. After leaving the Department of State and
22 creating the Public International Law and Policy Group, Justice
23 Richard Goldstone became the inaugural co-chair of our advisory board
24 after he had finished his time at the Yugoslav tribunal, and that was
25 partly as a result of -- one of our first *pro bono* clients was the

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1 prosecutor's office of the Yugoslavia tribunal as it was getting up
2 and running. So we prepared a number of legal memoranda for the
3 Yugoslav prosecutor's office on questions of international
4 humanitarian law.

5 I also co-authored with Norman Cigar a *prima facie* case for the
6 indictment of Slobodan Milosevic. Eventually down the road, it was
7 published as a book under my name and Norman's name by New York
8 University Press, and I taught it in my class.

9 Q. Thank you. You also state in your statement that you were the
10 *pro bono* legal adviser to the Kosovo delegation during the
11 Rambouillet conference in February and March 1999, and that you were
12 selected as counsel at the suggestion of Prime Minister
13 Bujar Bukoshi. When did you find out you had been selected to be the
14 legal adviser of the Kosovo delegation?

15 A. I was formally selected about ten days before the convening of
16 the Rambouillet negotiations. It had been indicated to me previously
17 by Bukoshi that if there were peace talks in Rambouillet, that he
18 would request my presence. And that was based upon the work I had
19 been doing on the summer negotiations, the so-called Hill shuttle
20 diplomacy, and on the October Holbrooke negotiations. So it was an
21 arc. Formally about ten days before.

22 Q. So when did you first get involved in Kosovo then? You say now
23 you were involved in the summer and October negotiations on behalf of
24 which party?

25 A. To clarify, during the summer and the fall --

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1 Q. Of 1998?

2 A. -- of 1998, I was working with Bujar Bukoshi and, through him,
3 Rugova and, to a degree, Veton Surroi, in close coordination with the
4 American-Albanian diaspora, which had tight relationships with those
5 individuals. And they would seek my *pro bono* legal advice and
6 guidance on the questions that were being negotiated.

7 I did not physically go anywhere other than Washington DC and
8 New York to participate in negotiations like I did with Rambouillet,
9 where I physically went to Rambouillet.

10 Q. Who selected you to be an adviser to the delegation?

11 A. I was invited by Bujar Bukoshi on behalf of President Rugova to
12 travel to Rambouillet and participate in the negotiations. On
13 February 7th, there was a formal decision by consensus of the Kosovar
14 delegation to Rambouillet to invite me to come to the chateau and be
15 their legal adviser. This formal declaration of consensus was signed
16 by Edita Tahiri and Bajram Kosumi.

17 Q. And who was Edita Tahiri?

18 A. Edita Tahiri was President Rugova's foreign minister. So Rugova
19 -- sorry, President Rugova ran the parallel Kosovar Albanian
20 government. His prime minister was Bujar Bukoshi. His foreign
21 minister was Edita Tahiri.

22 Q. Thank you. And you explain at paragraph 16 of your statement
23 that you had a close relationship with Prime Minister Bujar Bukoshi.
24 Can you explain why you believe it was a close relationship?

25 A. Mr. Bukoshi would frequently travel to the United States where

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1 he would meet with members of Congress. He would conduct media
2 interviews. And while he was in Washington DC, I was one of the
3 individuals who was essentially with him 24/7 as his lawyer. He had
4 others who provided other types of advice and guidance, but I was the
5 one he'd turn to for legal questions. Not to go into greater detail.
6 Very affable, fluent in English, urologist living in Germany.
7 Though, it was relatively straightforward to develop a close personal
8 relationship. There were no traditional barriers that one finds with
9 clients that are -- *pro bono* clients that are of different countries
10 and cultures.

11 Q. Thank you.

12 MR. MISETIC: Mr. President, I'm about to turn to a new topic
13 and this might be a good time for a break.

14 PRESIDING JUDGE SMITH: Witness, we have a regularly scheduled
15 break for 11.00, and everyone needs to have an opportunity to get out
16 of this courtroom, so we will honour that break even though you just
17 got started. So we will take a break until 11.30. We'll see you
18 back then. Do not speak with anyone about your testimony outside of
19 the courtroom.

20 THE WITNESS: Okay.

21 PRESIDING JUDGE SMITH: Thank you.

22 [The witness stands down]

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

24 --- Recess taken at 10.59 a.m.

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

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1 PRESIDING JUDGE SMITH: Madam Court Officer, please bring the
2 witness in.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. Witness, we're ready to
5 continue with the direct examination.

6 Go ahead, Mr. Misetic.

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

8 Q. Welcome back, Dr. Williams.

9 A. Thank you.

10 Q. At paragraph 18 of your statement, you state that among the
11 goals of the Kosovar delegation at the Rambouillet conference was the
12 goal to secure specific commitments to cooperate with the
13 International Criminal Tribunal for the former Yugoslavia. How do
14 you know that?

15 A. I intensively worked with the members of delegation during the
16 Rambouillet negotiations and also with members of the Kosovar
17 diaspora in preparation for those negotiations. And if you'd like
18 additional context, at a future point I can explain the relationship
19 with the Kosovar diaspora and why that was important.

20 With respect to Rambouillet, I was asked to draft language which
21 would be as comprehensive as possible to ensure that the
22 International Criminal Tribunal for the former Yugoslavia would be
23 able to, so to speak, undertake a full-court press in implementing
24 its mandate.

25 For additional context, and feel free if you want to interrupt

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1 and ask more specific questions if go too long, but for additional
2 context, during the first day or two when I was in the chateau, I was
3 invited to make a presentation to the Kosovar delegation about four
4 topics, the fourth topic being that of the jurisdiction and the
5 activities - investigations, indictments - of the Yugoslav tribunal.
6 All members of the delegation were present for that. It included
7 lessons learned from my time as the legal adviser to the Bosnians at
8 the Dayton negotiations, because that issue of the jurisdiction of
9 the tribunal being reflected in the Dayton accords was quite intense,
10 and we anticipated it would be in the Rambouillet accords, so they
11 asked me to walk them through what to expect on that issue as well as
12 three other issues.

13 Q. Thank you. You say that you were asked to draft the language.
14 Who asked you to do that?

15 A. Fehmi Agani.

16 Q. And do you know if this was an important objective to the
17 Kosovar delegation?

18 A. Yes.

19 Q. Why was it important?

20 A. This -- the jurisdiction and the ability of the Yugoslavia
21 tribunal to effectively operate was important for a number of
22 reasons. The specific context right up front in the negotiations was
23 the Recak massacre, and Prosecutor Judge Louise Arbor, Prosecutor,
24 attempting to access Serbia and Kosovo via Macedonia and being denied
25 access because she did not have a visa. So top of the mind was Recak

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1 massacre, Ambassador William Walker using the phrase "crime against
2 humanity" from the perspective of the Kosovo Verification Mission,
3 Yugoslav tribunal going to investigate. You don't have a visa. You
4 can't investigate.

5 Now, the underlying reasons for a full embrace of the Yugoslavia
6 tribunal was to guard against moral equivalency. There -- as is
7 common in diplomatic practice, there is a sense that the degree to
8 which all sides are responsible, all sides have blood on their hands,
9 it gives the diplomats more room to negotiate, to make compromises.

10 The Kosovars had seen, and I would note here in particular Veton
11 Surroi and Bujar Bukoshi, had seen from the Bosnian experience that,
12 frequently, despite the fact of the disproportionate commission of
13 atrocities by the Serbian regime, that oftentimes the Bosniaks, the
14 Croats, and the Serbs were equally culpable. And I'm happy to share
15 additional information if you're interested down the road about my
16 time at the State Department and how that was reflected, but we'll
17 not do that now. And the Kosovars were experiencing that same
18 narrative. And they were worried that, both at Rambouillet and in
19 the implementation, if Rambouillet were to be successful and there
20 were to be some level of self-government and NATO deployment and OSCE
21 elections, that if you did not have a Yugoslav tribunal with
22 comprehensive access, calling balls and strikes as to what had and
23 what was happening, there would be an erosion of the necessary
24 international support for the implementation of the Rambouillet
25 accords.

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1 And then one last brief reason, victim catharsis. There was
2 since 1989, with the revocation of the 1974 status, there was a near
3 apartheid regime in Kosova, and they were a highly traumatised and
4 victimised population, with little access to historical record,
5 creating historical record, or victim catharsis. And having a
6 tribunal acknowledged in the Rambouillet accords would provide some
7 victim catharsis and having dynamic and highly -- having a dynamic
8 tribunal would provide a means of victim catharsis for the population
9 of Kosova.

10 Q. Thank you. This goal of securing specific commitments to
11 cooperate with the ICTY, do you know if Hashim Thaci shared that
12 goal?

13 A. Yes, he did share that goal.

14 Q. How do you know that?

15 A. The draft -- a couple of reasons. The initial draft letter that
16 laid out the fourteen -- sorry, the four -- there were multiple
17 documents floating around. There was an initial letter which laid
18 out four objectives, the fourth objective being the tribunal, was set
19 for his signature as the head of the delegation. I walked the entire
20 delegation through. I also made a point of walking him through that,
21 because as a lawyer -- as a lawyer, if you prepare a document for one
22 of your *pro bono* clients for their signature - and it happened to be
23 his signature in the head of the delegation capacity - you want to
24 make sure that they understand and are fully on board.

25 So not only did I walk through the entire delegation, I walked

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1 him through what this meant.

2 Q. And after you walked him through it, how did he indicate his
3 assent?

4 A. He was perfectly comfortable with it, and he said, "Yes, this
5 reflects what we are interested in," all four of those points.

6 Q. Do you know if Hashim Thaci was aware that cooperation with the
7 ICTY would include cooperation with the ICTY in potential
8 investigations of the KLA?

9 A. Yes.

10 Q. How do you know that?

11 A. There were two different reasons that I base my answer on. The
12 first is that the Kosovar delegation, including those representing
13 the KLA, and including Hashim Thaci, had the benefit of seeing the
14 Yugoslavia tribunal operate in the context of Croatia and Bosnia,
15 where the tribunal indicted members from all of the parties.

16 So the factual situation was such that the Yugoslavia tribunal
17 would pursue evidence in any particular direction, which would
18 include non-state armed actors.

19 And, second, earlier drafts that we discussed with the Kosovar
20 delegation, including the KLA, specifically included the word
21 "Kosova." We used the A, so I'll say it here, Kosova. In the
22 language that we were preparing and discussing, there were 18 points.
23 They eventually became 19 points. Two of those points related to the
24 tribunal, and it was that the Prosecutor shall have unfettered
25 visa-free access to the FRY, Serbia, Kosova, for the purposes of

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1 conducting investigations, et cetera. So there was no sense that
2 they would be walled off, the non-state actors, from the
3 jurisdiction.

4 MR. MISETIC: Madam Court Officer, if we could please have on
5 screen SPOE40010656 to 40010667, please.

6 Q. Dr. Williams, do you recognise this paper?

7 A. Yes.

8 Q. And are you the author?

9 A. Yes.

10 Q. Did you have the chance to review this article again last week?

11 A. Yes.

12 Q. What was your purpose in writing this article?

13 A. The short answer is to document the peace versus justice or
14 peace with justice conversation negotiation that had occurred at
15 Rambouillet.

16 The slightly longer answer, if you'd like some additional
17 context, is this was a complement to a book that Mike Scharf and I
18 drafted called "Peace with Justice?" which was about the Yugoslavia
19 tribunal, the Dayton negotiations, and this is a cornerstone of my
20 academic livelihood, this whole conversation about how do you infuse
21 justice into a peace-building process in order to ensure a durable
22 peace. So this was a brick in the wall, so to speak.

23 Q. In this paper, were you trying to accurately record the
24 conversations and events at Rambouillet?

25 A. Yes.

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1 MR. MISETIC: Madam Court Officer, could you please take us to
2 page SPOE4001660.

3 Q. Dr. Williams, here we find section 3.2 of your paper, title "War
4 crimes provisions proposed by the Kosovar delegation." Are you
5 familiar with this section of your paper?

6 A. Yes.

7 Q. This section discusses the Kosovo Albanian delegation's
8 proposals during the Rambouillet conference concerning investigation
9 and prosecution of war crimes. Who drafted the Kosovo Albanian
10 proposals at the Rambouillet conference concerning investigation and
11 prosecution of war crimes?

12 A. I did in collaboration with Marc Weller.

13 Q. And for the record, if you could briefly explain who was
14 Marc Weller.

15 A. Marc Weller was the other international legal adviser who served
16 in the same capacity that I did on the Kosovar delegation. We did
17 our PhDs together at the University of Cambridge and -- well, that's
18 him then.

19 Q. Do you know Dr. Weller's nationality?

20 A. Dr. Weller is a German national who lives in the United Kingdom,
21 did his PhD and now teaches at the University of Cambridge.

22 Q. Thank you. Let's look at one of the proposals discussed in your
23 paper, and this is still on this page in the indented paragraph
24 there. And I'll read it. The proposal was:

25 "The parties to this agreement agree to discharge their

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1 obligation towards the International Criminal Tribunal on the former
2 Yugoslavia pursuant to all relevant Security Council resolutions.
3 Consistent with these resolutions, the parties agree to arrest,
4 detain, and transfer to the custody of the International Criminal
5 Tribunal for Yugoslavia any and all persons indicted by the
6 International Criminal Tribunal for the former Yugoslavia who reside
7 in or transit through or are otherwise present in Kosova, Serbia and
8 the Federal Republic of Yugoslavia."

9 MR. MISETIC: If we scroll down. Right there.

10 Q. You go on and write that the Kosovo delegation provided a
11 further proposal, and here's what you write:

12 "Concerned about the non-implementation of a general obligation
13 to cooperate in the Dayton Accords, and the refusal of the Serbian
14 government to date to cooperate with the Yugoslav Tribunal, the
15 Kosovar delegation further proposed the inclusion of language stating
16 that, 'The parties further commit to provide any judicial assistance
17 requested by the Tribunal, e.g. taking of testimony, access to and
18 production of evidence, access to any person, facility, document and
19 area of territory, as well as the service of documents.'"

20 Are these provisions that you drafted?

21 A. Yes.

22 Q. And were these proposals submitted to the Contact Group as
23 proposals of the Kosovo Albanian delegation?

24 A. Yes.

25 Q. These proposals call on "the parties to this agreement" to fully

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1 cooperate with the ICTY. To your knowledge, was the Kosovo Albanian
2 delegation aware that this would include full cooperation in the
3 arrest and transfer to the ICTY of members of the KLA and in
4 gathering evidence against members of the KLA?

5 A. Yes.

6 Q. How do you know that?

7 A. Because as their lawyer, I expressly walked them through the
8 language that they had asked me to draft and that they would be
9 putting into the negotiation process by delivering it to the Contact
10 Group. Also, there was a -- as a matter of double-checking,
11 Fehmi Agani, who was their chief constitutional lawyer, I would work
12 hand-in-hand with to ensure that while I was conveying information
13 directly to the members of the delegation, that he, together, and I
14 had a mutual understanding of the provisions that were being drafted.
15 And sometimes, for instance the tribunal provision, he would say,
16 "Right. Paul, you draft this." The final status paragraph, there
17 were three or four hands in that drafting. In the human rights
18 provisions, sometimes he would take the lead and I would, you know,
19 edit it. But there were a meeting of the minds between me as the
20 external legal adviser and Fehmi Agani as the internal constitutional
21 professor. Also, there was the overlay of constant -- and jump in if
22 I'm providing too much context.

23 Q. That's fine.

24 A. Okay.

25 Q. Let me ask the next question.

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1 THE INTERPRETER: The interpreters kindly ask the speakers to
2 pause between questions and answers and to speak slowly.

3 MR. MISETIC:

4 Q. Would these draft proposals have to be approved within the
5 Kosovo Albanian delegation before they were submitted to the Contact
6 Group?

7 A. Yes.

8 Q. Who would approve them?

9 A. These would be approved by the three co-chairs of the
10 delegation, and they would be recorded by Edita Tahiri, who also
11 operated as the secretariat of the delegation.

12 Q. When you refer to three co-chairs, can you specifically identify
13 them by name?

14 A. This would be President Ibrahim Rugova, it would be
15 Rexhepi Qureshi [phoen], probably, sorry, on the last name's
16 spelling, and Hashim Thaci.

17 Q. Do you recall if Hashim Thaci supported your proposals
18 concerning cooperation with the ICTY?

19 A. Yes, I recall. And, yes, he supported.

20 Q. Did the Contact Group ultimately accept these proposals?

21 A. In only very limited fashion.

22 Q. And what do you mean by "limited fashion"?

23 A. There is reference in paragraph 12 and paragraph 13 of the
24 opening section of the Rambouillet accords which reference the
25 obligations of the parties with respect to the Yugoslavia tribunal

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1 but in a lighter fashion.

2 MR. MISETIC: Mr. President, I tender the full paper in
3 evidence, SPOE40010656 to 40010667.

4 PRESIDING JUDGE SMITH: Any objection?

5 MR. PACE: No.

6 PRESIDING JUDGE SMITH: SPOE40010656 to 40010667 is admitted.

7 THE COURT OFFICER: Your Honours, that will be assigned
8 Exhibit 1D378. And I note it's currently classified confidential.

9 MR. MISETIC: It can be public.

10 PRESIDING JUDGE SMITH: It should be reclassified public.

11 I'm sorry, what was the number again, Madam Court Officer?

12 THE COURT OFFICER: 1D378.

13 PRESIDING JUDGE SMITH: Thank you.

14 MR. MISETIC:

15 Q. Dr. Williams, I'd now like to take you to a book published by
16 Dr. Weller.

17 MR. MISETIC: And if we could please have on the screen,
18 Madam Court Officer, IT-05-87 1D00018, please. And this is a book by
19 Dr. Weller titled "The crisis in Kosovo 1989-1999."

20 And if we could please go to page 1D000468, which is page 246 of
21 the PDF. Yes. Let's look at if we could zoom in on number 19.

22 Q. Dr. Williams, this is a reprint of a letter from the president
23 of the ICTY to Foreign Ministers Vedrine and Cook on 22 February
24 1999, where President Gabrielle Kirk McDonald writes:

25 "In recent days I have received worrying reports concerning the

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1 progress of negotiations at the Kosovo peace talks at Rambouillet,
2 France. I have been advised that the text currently under
3 consideration by the parties does not contain provisions that would
4 require them to recognise the competence of the International
5 Tribunal ... or to take specific measures to cooperate with the
6 Tribunal. Rather, I understand that under the current draft of the
7 agreement, the parties would sign only a general provision on
8 cooperation."

9 And if we go to the last paragraph, she writes:

10 "It is axiomatic that there can be no peace without justice.
11 Thus, any agreement that fails to bind explicitly the Government of
12 the [Federal Republic of Yugoslavia] and the Kosovar Albanians to
13 specific forms of cooperation, risks being perceived as sacrificing
14 the principles on which the Tribunal is founded for short-term
15 political interest."

16 My first question, Dr. Williams, is did you have any role in the
17 preparation of this letter by the president of the ICTY?

18 A. Yes.

19 Q. What was your role?

20 A. I had two roles. First, with the consent of the delegation, I
21 was the one who called Judge Gabrielle Kirk McDonald to share this
22 analysis and information with her. We had a prior existing
23 relationship which made that possible. And, second, I provided draft
24 language so that her letter could be as specific and as impactful as
25 possible.

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1 And if you desire, I can provide a backstory to this, because
2 this does seem a little out of the ordinary, which relates to
3 Justice Goldstone and the Dayton accords, but I'll pause.

4 Q. If we need to, we'll go back into it.

5 A. Okay.

6 Q. This last paragraph that I read out, what did you understand her
7 position to be regarding the need for a final Rambouillet agreement
8 to also bind Kosovo Albanians to cooperate with the ICTY in
9 investigations and prosecutions of serious violations of
10 international humanitarian law?

11 A. The ICTY -- I'm trying to remember to pause for our translator
12 friends. The ICTY had clear and unequivocal jurisdiction over acts
13 in Kosovo, including any acts committed by the Kosovar Albanians, and
14 so, for the judge, and for the Kosovar Albanians, it was important to
15 be expressly -- well, expressly clear, to expressly note that in
16 these types of communications so that there would be no ambiguity
17 from the view of the judge or in the accords as to the full extent of
18 the jurisdiction of the Yugoslav tribunal.

19 MR. MISETIC: If we go to number 20 on the screen, please.

20 Q. This is a letter by the president of the ICTY to the president
21 of the Security Council on 16 March 1999, so shortly before the
22 Kosovo Albanian signing of the Rambouillet agreement. And can you
23 tell us what this is?

24 A. This is a letter from the president of the tribunal to the
25 president of the Security Council notifying the Security Council that

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1 the Federal Republic of Yugoslavia had failed to comply with its
2 obligations to allow the prosecutor and her investigators to enter
3 Kosovo specifically to investigate the Recak massacre.

4 MR. MISETIC: Mr. President, I tender this page of the Weller
5 book, which is page 1D000468. And I note that other portions of the
6 book by Dr. Weller have been admitted already as Exhibit P04259, and
7 we propose to add this page to that exhibit.

8 PRESIDING JUDGE SMITH: Any objection to the addition of this to
9 the exhibits?

10 MR. PACE: No objection. I think there is also parts of this
11 book under 3D00024. I may be mistaken. But regardless, no
12 objection.

13 PRESIDING JUDGE SMITH: The page ID 000468 is admitted and added
14 to the existent 1D0018. Is that the --

15 MR. MISETIC: No, it's P04259.

16 PRESIDING JUDGE SMITH: Okay. It will be added to that
17 previously existing exhibit then.

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

19 PRESIDING JUDGE SMITH: Public?

20 MR. MISETIC: I assume that P04259 is public. And if so, this
21 can be public as well.

22 PRESIDING JUDGE SMITH: This will be reclassified as public.
23 It's a book.

24 MR. MISETIC: Madam Court Officer, could we please have on the
25 screen P04046.

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1 Q. Dr. Williams, do you recognise this document?

2 A. Yes.

3 Q. And what is it?

4 A. This is the draft interim agreement for peace and
5 self-government in Kosovo. Shorthand, what we frequently refer to as
6 the Rambouillet agreement.

7 Q. And is this the document that Hashim Thaci ultimately signed on
8 behalf of the Kosovo Albanian delegation?

9 A. Yes.

10 MR. MISETIC: If we could please go to page K0364642, please.
11 And if we could go to the bottom of the page on the left-hand side.
12 Yes.

13 Q. The agreement, at paragraph 10, calls on the parties to release
14 "all abducted persons or other persons held without charge." Do you
15 see that?

16 A. Yes.

17 Q. And paragraph 11 calls on the parties to "provide information,
18 through tracing mechanisms of the ICRC, to families of all persons
19 who are unaccounted for." Do you see that?

20 A. Yes.

21 Q. Were these provisions acceptable to the Kosovar Albanian
22 delegation?

23 A. Yes.

24 Q. In paragraph 12 - if we could go to the top of the page on the
25 right-hand side - it says that:

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1 "Each party:

2 "(a) shall not prosecute anyone for crimes related to the
3 conflict in Kosovo, except for persons accused of having committed
4 serious violations of international humanitarian law. In order to
5 facilitate transparency, the Parties shall grant access to foreign
6 experts ... along with state [investigations]."

7 What was your understanding of who the state investigators and
8 foreign experts are referenced in paragraph 12(a)?

9 A. The Yugoslavia tribunal.

10 Q. Now, I showed you the letter from 16 March of the president of
11 the ICTY referring Yugoslavia for non-cooperation to the Security
12 Council. What was your understanding at the time, if you had any
13 understanding at all, as to the position of the ICTY concerning
14 potential investigation and prosecutions of serious violations of
15 international humanitarian law being conducted by the parties,
16 whether Serbia or the KLA?

17 A. There was no expectation by the Yugoslavia tribunal that the
18 parties, be it Yugoslavia, the Federal Republic of Yugoslavia, or the
19 Republic of Serbia, or the KLA, would conduct independent
20 investigations. And the -- my sense is that the Yugoslavia tribunal
21 would have been opposed to any of those efforts - double jeopardy,
22 show trials. That it would be perceived -- sorry, that domestic
23 prosecutions or efforts would be used as a way of eroding the
24 jurisdiction of the tribunal and undermining the ability of the
25 tribunal to fulfil its mandate.

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1 Q. And what is that understanding based on?

2 A. Frequent engagement with the International Criminal Tribunal for
3 the former Yugoslavia with respect to their perception of their
4 rights and their prerogatives in the field of international justice,
5 which was dramatically different in the 1990s than we see globally
6 today. And there was a deep concern that there was moderate to weak
7 international support for the tribunal, and that there were constant,
8 shall we say, mischievous efforts by some of the entities engaged in
9 committing atrocity crimes to find ways around, such as, "Sorry,
10 Prosecutor, you don't have a visa," or "Don't worry, we're
11 prosecuting people domestically," or "We're going to do a
12 South African amnesty-based truth commission, pointing towards
13 South Africa." So serious focus on maintaining their jurisdiction.

14 If you'd like, I can provide some additional context as to why
15 paragraph 12 and 13 seem to overlap, but I'll defer.

16 Q. Well, I was just going to ask you -- and I'll pause for a
17 second. I was going to go to paragraph 13 next, and then if you're
18 answer is relevant to that, please provide your explanation.

19 But paragraph 13 calls for the parties to "comply with their
20 obligation to cooperate in the investigation and prosecution of
21 serious violations of international humanitarian law." And then
22 specifies the obligation stems from Security Council Resolution 827
23 to comply with the investigations of the ICTY.

24 Subpart (b) of paragraph 13 then calls for complete and
25 unfettered access to international experts, including forensic

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1 experts and investigators to investigate allegations of serious
2 violations of international humanitarian law.

3 Who did you understand that to be a reference to, meaning
4 international experts, forensic experts and investigators?

5 A. Members of the International Criminal -- I'm practicing pausing.
6 Sorry. Sorry. I understood that to be a reference to the
7 investigators, experts of the International Criminal Tribunal for the
8 former Yugoslavia.

9 Q. Do you recall any provision of the Rambouillet agreement which
10 called on the parties to conduct their own investigations and
11 punishments of serious violations of IHL?

12 A. I do not recall any provisions and would not be able to find any
13 provisions in the Rambouillet accords.

14 Q. Do you recall any discussion or suggestion at Rambouillet,
15 whether by international representatives or within the Kosovo
16 Albanian delegation, that the KLA should be doing its own
17 investigation and punishment of serious violations of IHL committed
18 by KLA forces?

19 A. I recall that I had no such conversations with any members of
20 the American delegation, with whom I was quite familiar, or with
21 members of the Contact Group, some of whom I was quite familiar with.
22 At no time did any of them raise that conversation with me.
23 Although, they did frequently raise other topics that they wanted to
24 convey to me.

25 Q. What about any members of the Kosovo Albanian delegation?

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1 A. The Kosovo Albanian delegation was exceptionally focused on the
2 jurisdiction and the access and the empowerment of the Yugoslavia
3 tribunal, and, to be colloquial, were putting all of their eggs in
4 that basket as the mechanism of justice that would underpin the
5 effective implementation of the Rambouillet accords and address some
6 of those earlier objectives that I commented on a few moments ago.

7 Q. Thank you.

8 MR. MISETIC: Could we have on the screen now, please,
9 Exhibit 1D00078, please.

10 THE WITNESS: If, possible -- can I ask my own question? If
11 possible, can I go back to 12 and 13 to explain why they seem to
12 overlap?

13 MR. MISETIC:

14 Q. Sure.

15 A. The reason why paragraph 12 and paragraph 13 seem to overlap and
16 provide different obligations is that -- and this section ends at
17 paragraph 13. Paragraph 12 was the bare minimum. There was quite a
18 conversation within the Contact Group about how much to reference the
19 Yugoslav tribunal, with the Russians objecting essentially on behalf
20 of Serbia.

21 So paragraph 12 was the failsafe so that the Americans and
22 others could go back to Albright or to Senator Mitch McConnell or to
23 others and say we have paragraph 12. It doesn't say the Yugoslav
24 tribunal, but that's where we have justice and accountability. And
25 it's constructively ambiguous, but that's the tribunal paragraph.

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Paragraph 13 was the more assertive paragraph for the jurisdiction of the tribunal. It was less than what the Kosovars had proposed but more than what was floating within the Contact Group. When they added paragraph 13 for the tribunal, they didn't see a need to delete those two sentences from 12. You'll notice that the sentences from 12 talk about there shall be no prosecution for political crimes, and then they stick in these obligations relating to international. And then the second part of paragraph 12 says, oh, there's an amnesty for those that have been politically -- political crimes, and then they stick in a sentence about investigations. That was the American drafters, Jim O'Brien, doing a very good job of ensuring that they anchored international criminal accountability in the Rambouillet accords if they were unable to achieve paragraph 13. And that occurs frequently throughout the Rambouillet accords.

Q. Thank you for that explanation.

MR. MISETIC: If we could have 1D78 on the screen, please. Thank you.

Q. Dr. Williams, in your paper that we just had on the screen from the year 2000, at page SPOE40010666, you discuss Security Council Resolution 1244 and how the issue of prosecution of serious violations of IHL was ultimately dealt with in Resolution 1244. Do you recall how many references to matters related to international justice are contained in Security Council Resolution 1244?

A. I believe it was one.

Q. Let me show you --

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1 A. But it's in front of me now, so ...

2 Q. Yeah.

3 MR. MISETIC: If you scroll down, in the second -- the
4 penultimate "Recalling":

5 "Recalling the jurisdiction and the mandate of the International
6 Tribunal for the Former Yugoslavia."

7 A. Yes.

8 Q. And then if we go to paragraph 14 of the resolution, the
9 Security Council:

10 "Demands full cooperation by all concerned, including the
11 international security presence, with the International Tribunal for
12 the Former Yugoslavia."

13 Do you recall that?

14 A. Yes.

15 Q. Do you recall any suggestion by the international community,
16 either through Security Council Resolution 1244 or otherwise, that
17 the KLA or the Provisional Government of Kosovo should be
18 investigating and punishing serious violations of international
19 humanitarian law?

20 A. I do not recall any such conversations or efforts by those
21 involved in the international justice community, including those of
22 the tribunal, to pursue that language.

23 Q. What about beyond the international justice community? In the
24 international diplomatic community, was there any such suggestion?

25 A. No.

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1 Q. What was your understanding at the time of who was tasked to
2 investigate and prosecute serious violations of international
3 humanitarian law committed by the KLA?

4 A. The International Tribunal for the former Yugoslavia.

5 Q. Did you understand anyone else to have concurrent or subsidiary
6 jurisdiction?

7 A. No.

8 Q. You were the international law adviser to the delegation as well
9 as Dr. Weller. Did you ever advise Mr. Thaci that the KLA had an
10 obligation to investigate and punish its own members for serious
11 violations of international humanitarian law?

12 A. No.

13 Q. Do you know if Dr. Weller or any other adviser advised Mr. Thaci
14 that the KLA had an obligation to investigate and punish its own
15 members for serious violations of international humanitarian law?

16 A. No.

17 Q. You don't know or they didn't?

18 A. They did not.

19 MR. MISETIC: If we could please turn to Exhibit 1D69, please,
20 in both the Albanian and the English.

21 Q. And before we get to that, could you explain why you didn't
22 advise Mr. Thaci of those obligations?

23 A. At the time -- during the Rambouillet negotiations, which came
24 on the heels of the Recak massacre, and came on the heels of the
25 Serbian government MUP VJ atrocities in Kosovo, the focus of those

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1 focusing on international justice was the repeat in Kosovo of what
2 had happened in Bosnia and what was attempted in Croatia. And there
3 was no consistently supported narrative of crimes being committed by
4 the Kosovar Albanians, the KLA, or other non-state armed actors in
5 Kosova. So there wasn't a sense of the need to, okay, here are three
6 or four things that you need to be doing. There were related to
7 other matters, but not with respect to violations of international
8 humanitarian law.

9 And as I briefly mentioned earlier, although the Americans and
10 some of the Contact Group members would frequently come to myself or
11 to Mort Abramowitz and say, "Hey, can you pass this to the
12 delegation, can you tell the delegation X, Y, or Z?" This was never
13 conveyed to us to do that, and looking around, we never thought, oh,
14 we should definitely make sure that we walk them through this.

15 And without providing too much context, in the other three dozen
16 peace negotiations I've worked on, I do frequently sit with non-state
17 armed actors and walk them through international humanitarian law and
18 through their obligations.

19 Q. But not in this case?

20 A. But not in this case.

21 Q. Thank you. Dr. Williams, on the screen you see the English
22 translation. It's a document dated 23 February 1999. Do you know
23 what this document is?

24 A. Yes.

25 Q. And what is it?

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1 A. This is the agreement to form a Provisional Government of
2 Kosovo.

3 Q. And do you know anything about how this agreement was reached?

4 A. Yes.

5 Q. Can you tell us how it was reached?

6 A. To be precise, and the basis of my knowledge, the -- I would
7 spend all day and most of the evening in the Kosovo delegation room.
8 When they had conversations about the provisional government, I did
9 not attend those conversations. So I don't want to create the
10 impression -- I do want to create the impression that I was there for
11 80 per cent of the conversations, but I don't want to create the
12 impression that I was there for 100 per cent. When there was
13 internal Kosovar business, I would not attend those meetings.

14 Now, that said, there were lots of conversations about my
15 thoughts or my ideas, along with Marc and Ambassador Abramowitz, or
16 debriefs and filling us in on what was happening at these meetings
17 which we did not attend.

18 Q. And --

19 A. That didn't actually answer your question. That just gave the
20 background to --

21 Q. Yeah.

22 A. -- the answer.

23 Q. I forgot my own question for a second. Do you need me to repeat
24 it?

25 A. The question is what were they doing --

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1 Q. Yes.

2 A. -- basically. So what the Kosovo delegation realised at
3 Rambouillet, and this is one of those instances where the Contact
4 Group and the Americans had said, "You want to advise your delegation
5 to continue to build cohesion and to lock it in for the
6 implementation of the Rambouillet accords," because prior to coming
7 to Rambouillet, it was a very kaleidoscopic situation - political,
8 military. You're looking through a kaleidoscope on Monday. On
9 Tuesday, the colours have changed, they've rearranged. Perfectly
10 normal in these types of situations.

11 At Rambouillet, there was cohesion among the delegation. It
12 took a little while, but they developed a consensus-based approach.
13 They developed a working -- a workflow style. And they realised that
14 you had the KLA which was continuing to morph on a -- literally a
15 daily basis, you had the LDK, you had the LBD which had split off
16 from the LDK, you had Veton Surroi who represented, let's just say,
17 the intelligentsia, playing a much greater role, and he eventually
18 formed his own party, ORA, and there was a desire to bring those
19 pieces, as if it was a Rubik's Cube, to finally sort the Rubik's Cube
20 and bring those pieces together so that the hard-won advantage of
21 cohesion among the Kosovar Albanians, which up until that point were
22 a mixed-up Rubik's Cube, could continue past Rambouillet and would be
23 an effective implementing partner of the OSCE, what was also called
24 the implementation -- the IM, which was envisioned in Rambouillet,
25 and NATO.

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1 So while you've got your act together, please crystallise it.

2 Q. And by the date of this document, what was your perception of
3 whether there was cohesion within the Kosovo Albanian delegation?

4 A. There was -- I'm pausing for the translators, not to think about
5 my answer. There was cohesion.

6 Q. Okay. You've mentioned Mr. Surroi several times. How well did
7 you know Veton Surroi in February 1999?

8 A. I knew Veton Surroi quite well in February 1999 and have
9 continued ever since to have a deep professional and personal
10 engagement with him, just for full disclosure.

11 Q. In February 1999, did Mr. Surroi ever tell you that he had felt
12 threatened by Hashim Thaci?

13 A. He never -- Veton Surroi never told me or indicated to me or
14 exhibited behaviour which would lead me to believe that he was
15 threatened by Hashim Thaci or any other member of the Kosovar
16 Albanian delegation.

17 Q. And in light of your deep professional and personal engagement
18 with him, has he ever said to you since that he was threatened or
19 felt threatened by Hashim Thaci in Rambouillet?

20 A. He has never mentioned that he felt threatened or intimidated by
21 Hashim Thaci at Rambouillet.

22 Q. Thank you. I'd like to take you to another document.

23 MR. MISETIC: 1D00356, please.

24 Q. Dr. Williams, this is a document dated 13 February 1999. It
25 purports to have been written by someone named David Wilson. Do you

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1 recall a person by the name of David Wilson at the Rambouillet talks?

2 A. I recall an individual at the Rambouillet talks who was there on
3 behalf of KVM and Ambassador Walker, but I do not recall specifically
4 that his name was David Wilson.

5 Q. Thank you.

6 MR. MISETIC: If we could turn to the second page, I believe,
7 which should be SPOE00117187, please. Towards the bottom of the
8 page. The paragraph that begins "Albanian negotiations."

9 Q. And I'll read out the portion of the paragraph:

10 "The Albanians were given their initial brief on the Military
11 and Police annexes. They had very few questions at the time, but are
12 expected to come back with detailed points later. This is the
13 biggest immediate issue for the Albanians, partly because it requires
14 them to disband and partly because it makes them vulnerable to Serb
15 duplicity. I spoke with two of the Advisers (one American and the
16 other German) at some length after the military briefing. They
17 stressed the difficulty the senior KLA commanders would have in
18 disbandment, not just because of perceived vulnerability but also
19 because their personal standing depended on their position in the
20 KLA."

21 Now, if we stop there, the date of the document again is
22 13 February 1999. Do you know who the American and German advisers
23 to the Albanian delegation might be in this report?

24 A. Yes.

25 Q. And who might they be?

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1 A. I was the American adviser, and Marc Weller was designated here
2 as the German adviser.

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

4 Q. The sentence that begins: "They revealed ..."

5 "They revealed, as expected, that Thaqi was being closely
6 controlled from outside. Also, that the Diaspora Albanians were a
7 powerful influence and were much more hard line than those in country
8 - again, no surprise."

9 Now, the author of this document records that the advisers, who
10 you say are you and Marc Weller, revealed that "as expected, Thaqi
11 was being closely controlled from outside." Is that something you
12 would have told the author?

13 A. Yes.

14 Q. Was this consistent with what you observed in Rambouillet?

15 A. Yes.

16 Q. And on what basis did you draw the conclusion that Mr. Thaci was
17 being closely controlled from outside?

18 A. I drew the basis for this conclusion based upon a number of
19 factors. Multiple telephone conversations that Hashim Thaci would be
20 having with individuals from outside the chateau. So there was a
21 constant ringing of his phone, which often entailed going to a corner
22 of the room or going outside. The Kosovar room was on the ground
23 level and could easily access the garden. Also from my engagement in
24 the village of Rambouillet outside of the chateau, where I would
25 regularly meet with an American Albanian who had a close relationship

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1 with the KLA, and individuals who were identified to me as members of
2 the KLA, where we would discuss lawyer -- different provisions of the
3 agreement.

4 And so there was the phone, there was the external advisers who
5 had -- external Kosovar Albanian and American Albanian advisers who
6 had very clear thoughts and ideas, and a sense of demeanour. I've
7 mentioned previously I'd been involved in over three dozen peace
8 negotiations, sometimes with the government, representing the
9 government, sometimes non-state armed actors, sometimes civil
10 society. So a whole range of characters.

11 There's a sense when someone is in control of the negotiation or
12 a sense when they're in partial control or whether they're in a
13 subservient position. I did not have the sense that he was in full
14 control, but rather that he was representing outside interests which
15 exercised power, authority, and control over his behaviour and his
16 actions.

17 Q. Do you know or did you hear Mr. Thaci having any conversations
18 with anyone in Kosovo?

19 A. My understanding from my questions of who was Hashim talking to
20 all the time on the phone - again, I was in the delegation, and other
21 than sleep -- I did not sleep at the chateau, I stayed at a hotel in
22 Versailles, but otherwise I was constantly with the delegation - were
23 references to Kosovo, some to the Kosovar Albanians in the chateau.
24 But since I was popping out to see them on a regular basis, there
25 was -- it wasn't as -- it was not as much. But the sense was that,

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1 yeah, he's getting calls from back home.

2 I would also note, and I'm -- now I'm pausing not for the
3 translators but for my memory. It was more often his phone ringing
4 than "I have to step outside and make a call."

5 Q. And you had mentioned an Albanian American. Can you tell us the
6 name of the Albanian American?

7 A. Dino Hasani.

8 Q. Now, in this report, it goes on to say that the advisers said
9 that "the Diaspora Albanians were a powerful influence and were much
10 more hard line than those in country." Was that something you might
11 have said?

12 A. Yes.

13 Q. And on what basis did you say that?

14 A. So for about a year prior to Rambouillet, I was heavily engaged
15 with the Kosovar Albanian community in the United States both through
16 the National American Albanian Council, which was their registered
17 organisation, as well as individual conversations with influential
18 members of the diaspora, to the point that when Ambassador Dick
19 Holbrooke came to New York to brief the American Albanian community
20 at Bruno's restaurant in New York, they asked me to come and be part
21 of the American Albanian team that was getting briefed by Holbrooke
22 and intending to give him a hard time about the October agreement or
23 his ongoing negotiations.

24 So that's probably too much information, but I was -- was very
25 intensively engaged with the American Albanian community.

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1 Q. And on what basis did you draw the conclusion that they were
2 much more hard line than those in country?

3 A. Well, for one, during that lunchtime meeting with Holbrooke,
4 Holbrooke said, "You're worse than the Albanians in Kosovo." Again
5 because the perception was, fairly or unfairly, that they were in
6 New York, they had the space, and they had the privilege to make
7 certain demands, and that they weren't actually experiencing the --
8 now, you can argue that's an unfair response, but I would say that
9 would summarise part of it.

10 The other dimension is when I was working with Bujar Bukoshi and
11 with the American Albanians -- and I have to say, I'm using the
12 phrase "American Albanians" because that was my point of contact.
13 They would oftentimes reference Albanian diaspora around the globe,
14 but I want to be cautious and stick by just saying the American
15 Albanians, but I think they reflected, and they would have indicated
16 to me that they reflected, the more global diaspora view.

17 We would have conversations where I would find myself very
18 delicately trying to walk them back from some of their positions -
19 commitment to independence now, transition of the KLA into a formal
20 army from the get-go, things along those lines. And I say it was
21 delicate because not being an American Albanian, being a lawyer, but
22 being privileged to have the opportunity to provide advice, I needed
23 to be cautious about, you know, how assertive. But I found myself
24 playing that role of moderating what the Kosovar Albanians wanted to
25 be putting on the table for the summer with the Hill process, for the

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1 fall with the Holbrooke process, and then in the Rambouillet village,
2 spending time reality-checking Dino, who was quite open. Again, as a
3 lawyer, he was quite open to my thoughts.

4 Q. Thank you. Dr. Williams, I just want to go back to a topic I
5 covered when I asked you about the sentence "Thaqi was being closely
6 controlled from outside," and on what basis did you draw that
7 conclusion, and I asked you who he may have been talking to.

8 MR. MISETIC: Mr. President, with your permission, I would like
9 to use the preparation note to refresh his recollection on one point?

10 PRESIDING JUDGE SMITH: Yes, go ahead.

11 MR. MISETIC: Thank you.

12 Madam Court Officer, could we please have DHT12034 to DHT12055,
13 please.

14 Q. And while this is being pulled up, Dr. Williams, do you recall
15 last week when we had our two video conferences for the preparation
16 sessions that a note was prepared of our conversation?

17 A. Yes.

18 MR. MISETIC: And could we go to the last page of the document,
19 please.

20 Q. And there's an attestation at the end that says:

21 "The information in this note was read back to 1DW-001," that's
22 you, "who confirmed it reflected his account fully and accurately."

23 Is that correct?

24 A. Yes.

25 MR. MISETIC: Then if we could please go to paragraph 25.

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1 Here's what is written:

2 "Regarding the sentence '[t]hey revealed, as expected, that
3 Thaqi was being closely controlled from outside': this is 100%
4 consistent with 1DW-001's view and what is in his witness statement.
5 1DW-001 observed that Thaci was in constant phone contact with, and
6 responsive if not subservient to, local commanders as well as the KLA
7 members and diaspora in Rambouillet village, outside the chateau."

8 And my question is does this refresh your recollection as to
9 whether you observed Mr. Thaci being responsive, if not subservient
10 to, local commanders?

11 A. Yes, this does reflect my recollection.

12 Q. And on what basis did you draw the impression that he was
13 responsive, if not subservient to, local commanders?

14 A. He would take their phone calls, they would be having a
15 conversation for a period of time, and there would be feedback into
16 the process from him, which I drew the conclusion was being
17 responsive and subservient. Different tone -- yeah.

18 Q. Let me ask you, did you speak Albanian at the time?

19 A. No.

20 Q. How did you know who he was speaking to and what he was saying?

21 A. I would frequently, because of the -- being in the chateau,
22 would ask colleagues, Kosovar Albanian colleagues, "Who's Hashim
23 talking to all the time?" And they would indicate, you know, his
24 team, Albanians, Kosovo, indicate that it would be the local
25 commanders.

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1 Q. And who in the delegation, do you recall by name who that would
2 have been who told you that?

3 A. Blerim Shala, Dugi [phoen], and I'm drawing a blank on his last
4 name at the moment, he also would translate with me, and Edita
5 Tahiri, in part because we were frequently engaged on documents.

6 Q. Okay. Thank you.

7 MR. MISETIC: If we could now go to a different document -- or,
8 actually, first I want to go to paragraph 27 of your witness
9 statement.

10 Q. There you say:

11 "... KLA advisers were ... worried about the balkanized nature
12 of the KLA units ..."

13 Who were these advisers who were worried?

14 A. Dino Hasani and his KLA colleagues in the village of
15 Rambouillet.

16 Q. Did the KLA advisers, Dino Hasani, raise these concerns to your
17 knowledge with any members of the KLA delegation?

18 A. My impression was that this was something that he raised with
19 the members of the delegation, and specifically was asked to work
20 with me to help the delegation maintain cohesion, both the members of
21 the KLA as well as the KLA within the delegation.

22 Q. And turning to paragraph --

23 JUDGE METTRAUX: Mr. Misetic, if you allow, at line 4 of this
24 page, you asked the witness:

25 "Who were these advisers who were worried?"

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1 And the answer is:

2 "Dino Hasani and his KLA," and we're missing one word.

3 THE WITNESS: I would go with "colleagues."

4 MR. MISETIC: Colleagues, yeah.

5 JUDGE METTRAUX: Thank you.

6 MR. MISETIC: Thank you.

7 Q. If we could -- let me take you to a different part of your
8 statement. You say in paragraph 33 that, on 21 February 1999, the
9 Kosovo delegation was going to sign the Rambouillet agreement but
10 then Mr. Thaci received a phone call and then they were not going to
11 sign. You say that you were in the delegation room during this time.
12 My question is did you see Mr. Thaci receive a phone call?

13 A. Yes.

14 Q. Do you know from whom and how do you know?

15 A. I do not know from whom.

16 Q. Did you see Mr. Thaci convey to other members of the delegation
17 that he could not sign the agreement?

18 A. Yes.

19 Q. What was Mr. Thaci's tone when addressing the other members of
20 the delegation?

21 A. Anxious, apologetic, stressed, knowing what the consequences
22 might be. And just a quick -- the statement's not on my computer,
23 but I suppose that's okay?

24 Q. I can pull it up.

25 A. It's okay. I just --

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1 Q. I'll pull it up going forward.

2 A. No, that's fine.

3 Q. In this meeting, was Mr. Thaci -- did you observe him being
4 threatening or others reacting as if they were being threatened?

5 A. No, I did not -- I was in the room. I observed the behaviour.
6 I did not observe threatening behaviour.

7 Q. Did you have someone interpreting for you?

8 A. Yes.

9 Q. Who was that?

10 A. It would most likely have been Dugi.

11 Q. And -- I don't -- yeah.

12 A. He's a member of the delegation. He --

13 Q. Can I suggest, could it have been Dukagjin Gorani?

14 A. Yes. I -- yes. There is a reason why we referred to him as
15 Dugi.

16 Q. Okay. Thank you. Did Mr. Gorani convey to you a sense that
17 there were threats being made or perceived threats being made?

18 A. He did not convey that to me at any time.

19 MR. MISETIC: If we could please, for the benefit of the
20 witness, put the statement on the screen. 1D375, please. And if we
21 could go to paragraph 32.

22 Q. There you say:

23 "During the negotiations in Rambouillet, Hashim Thaci left the
24 chateau for the day to travel to Slovenia to meet with Adem Demaci.
25 I understood this to be a critical meeting to secure the support of

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1 Demaci to sign the agreement."

2 First, how did you know Hashim Thaci left the chateau to travel
3 to Slovenia to meet with Adem Demaci?

4 A. When I asked my American Albanian colleagues in the chateau,
5 "Where is Hashim?" the answer was, "He went to Slovenia to talk to
6 Demaci."

7 Q. And were you told why he had to go talk to Adem Demaci?

8 A. I inquired as to, well, essentially that question, how is that
9 fitting into this process, and the answer was that it was necessary
10 for political and cultural reasons for Hashim to go to Slovenia and
11 visit Demaci.

12 Q. And did you find out how that visit was related to what was
13 transpiring in Rambouillet, if at all?

14 A. Yes.

15 Q. And --

16 A. This -- yes.

17 Q. Yes. What did you learn?

18 A. That while the Kosovar Albanian delegation was in Rambouillet
19 making halting progress towards an agreement, there were external
20 pressures from the outside, which we had discussed earlier, from the
21 local commanders, but there was also ideological pressure, and I
22 would say cultural pressure, from Adem Demaci, which was creating a
23 headwind for progress in the negotiations and potentially, if not
24 likely, probably -- let's say probably undermining the movement
25 towards an agreement, and so it needed to be engaged with.

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1 Q. Do you know if there was a specific issue that Adem Demaci had?

2 A. Yes.

3 Q. And what was the issue?

4 A. Independence.

5 Q. Thank you.

6 MR. MISETIC: If we go to paragraph 41 of your statement,
7 please.

8 Q. Here you say:

9 "My sense was also that Thaci had no authority to consent to an
10 agreement without obtaining the approval of the regional commanders
11 of the KLA; especially in light of the objection of Adem Demaci."

12 On what did you base that sense?

13 A. I based that sense on the responsiveness of Hashim Thaci to the
14 phone calls, on his necessity to break from the Rambouillet chateau
15 and to leave it to go to a meeting with Adem Demaci, and to the
16 persistent -- persistent and consistent engagement of sending me
17 outside of the chateau into the village to talk to Dino Hasani and
18 the representatives, as I was told, of the -- of the local
19 commanders.

20 As a -- yes. Let me -- if I could add one additional sentence?

21 Q. Sure.

22 A. It wasn't a, "Okay, you're my lawyer, go humour them. You're my
23 lawyer, go share with them what we're doing. Go keep them in the
24 loop." It wasn't that type of relationship.

25 Q. Yes. But you've said now that -- I just want to follow up:

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1 "... [the] engagement of sending me outside of the chateau into
2 the village to talk to Dino Hasani and the representatives, as I was
3 told, of the local commanders."

4 Can you clarify what you mean by "as I was told, of the local
5 commanders"?

6 A. Okay. So the nature of the kaleidoscope of the KLA was that I
7 had a deep relationship with Dino, attorney-client but also friendly.
8 And so when I went to the hotel where Dino said, "Come to the hotel,
9 let's meet with the local commanders," and I showed up. And I'm,
10 like, "Dino, good to see you again." And then a few people around
11 the coffee table. And Dino said, "These are my friends from the KLA.
12 We have concerns. We want to talk with you," da da da. The cultural
13 and the confidential nature wasn't "this is Fred, this is George,
14 this is the commander from this region and this region," but it was
15 that -- at that time I'm thinking this is Dino and his friends.

16 Dino was subsequently -- well, it was clear that Dino Hasani was
17 the American Albanian with the tightest connection publicly to the
18 KLA. And so when Dino said, "These are my friends from the KLA," it
19 was clear to me that, okay, these are individuals with power and
20 authority in the KLA. And my job is to help them craft their points
21 and to take instructions from them about things like developing
22 cohesion and to be that point of technical and legal and wordsmithing
23 bridge between them and those inside the chateau from the KLA.

24 Q. Yes. Now, you say in this paragraph that he couldn't "consent
25 to an agreement without obtaining the approval of the regional

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1 commanders of the KLA." Could you tell us who the regional
2 commanders you're referring to there are?

3 A. This would be a general description of lacking the power and
4 authority. I could not list off six, seven, eight regional
5 commanders by name.

6 Q. Was there any discussion about any requirement of Mr. Thaci to
7 consult with regional commanders?

8 A. I would say there was a very clear understanding that he was a
9 representative of the KLA, and that he was the voice of the KLA in
10 the chateau, and then physically I could see that there were multiple
11 voices just in the village less than a mile away. And that would be
12 where my sense of the no authority to consent.

13 Q. Thank you. Have you done any post-war work for Kosovo?

14 A. Yes.

15 Q. And after Rambouillet, did you do any work or provide advice or
16 representation to the Kosovo provisional government or to members
17 thereof?

18 A. Yes.

19 Q. And when did you do that? Or what were the topics if you can't
20 remember the dates?

21 A. Yes. So Dino Hasani was identified as the provisional
22 government representative in the United States, and so I met with
23 Dino on a number of occasions to talk about how he might carry out
24 that role in the think-tank community and engaging in other various
25 activities that provisional governments engage in in Washington DC.

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1 Over the arc of time, I was engaged in the Vienna final status
2 negotiations, the -- now, this is drifting from just the provisional
3 government. This is writ large the Kosovar Albanians. So I want to
4 be clear about working with all of the parties on being a final
5 status constitution, standards before status, independence,
6 et cetera.

7 Q. And who selected you to work on the Vienna final status talks?

8 A. President Rugova.

9 Q. Do you recall what year that was?

10 A. No.

11 Q. Did President Rugova ask you or your organisation to do any
12 other work for Kosovo?

13 A. President Rugova asked me to prepare a draft constitution for
14 Kosova, and I did.

15 Q. What was the nature of your relationship to the actors on the
16 political spectrum in Kosovo following the war?

17 A. Following the war in Kosovo, I have met with and worked with all
18 except one of the prime ministers of Kosova and with all of the
19 presidents of Kosova. So I -- yeah.

20 Q. Thank you. Dr. Williams, it's been brought to my attention that
21 we may have a transcript issue, so I'd like to just make sure we get
22 it right. And I'm taking you back now to the meeting in the room
23 where Mr. Thaci receives a phone call and says he cannot agree to the
24 Rambouillet agreement. And I'll tell you what the transcript
25 records.

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1 MR. MISETIC: And this is, for the benefit of the parties,
2 page 85, lines 16 to 19.

3 Q. The question was:

4 "In this meeting, was Mr. Thaci -- did you observe him being
5 threatening or others reacting as if they were being threatened?"

6 And what's recorded on the transcript is:

7 "No, I did not -- I was in the room. I observed the behaviour.
8 I did observe threatening behaviour."

9 A. That is incorrect.

10 Q. What should it say?

11 A. I observed the behaviour and none of the behaviour that I
12 observed was threatening.

13 Q. Thank you. Thank you very much for answering my questions.

14 MR. MISETIC: And that concludes my direct examination,
15 Mr. President.

16 PRESIDING JUDGE SMITH: All right. We will take our lunch break
17 now. It's an hour and a half, Witness. We'll see you back here at
18 2.30. Thank you for your attendance. Please do not speak with
19 anyone outside the courtroom --

20 THE WITNESS: Thank you.

21 PRESIDING JUDGE SMITH: -- about your testimony.

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: We're adjourned until 2.30.

24 --- Luncheon recess taken at 12.58 p.m.

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

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Cross-examination by Mr. Ellis

1 PRESIDING JUDGE SMITH: Please bring the witness in.

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: All right. Dr. Williams, we continue
4 now with cross-examination.

5 Mr. Dixon.

6 MR. DIXON: Thank you, Your Honours. I don't have any questions
7 at this time.

8 PRESIDING JUDGE SMITH: Mr. Roberts.

9 MR. ROBERTS: Thank you, Your Honour. No, I don't have any
10 questions at this time either.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. ELLIS: Thank you, Your Honour. Yes, I do have some.

13 Cross-examination by Mr. Ellis:

14 Q. Good afternoon, Dr. Williams.

15 A. Good afternoon.

16 Q. My name is Aidan Ellis, and I'm representing Mr. Jakup Krasniqi,
17 who sits towards the back. I have a few questions for you this
18 afternoon, primarily about Mr. Krasniqi.

19 A. Okay.

20 Q. It's right, I think, that you met Mr. Krasniqi during the
21 Rambouillet negotiations?

22 A. Yes.

23 Q. And Mr. Krasniqi was a part of the Kosovar delegation and stayed
24 at Rambouillet throughout the negotiations?

25 A. Yes.

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1 Q. You were asked by Mr. Misetic earlier today whether either you
2 or Mr. Weller had advised Mr. Thaci that the KLA had an obligation to
3 investigate and punish its own members for serious violations of
4 international humanitarian law, and your response was no. It would
5 be right that the same would apply to Mr. Krasniqi. You or
6 Mr. Weller didn't specifically advise him of that either.

7 A. Correct.

8 Q. You also spoke earlier today about the cohesion in the Kosovar
9 delegation, and Mr. Jakup Krasniqi was a part of that cohesion,
10 wasn't he?

11 A. Yes.

12 Q. You had arrived in France by 5 February 1999, I think?

13 A. Correct.

14 MR. ELLIS: Could I have on screen, please, DHT05893 to DHT05895
15 on the second page, please. And if we could scroll down.

16 Q. Just to orientate you, this is a cable from the US side.

17 MR. ELLIS: If you scroll down a little bit further so that the
18 paragraph is in the middle of the page.

19 Q. Dr. Williams, you'll see there it's recorded that:

20 "The opening ceremony began on time with all members of the two
21 delegations present. In a notable display of unity, LDK leader
22 Rugova sat next to KLA spokesman Krasniqi."

23 Does that accord with your recollection, that President Rugova
24 sat next to Jakup Krasniqi at the opening ceremony?

25 A. I was not at the opening ceremony as I had not yet been granted

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1 access on the 6th. It was not until the 8th that I joined. But,
2 yes, this would generally reflect the spirit that I observed while in
3 the chateau.

4 Q. Thank you.

5 MR. ELLIS: That can come down. And I would tender the cable.

6 PRESIDING JUDGE SMITH: Any objection to the cable?

7 MR. PACE: Yes, Your Honour. There was no link to the witness
8 there. Though he talked about the spirit, he was not at the event
9 mentioned.

10 PRESIDING JUDGE SMITH: Sustained.

11 MR. ELLIS: Well, Your Honour, may I be heard on that, please?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 He said he wasn't there. His knowledge would be supposition.
14 That's why I've sustained the objection.

15 MR. ELLIS: Well, yes, but in my submission, the test that has
16 been applied on other evidence is whether the Rule 138 criteria is
17 met; namely, relevance, authenticity, and probative value.

18 PRESIDING JUDGE SMITH: On a supposition?

19 MR. ELLIS: It's not on supposition. It's on the document.

20 PRESIDING JUDGE SMITH: No, he said he's supposing who was
21 seated next to each other.

22 MR. ELLIS: Yes, I appreciate that, but what I'm submitting on
23 is the tender of the document as to whether that meets the 138
24 criteria, and documents have been repeatedly tendered when they were
25 not known to witnesses themselves because they were relevant,

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1 probative, and authentic.

2 PRESIDING JUDGE SMITH: We can't see the document.

3 MR. ELLIS: I apologise. It was DHT05893.

4 PRESIDING JUDGE SMITH: I know what it is. It isn't on the
5 screen. There it is.

6 MR. ELLIS: It's a US cable of the sort of -- various of which
7 have been admitted in the past few days.

8 JUDGE METTRAUX: I have a question for you, Mr. Ellis. Are you
9 seeking to rely on anything other than the part you've read to the
10 witness in this cable?

11 MR. ELLIS: No.

12 JUDGE METTRAUX: Then why do we need it?

13 PRESIDING JUDGE SMITH: I don't know what this adds.

14 MR. ELLIS: The point is that, earlier in this trial, the
15 Prosecution admitted a photograph that we objected to and said it had
16 a very limited probative value apparently for the purposes of trying
17 to show an enmity between Mr. Krasniqi and Mr. Rugova. And what I'm
18 trying to show through this cable is that they, in fact, sat next to
19 each other at this very conference.

20 MR. PACE: Your Honour, if I may briefly respond to these
21 extensive submissions that we've heard.

22 The test that counsel for Mr. Krasniqi set out is a bar table
23 admission test. When we're seeking to tender items through a witness
24 who's on the stand, there needs to be a link to that witness. As
25 Your Honour has already ruled, there is no such link, so this item

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1 cannot go in.

2 Additionally, there is the aspect of relevance which has not
3 been established.

4 PRESIDING JUDGE SMITH: My ruling stands.

5 Go ahead.

6 MR. ELLIS: Very well.

7 Q. Witness, Dr. Williams, as the conference progressed, the Kosovar
8 delegation divided into different working groups, didn't it?

9 A. Yes, that is correct.

10 Q. And part of your role as legal adviser was to liaise between the
11 different working groups; correct?

12 A. Yes.

13 Q. You've mentioned Fehmi Agani in your evidence earlier today.
14 It's right, isn't it, that Fehmi Agani, Jakup Krasniqi, Blerim Shala,
15 and Mehmet Hajrizi were part of a working group at the Rambouillet
16 negotiations?

17 A. I recall the first three, yes.

18 Q. And of the first three that you recall, Fehmi Agani,
19 Jakup Krasniqi, Blerim Shala worked together cooperatively in that
20 working group, didn't they?

21 A. Yes.

22 Q. And to be clear, Fehmi Agani was part of the LDK delegation.
23 That's right, isn't it?

24 A. Yes.

25 Q. Thank you.

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Cross-examination by Mr. Ellis

1 MR. ELLIS: And if I can move very briefly beyond the
2 Rambouillet conference.

3 Q. I think you already confirmed that you worked as legal adviser
4 to the Kosovar side also in the Vienna final status negotiations and
5 in the drafting of the constitution.

6 A. Yes.

7 Q. And that would be in approximately 2006, 2007; is that right?

8 A. Off the top of my head, yes.

9 Q. And did you have the occasion to come across Mr. Jakup Krasniqi
10 in the course of those negotiations as well?

11 A. Yes.

12 Q. And once again, the Kosovar side was divided into working groups
13 comprised of members of different parties?

14 A. Yes.

15 Q. Mr. Krasniqi was part of the strategic political group along
16 with members of other political parties including the LDK, wasn't he?

17 A. I do not recall that specifically.

18 Q. And it's right, isn't it, that, like at Rambouillet,
19 Mr. Krasniqi played a cooperative role working together with other
20 parties in those negotiations?

21 A. Yes, that is correct.

22 Q. And an important part of the final status negotiations and the
23 constitution was concerned with the constitutional protection of
24 minority groups in Kosovo, including the Serb minority and the Roma
25 minority?

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1 A. Yes.

2 Q. And Mr. Krasniqi played a positive role in working to secure
3 those protections, didn't he?

4 A. Yes.

5 Q. One moment. Thank you, Dr. Williams. Those are my questions.

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

7 Mr. Pace, cross-examination.

8 Cross-examination by Mr. Pace:

9 Q. Good afternoon, Witness.

10 A. Good to see you again.

11 Q. Yes, as you've mentioned, we've seen each other once before.
12 I'll introduce myself again anyway. I am James Pace, a Prosecutor
13 with the SPO. And I'll be asking you questions, as the Judge said
14 earlier, for the next two and a half hours or so.

15 You never visited Kosovo or Albania in 1998 or 1999; right?

16 A. Correct.

17 Q. Earlier, you testified you do not speak Albanian. You did not
18 understand Albanian either in 1999; right?

19 A. Correct.

20 Q. You don't recall having seen, before Rambouillet, any documents
21 or communiqués issued by the KLA; right?

22 A. Correct.

23 Q. Before Rambouillet, you were not personally familiar with the
24 KLA structure or organisation; right?

25 A. Correct.

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1 Q. In 1998 or 1999, other than while you were in Rambouillet or
2 Paris, you did not attend any meetings involving KLA General Staff
3 members; right?

4 A. Correct.

5 Q. Before February 1999, you had never met or had contact with any
6 KLA zone commander; right?

7 A. Correct.

8 Q. In February 1999, you didn't even know the KLA zone commanders'
9 names; right?

10 A. Correct.

11 Q. Before Rambouillet, you had not attended any meetings at which
12 the topic of who from the KLA would attend Rambouillet was discussed;
13 right?

14 A. Correct.

15 Q. You don't recall, before Rambouillet, having read or heard
16 anything about the KLA component of the Kosovo delegation to
17 Rambouillet; right?

18 A. Correct.

19 Q. Before February 1999, you had not met or had any contact
20 whatsoever with any of the four persons accused in this case; right?

21 A. Correct.

22 Q. You don't recall ever meeting or having any contact with
23 Rexhep Selimi; right?

24 A. Correct.

25 Q. As you told the SPO two weeks ago, when you first met Mr. Thaci

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1 at Rambouillet, the extent of what you knew about him was that he was
2 educated in Switzerland; right?

3 A. Correct.

4 Q. So before Rambouillet, you did not know whether Mr. Thaci was
5 one of the founding members of the KLA; correct?

6 A. Correct.

7 Q. You did not know, before Rambouillet, whether Mr. Thaci was a
8 member of the KLA General Staff; right?

9 A. Correct.

10 Q. You did not know, before Rambouillet, whether Mr. Thaci was a
11 member of the KLA political directorate; right?

12 A. Correct.

13 Q. Before Rambouillet, you did not know whether Mr. Thaci was the
14 head of the political directorate of the KLA; right?

15 A. Correct.

16 Q. At paragraph 16 of your statement, you say that, prior to
17 Rambouillet, you had a close relationship with Prime Minister
18 Bujar Bukoshi and through him with President Rugova. And you've
19 testified about your close relationship with Bukoshi earlier today.
20 Before Rambouillet, were you aware of any tension or problems between
21 Mr. Bukoshi and KLA members?

22 A. No.

23 Q. Before you got to Rambouillet, did you know whether Hashim Thaci
24 had publicly accused Mr. Bukoshi of financing the murder and
25 attempted murder of KLA commanders and having plans to liquidate the

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1 KLA General Staff?

2 A. No.

3 Q. You stated that you landed in France on 5 February 1999 and
4 stayed throughout the first round of the conference. You first
5 entered the Rambouillet chateau where the Kosovo delegation met on
6 8 February 1999; right?

7 A. Correct.

8 Q. You believe you most likely would have been introduced to
9 Mr. Thaci on 8 February 1999; right?

10 A. Yes.

11 Q. You don't recall being present when Mr. Thaci was selected as
12 the chairman of the Kosovo delegation; correct?

13 A. Correct.

14 Q. The first round of Rambouillet ended on 23 February 1999, and
15 you went back to Washington DC; right?

16 A. Yes.

17 Q. You stayed in Washington DC until you arrived in Paris on
18 14 March 1999; right?

19 A. Yes.

20 Q. The Paris round ended on 19 March 1999, and you went back to DC;
21 correct?

22 A. Yes.

23 Q. The diaspora adviser you refer to but don't name in your
24 statement to the Thaci Defence was Dino Hasani, who you also
25 discussed today; correct?

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1 A. Yes.

2 Q. Your statement to the Thaci Defence makes no specific mention of
3 Jakup Krasniqi; correct?

4 A. Correct.

5 Q. You saw Jakup Krasniqi at Rambouillet multiple times; right?

6 A. Correct.

7 Q. Were you in any working groups together?

8 A. We would have been in small group meetings relating to the
9 various issues.

10 Q. Do you recall the issues that you were a part of with
11 Mr. Krasniqi?

12 A. They would have related to constitutional questions, the
13 protection of minority rights, and the review of the military annex.

14 Q. Any secretary or foreign minister-level meetings you attended
15 during Rambouillet were attended by the entire Kosovo delegation;
16 correct?

17 A. Correct.

18 Q. And do you know who attended the secretary or foreign
19 secretary-level meetings which you did not attend?

20 A. No.

21 Q. Your statement makes no specific mention of Kadri Veseli;
22 correct?

23 A. Correct.

24 Q. When I asked you in your SPO interview two weeks ago to try to
25 focus and to remember whether you met Kadri Veseli at Rambouillet or

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1 not, you answered that:

2 "At this point, I don't want to go beyond my statement in
3 answering that question in this case I would just be basing it off of
4 impromptu recollection."

5 Do you now recall whether or not you met Mr. Veseli at
6 Rambouillet, be it inside or outside the chateau?

7 A. I do not recall whether I met him inside or outside the chateau.

8 JUDGE METTRAUX: Mr. Pace, I don't want to come in the middle of
9 your cross-examination, but a moment ago you asked the witness
10 whether before Rambouillet he was aware of any tension between
11 Mr. Bukoshi and KLA members. Would you mind to ask him, or I can ask
12 him, whether he ever became aware of such tension after Rambouillet?

13 MR. PACE: If I may reserve that until a later point,
14 Your Honour.

15 JUDGE METTRAUX: Of course.

16 MR. PACE: Thank you.

17 I'd like to call up SPOE40010709-40010710. If we can zoom in
18 where we have *Wall Street Journal* for now and a little bit more.
19 That's okay for now. Thank you.

20 Q. Witness, on your screen we see this is a Wall Street Journal
21 article dated 28 April 1999.

22 MR. PACE: Let's turn to the next page, please, which is the one
23 ending 710. And I'm going to read from the fourth paragraph from the
24 top, so we can zoom in to that. A little bit -- no, that's -- a
25 little bit more zoom, and then perhaps we can scroll. Yes.

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1 Q. So I'm going to read from "'Bukoshi is old guard ...'" So there
2 is a quote there:

3 "'Bukoshi is old guard, Thaci is new guard,' says Paul Williams,
4 a former US State Department official who now serves as the legal
5 representative to the Bukoshi government and who represented both men
6 at the failed peace talks in Rambouillet, France. Mr. Williams says
7 there is a 'natural tension' between the two, but describes Mr. Thaci
8 as an 'effective political representative' who is 'engaging and
9 polished.'"

10 Witness, do you recall saying that in or before April 1999?

11 A. Yes.

12 MR. PACE: Your Honour, we seek to admit this item.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 Any objection?

15 MR. MISETIC: No objection.

16 PRESIDING JUDGE SMITH: SPOE40010709 to 40010710 is admitted.

17 And if it's not public, it should be.

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

19 Exhibit P4491, and it will be reclassified to public.

20 PRESIDING JUDGE SMITH: Thank you.

21 Go ahead.

22 MR. PACE: We can take the document down. And instead of that,
23 I would like to call up IT-05-87 1D00018, and we can go to the first
24 page for now, please.

25 Q. We see that - thank you - that this is a publication by

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1 Marc Weller that was also shown to you this morning during testimony.
2 And Marc Weller was the other external legal adviser to the Kosovar
3 delegation whom you mentioned earlier today and you referred to in
4 your statement but you don't name him in your statement.

5 MR. PACE: Let's please turn to the page 1D00-0620, which should
6 be PDF page 398. Yes. And here I'm going to read from the
7 third-from-last paragraph, so if we could zoom down a little bit
8 please.

9 Q. And I'm going to read from "The Kosovo delegation ..."

10 "The Kosovo delegation in the end consisted roughly of one-third
11 LDK representatives (including elected President Rugova and
12 Prime Minister Bukoshi), one-third LBD and one-third KLA. In
13 addition, there were two independents, Veton Surroi and Blerim Shala,
14 both distinguished journalists and intellectuals. Overall, this
15 meant that the more radical LBD and the KLA representatives dominated
16 the delegation by two to one. Thus, instead of the elected
17 President Ibrahim Rugova, the delegation was led by Hashim Thaci, a
18 then 29-year-old, highly intelligent and determined KLA leader whose
19 *nom de guerre* 'the snake' had been earned during the previous months
20 of confrontation. He had a reputation of great effectiveness in
21 consolidating previously divergent views within the KLA and was
22 viewed by the Belgrade government with particular hatred."

23 Witness, did you know Hashim Thaci had gained the *nom de guerre*
24 The Snake before Rambouillet?

25 A. No.

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1 Q. And did you know of Hashim Thaci's reputation for great
2 effectiveness in consolidating previously diverging views within the
3 KLA?

4 A. No.

5 MR. PACE: Your Honour, we seek to tender this one page, and
6 that would be added to P04259, which contains other pages from the
7 same item.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. PACE: Yes.

10 PRESIDING JUDGE SMITH: Just the one page?

11 Any objection?

12 MR. MISETIC: Of course. He just made the objection to counsel
13 for Mr. Krasniqi, and then now goes and does the same thing, actually
14 worse.

15 PRESIDING JUDGE SMITH: Sustained.

16 Go on.

17 MR. PACE: Your Honour, if I may respond, and I need to do it in
18 the witness's absence, please.

19 PRESIDING JUDGE SMITH: No, not in his absence. Go ahead and
20 respond.

21 MR. PACE: Your Honour, I don't think I should be forced to make
22 arguments about witness credibility in front of the witness, with
23 respect.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Please excuse us for just a minute. You'll step out of the

1 courtroom.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: It's not his statement, he doesn't know
4 any of this, and you want to introduce the document?

5 MR. PACE: Your Honour, we have a witness who has, during
6 cross-examination thus far, acknowledged that he didn't know anything
7 about Hashim Thaci other than he was Swiss-educated --

8 PRESIDING JUDGE SMITH: And he just said he doesn't know
9 anything about --

10 MR. PACE: -- before he got to Rambouillet.

11 PRESIDING JUDGE SMITH: He just said he doesn't know what you
12 asked him about.

13 MR. PACE: Yes.

14 PRESIDING JUDGE SMITH: He's agreeing with you.

15 MR. PACE: Yes. The fact that the witness didn't know this
16 information, as he just agreed with me, is relevant to his assessment
17 about Hashim Thaci's authority during the Rambouillet agreement and
18 thereafter, and his statement is littered with assertions concerning
19 Hashim Thaci's authority. So this item that I showed is relevant
20 both to the witness's credibility and also to the charges against the
21 accused. Noting also that the source of this item was similarly
22 positioned to the witness we have here. He was the other external
23 legal adviser to the delegation. So this witness's knowledge
24 concerning members of the delegation, in particular Mr. Thaci, is
25 highly relevant to the Prosecution's case.

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1 PRESIDING JUDGE SMITH: Okay. The same ruling stands. If you
2 have any question about it, you can look up your objection to
3 Mr. Ellis's question.

4 Please bring the witness back in.

5 [The witness takes the stand]

6 PRESIDING JUDGE SMITH: You may continue.

7 MR. PACE: We can take the item down.

8 Q. Witness, certain non-KLA members of the Kosovo delegation were
9 impressed by Hashim Thaci's work as the head of delegation; right?

10 A. Can you ask that question again?

11 Q. I can ask it differently. To your knowledge, were certain
12 non-KLA members of the Kosovo delegation impressed by Hashim Thaci's
13 work as the head of the delegation?

14 A. I wouldn't know whether the other members of the delegation --
15 what was their impressions.

16 MR. PACE: I'd like to call up P04216, please. This is a video.
17 And alongside it, we're going to call up the English translation,
18 which is 065452-01-TR-ET Revised. And the video we're going -- I'll
19 do the English transcript. I see that on the screen. In the
20 transcript we're going to go from the bottom of page 13 into page 14.
21 And in the video, we're going to play minutes 30:48 to 31:30. If we
22 could just scroll down a little bit more in the transcript and then
23 we can start. And it's going to at some point go into the next page.

24 And we don't need to call up the Albanian transcript because
25 what we're going to hear is Albanian. But for reference, the

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1 Albanian transcript is 4216-AT, and there it's also from the bottom
2 of page 13.

3 So if the video is ready, we will play from minutes 30:48 to
4 31:30, please.

5 [Video-clip played].

6 THE INTERPRETER: [Voiceover] "... the right-hand of Dr. Rugova
7 at the conference, has good words to say about Hashim Thaci.

8 "My impression was positive because he had a lot of
9 organisational experience and, at the same time, he was very resolute
10 to be part of the KLA and he was also the political leader of the
11 KLA. So despite of his age, his profile was really high in terms of
12 leadership. And he did that work well, meaning that he led the
13 delegation well."

14 MR. PACE: We can pause here. Thank you.

15 Q. Witness, did you recognise Edita Tahiri on the screen speaking?

16 A. Yes.

17 Q. And that is someone that you met during Rambouillet; right?

18 A. Yes.

19 Q. You've also met her in subsequent years after the war, including
20 not too long ago; correct?

21 A. Correct.

22 Q. Were you aware of this expressed view concerning Hashim Thaci by
23 Edita Tahiri?

24 A. Not necessarily one way or the other.

25 Q. What does that mean?

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1 A. I'm not in this interview that I'm aware of, and I haven't
2 spoken with her about the substance --

3 Q. Yes, I'll stop you there. My question is were you aware of this
4 expressed view of Hashim Thaci by Edita Tahiri. If you haven't
5 spoken to her about the perception, I understand your answer to be
6 no?

7 A. Correct.

8 MR. PACE: We can take the item down.

9 Q. At Rambouillet, Hashim Thaci resisted immense pressure from
10 Secretary Albright and others to sign the agreement presented; right?

11 A. Correct.

12 Q. You testified -- apologies. You testified this morning that
13 during Rambouillet you would not attend meetings when there was
14 "internal Kosovar business." How often would such meetings take
15 place to your recollection?

16 A. My recollection is that there were ongoing conversations late in
17 the evening in the chateau about internal Kosovar delegation
18 business.

19 Q. And you would not have been there because you slept outside the
20 chateau?

21 A. Correct.

22 Q. The non-KLA members of the Kosovo delegation in Rambouillet were
23 in favour of signing; right?

24 A. Correct.

25 Q. This morning, you testified that when Mr. Thaci conveyed to

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1 other delegation members that he could not sign the agreement, his
2 tone was "anxious, apologetic, stressed, knowing what the
3 consequences might be." You also testified you did not observe
4 threatening behaviour by Mr. Thaci at this meeting, and that Dukagjin
5 Gorani, who acted as interpreter, never conveyed to you a sense that
6 there were threats or perceived threats being made.

7 And during your SPO interview, you stated that when Mr. Thaci
8 explained to other Kosovo delegation members that he thought they
9 should not sign the Rambouillet agreement, his tone was "diplomatic,
10 respectful, normal, normal tone of the conversations that had
11 occurred throughout the time."

12 Do you recall saying that?

13 A. Correct.

14 Q. I'm going to show you a video and then ask you some questions.

15 MR. PACE: If we could please call up 128791-02 side by side
16 with 128791-02-TR, please. And in the English transcript, we can go
17 to page 9, where we'll start, and then it bleeds into page 10. And
18 we can go down a little bit further, please, in the transcript.
19 Even -- all the way down. That's -- it's the next page, actually.
20 This is page 8. I'd asked for page 9. Great. So just the bottom of
21 this page, please. The transcript is good.

22 And the timestamp in the video will be from minute 44:02,
23 please. So we're going to play this video from minute 44:02, and I
24 would like to play until minute 45:30.

25 And as I mentioned, we're going to start in the English where we

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1 have it on the screen now, from 44:02, and it's going to then go into
2 the next page. The speaking is going to be in English, and there is
3 no Albanian translation -- no Albanian translation provided or no
4 Albanian transcript.

5 So we can play.

6 [Video-clip played]

7 "... to the Albanian delegation. They'd elected the young and
8 inexperienced KLA man Hashim Thaci as their leader. The entire
9 delegation urged him to accept. But he refused because the agreement
10 on offer did not include a referendum on independence.

11 "The delegation appointed Thaci for a leader, not knowing that
12 they may become his prisoners.

13 "It was a formidable yes on all sides except when it came to
14 Thaci - who was very, very strained and he said no.

15 "Thaci was really blunt to the delegation, stating that, look,
16 this document, this actual presentation is completely unacceptable.

17 "He used the language which could be threat -- could be
18 understood as threatening.

19 "And whoever signs it now, I would treat him or consider him as
20 the enemy of -- as the enemy of the nation.

21 "It was a graphic illustration of the power the gun now wielded
22 among the Kosovar Albanians. Thaci's intimidation of his fellow
23 delegates did not stop a warm relationship developing between him and
24 his international sponsors."

25 MR. PACE: We can stop here. Thank you.

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1 Q. Witness, my first question is whether you recognise the two
2 speakers that appeared on screen?

3 A. Yes.

4 Q. Could you give us their names?

5 A. Veton Surroi and then Dugi. I'm drawing a -- the same -- yes.

6 Q. The one referred to earlier --

7 A. Referred -- yes.

8 Q. -- Dukagjin Gorani; correct?

9 A. Yes, Gorani, yes.

10 Q. And for context, Witness, this is from a BBC video, a
11 documentary, and it first was broadcast in 2000.

12 Now, this morning you testified that Mr. Surroi never mentioned
13 to you that he felt threatened or intimidated by Hashim Thaci at
14 Rambouillet. And you also testified you have a deep professional and
15 personal engagement with Mr. Surroi. Were you aware that Mr. Surroi
16 had said this to the BBC?

17 A. I have not previously seen this BBC report.

18 Q. Yes. And my question was were you aware that Mr. Surroi had
19 said that. So did he ever tell you that he spoke to the BBC about
20 certain matters, for example?

21 A. No.

22 Q. Were you aware that Dugi, Dukagjin Gorani, had said what we
23 heard him say in this excerpt to the BBC?

24 A. The excerpt, no.

25 Q. Did Dukagjin Gorani ever tell you anything after Rambouillet in

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1 terms of feeling threatened or threatening environment during
2 Rambouillet?

3 A. No.

4 MR. PACE: Your Honour, we seek to admit the excerpt shown for
5 the purpose of impeachment as well as for the truth of its contents,
6 and that would be added to the item P04487, where we've already
7 admitted another excerpt from this same video.

8 MR. MISETIC: The same objection, Mr. President. The witness --
9 to use Mr. Pace's objection, the witness has added nothing and knows
10 nothing about the clip.

11 MR. PACE: Your Honour, this is cross-examination where we can
12 also tender items for the purpose of impeachment. It's very
13 different from what Mr. Ellis was doing earlier.

14 PRESIDING JUDGE SMITH: In what way does this impeach his
15 testimony?

16 MR. PACE: Your Honour, we've heard the witness testify that
17 he's not aware of any threats by Mr. Thaci during the -- he was
18 asked, in fact, about this by the -- the direct examination, and here
19 we have information that says otherwise. That is relevant to the
20 credibility --

21 PRESIDING JUDGE SMITH: That's not his information, though.
22 That's somebody else's information, and there's no linkage to him, so
23 how is it attacking his credibility?

24 MR. PACE: Your Honour, the linkage to him was created when
25 counsel asked him specifically about whether Mr. Surroi or Mr. Gorani

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1 had expressed to him any views on threats. I'm not saying the
2 witness is lying, but here we have information that indicates that
3 they have expressed those threats. And that is certainly relevant,
4 again, to credibility of the witness, to what he knows and does not
5 know, and also for the truth of the contents going to Mr. Thaci's
6 behaviour during Rambouillet and also bearing in mind that this is
7 behaviour in relation to non-KLA members of the delegation.

8 MR. MISETIC: Again, the witness -- the second part, for the
9 truth of the contents, the witness has offered nothing about the
10 document. They've had two and a half years to put on their case. If
11 they wanted to make a case that he made threats at Rambouillet, they
12 had two and a half years to do it. The witness has added nothing to
13 this. And it doesn't need to come in for impeachment because he
14 hasn't said anything to impeach.

15 [Trial Panel confers]

16 PRESIDING JUDGE SMITH: Please mark it for identification.
17 We'll rule on it later.

18 THE COURT OFFICER: Your Honour, can I clarify. The Prosecutor
19 asked that it be added to already existing Exhibit P4487. Shall I
20 give it a new number marked for identification?

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 You better give it a new number now.

23 THE COURT OFFICER: In that case, Your Honour, this segment,
24 minute 44:02 to minute 45:30, and to pages 9 and 10, as they were
25 shown, will be MFI'd as P4492.

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1 PRESIDING JUDGE SMITH: Go on, Mr. Pace.

2 MR. PACE: We can take the item down.

3 Q. Witness, earlier you testified about Mr. Thaci behaving in a
4 diplomatic, respectful manner in Rambouillet. Do you know whether he
5 behaved in a diplomatic and respectful manner towards Mr. Bukoshi
6 throughout the Rambouillet conference?

7 A. Yes.

8 Q. And does that mean you know or that he did?

9 A. It means that I know. I can provide additional context if you'd
10 like.

11 Q. I would not.

12 MR. PACE: The next item I'm going to call up is not for public
13 broadcast. I'd like to call up 078271-TR-ET Part 4 RED, please. And
14 if we can turn to page 27, please. If we scroll down, I'm going to
15 read from line 15.

16 Q. And, Witness, for context, this is from an interview of
17 Mr. Veton Surroi. I'm going to read from line 15 on the page on your
18 screen.

19 MR. PACE: And for the interpreters, there is no Albanian
20 version available.

21 Q. And then I'm going to ask you a question:

22 "Q. And the -- some of the rhetoric that had been used in the
23 lead-up to Rambouillet was -- was very strong. Did that manifest at
24 all in how Thaci interacted with Dr. Rugova or Bukoshi?

25 "A. Yeah. At some point he threatened Bukoshi. I mean, he

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1 threw -- I think he threw a coffee, not a mug, but an espresso cup at
2 him. He was at a big distance so it did not do much, but he --

3 "Q. What was the reason for that ...

4 "A. I can't -- it was not anything substantial, but it was
5 some -- some disagreement on -- it was the -- at some point bad blood
6 would emerge on one or the others and say, 'Well, you --' you know,
7 'You LDK this,' or, 'You did this,' or, 'We wouldn't be in'" - and if
8 we can turn to the next page - "'this place if it were not for you,'
9 et cetera."

10 Witness, my question is were you aware of this alleged incident
11 during Rambouillet, Mr. Thaci threatening Mr. Bukoshi and throwing an
12 espresso cup at him?

13 A. No.

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

15 MR. MISETIC: Mr. President, if I may just make a remark?

16 PRESIDING JUDGE SMITH: Yes.

17 MR. MISETIC: I apologise, but we spent two years being told,
18 and under an oral order of the Panel, to not put those types of
19 documents in our cross-examination.

20 MR. PACE: Your Honour, this was not broadcast to the public --

21 PRESIDING JUDGE SMITH: Could you wait until he's finished,
22 please, Mr. Pace.

23 MR. MISETIC: It has nothing to do with broadcast to the public.
24 We were told we couldn't even put the document up to show to
25 witnesses, and so I would object now to a different standard being

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1 applied to the Defence case in chief.

2 PRESIDING JUDGE SMITH: Well, we haven't applied any standard at
3 this point. We're just listening.

4 MR. MISETIC: Well, I'll refer to the Panel to its oral order
5 of -- and which was recorded on [Overlapping speakers] ...

6 PRESIDING JUDGE SMITH: No, I'm saying right now we haven't made
7 any statement about that. You're making the statement.

8 MR. MISETIC: The witness was shown --

9 PRESIDING JUDGE SMITH: Yes, I know -- I know --

10 MR. MISETIC: -- where the interview was taken from.

11 PRESIDING JUDGE SMITH: I'm just telling you we haven't made a
12 decision, that's all, on this line of questioning because we weren't
13 asked to.

14 MR. MISETIC: No, no, I know. Maybe I'm not being clear.

15 PRESIDING JUDGE SMITH: No.

16 MR. MISETIC: We were in -- and I take full responsibility. We
17 were not allowed to show witnesses that kind of statement on cross on
18 the screen.

19 JUDGE METTRAUX: You were allowed, Mr. Misetic. We said it's
20 the second best. We did not make a prohibition. We said you should
21 first attempt to do it without the statement unless you could not, in
22 which case you could. That's the ruling.

23 MR. MISETIC: But I thought the second best meant you could say
24 it without putting the document on the screen, which is all -- the
25 point I'm trying to make, which was the procedure we tried to use.

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1 JUDGE METTRAUX: So you're telling us that Mr. Pace should have
2 first tried without the text. That's what you --

3 MR. MISETIC: Were you aware of the incident, et cetera, yes.

4 PRESIDING JUDGE SMITH: Go ahead.

5 Please ask him a foundational question about what he knows
6 before you ask him to argue with something that's on the screen.

7 MR. PACE: That's noted for future. I'm not addressing this
8 item further. But I take your note, Your Honour. Thank you.

9 Q. Witness, changing subjects slightly, although always
10 Rambouillet-related.

11 In your statement, you say that the Kosovo delegation desired a
12 clear provision in the Rambouillet agreement that Kosovo was entitled
13 to independence or external self-determination at the end of the
14 three-year interim period. And as a fallback, the Kosovo delegation
15 was willing to accept a provision that there would be a referendum on
16 which the final status would be based.

17 The KLA delegation at Rambouillet did not sign at Rambouillet
18 because the agreement presented at the time did not provide what they
19 desired in relation to the matter of independence or referendum
20 thereon; right?

21 A. Correct.

22 Q. Hashim Thaci and other KLA members made it clear well before
23 February 1999 that they would never support a political solution
24 without some explicit reference to independence in a final document;
25 right?

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1 A. At Rambouillet in February 1999, that message was conveyed to
2 me.

3 Q. So just if I can clarify your answer, Witness. In February 1999
4 while you were at Rambouillet, you learned that prior to Rambouillet
5 Hashim Thaci and other KLA members had made it clear they wouldn't
6 sign?

7 A. No.

8 Q. Or am I misunderstanding?

9 A. You are --

10 Q. Can you clarify?

11 A. You are misunderstanding. You asked me whether I was aware of
12 the KLA position of independence prior to Rambouillet. I had said at
13 Rambouillet the KLA made clear to me their position on independence.

14 Now, I can provide additional context as to how I knew that the
15 Kosovar Albanian position was independence prior to Rambouillet,
16 which I was aware of.

17 Q. I understand. But I'm asking you a slightly different question,
18 so I'm going to show you a document.

19 MR. PACE: If we could please call up P01067.

20 Q. And you will correct me if I'm wrong, but you do have a
21 background in the secretary of state -- working for the secretary of
22 state; right, Witness?

23 A. I was the legal adviser in the Department of State -- I was one
24 of the European advisers in the Department of State for European and
25 Canadian affairs from 1991 to 1993.

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1 Q. And in your experience with that department, would you have had
2 access to cables such as the one on the screen? I'm not saying the
3 one but of that nature, cables from embassies, for example?

4 A. Yes. It's a little small but I can recognise it. I recognise
5 it as a confidential, now unclassified cable.

6 Q. Understood.

7 MR. PACE: If we could zoom in just a little bit on this first
8 page, please.

9 Q. We can see that the date is here 3 November 1998 and from
10 American Embassy Belgrade to Secretary of State Washington DC. Do
11 you see that, Witness?

12 A. Yeah, American Embassy to Secretary of State, yes.

13 Q. And above that, my understanding is that the numbers that we see
14 mean that this is -- the date of the document is 3 November 1998.
15 Can you confirm that? Perhaps we could zoom out a little bit
16 further.

17 A. It looks -- yes, it's November 1998. And -- yes.

18 Q. Thank you.

19 MR. PACE: Can we please turn to pages 0753 --

20 PRESIDING JUDGE SMITH: Just a second, Mr. Pace. Our computer
21 has stopped.

22 This will take a little bit, so we'll take the ten-minute break
23 now.

24 Witness, we'll give you a ten-minute comfort break and then
25 we'll be back in the courtroom in ten minutes.

1 THE WITNESS: Okay. Thank you.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: We're adjourned until 3.40.

4 --- Break taken at 3.23 p.m.

5 --- On resuming at 3.39 p.m.

6 JUDGE METTRAUX: Mr. Misetic, if you can assist in our
7 deliberations on that point. You elicited evidence from this witness
8 in relation to the existence or otherwise of threats and the
9 relationship between the various members of the delegation as we
10 understand it. Can you maybe help us understand what you think it is
11 relevant to in your case so that we understand what would be relevant
12 potentially to answering that case.

13 MR. MISETIC: It is not relevant to our case. It was an issue
14 brought up by Judge Gaynor in the previous witness, and we had a
15 follow-up witness who had direct knowledge of it, so we answered
16 Judge Gaynor's question. So to the extent there's a Judge's case
17 being put, we responded. It wasn't an affirmative part of our case.
18 So there's nothing, in my submission, for the Prosecution to respond
19 to.

20 JUDGE METTRAUX: Because we got also questions from Mr. Ellis
21 about who sat whom and how people related to each other. So is it
22 part of your case - or, Mr. Ellis, if you want to respond for
23 Mr. Krasniqi - that the dynamic between the various actors at
24 Rambouillet is relevant to anyone's case? That, again, would help us
25 understand what's at issue here.

1 MR. MISETIC: We again -- I'll speak for Mr. Thaci. The dynamic
2 is not a part of our case. It was, again, just a response to an
3 issue raised by Judge Gaynor.

4 JUDGE METTRAUX: Thank you.

5 JUDGE GAYNOR: Can I just ask one follow-up question about that,
6 Mr. Misetic.

7 When you questioned this witness on the issue as to whether
8 Thaci issued a threat to various members of the Kosovar Albanian
9 delegation, do you accept that you were opening up a ground for the
10 Prosecution to cross-examine that witness on it because you had led
11 that evidence in direct examination? Do you accept that?

12 MR. MISETIC: No, I don't, because, as I had mentioned, and I'm
13 stating on the record now, it isn't part of our case. We're entitled
14 to respond. And we're only responding to a new issue raised by the
15 Bench.

16 JUDGE GAYNOR: In the previous witness's evidence?

17 MR. MISETIC: Yes, I mean, you raised it and we were responding
18 because it apparently was of interest to you. The whole issue of
19 relations among the members of the delegation at Rambouillet is not
20 part of the Prosecution case and therefore not something that we
21 would have responded to but for the fact that you raised it.

22 JUDGE GAYNOR: I understand your position. Thank you.

23 MR. PACE: Your Honour, may I weigh in?

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Mr. Ellis, you may respond if you wish.

1 MR. ELLIS: Thank you. I don't know if I want to jump in any
2 further, but I think we are also responding to evidence that was led
3 by the Prosecution earlier in the case through another witness. I
4 think, from recollection, 2144.

5 PRESIDING JUDGE SMITH: Thank you.

6 Now, Mr. Pace, you certainly can have your say.

7 MR. PACE: Thank you. I'll be brief. However this issue came
8 up, as in if it was because of Judge Gaynor or not, is not relevant.
9 The Defence has led evidence with this witness about it. Here, we
10 need to remember that the Prosecution - I know it's new, it's just
11 this week - but we are the cross-examining party. We are responding
12 to what they ask and what they asked this particular witness.

13 I would further like to note that what Mr. Misetic said is not
14 actually correct in terms of the Prosecution's case. We know well
15 that the Prosecution's case involves Hashim Thaci and others, and our
16 allegation is, for example, that they issued threats towards the LDK
17 and other members -- and other non-KLA members. But just by way of
18 example, here we have a situation where they were all in the chateau
19 together, KLA and non-KLA, so the manner in which Hashim Thaci
20 interacted in particular with the non-KLA members is certainly highly
21 relevant to our case.

22 And as Your Honour knows well, and I don't even need to say, but
23 I'll say it anyway, we are entitled to lead evidence that is relevant
24 to our case when a witness can give evidence about it. This evidence
25 was there. So, just again, this is both a matter of being able to

1 cross-examine a witness and be effective. It's also a matter of
2 equality of the parties. During the Prosecution case, the Defence
3 was able to admit items of this nature for impeachment as well as for
4 the truth of its contents throughout, as was their right, and as
5 should be. That was a good decision and it was fair.

6 The same fairness should be applied to us who are now the
7 cross-examining party and when we're submitting relevant evidence.
8 Thank you.

9 PRESIDING JUDGE SMITH: I think one of the problems is I don't
10 believe this is really a credibility issue, and I think you may have
11 had a slip of the tongue when you said that, because I think it has
12 to do with your case itself, not about credibility of this witness
13 who didn't have anything to do with this. But we're not ready to
14 rule on it yet, anyway.

15 MR. MISETIC: Yes, I would just add that if it is part of their
16 case - I will repeat - they had over two years to put on their case,
17 including a bar table of thousands of documents to put stuff in.
18 They didn't do it. They put on a document on the screen, you'll
19 remember, I won't mention what it was, but there was a witness that
20 could have been called on this issue. They didn't call him, either.
21 And this is not the time now to be putting in evidence in their -- in
22 support of their case on an issue that isn't part of our case. It's
23 in response to the Bench, which is a complicating factor here,
24 because I think we're entitled to respond to an issue raised by the
25 Bench but not raised by the Prosecution, particularly on the discrete

1 issue of what happened at Rambouillet.

2 As far as I recall, I don't think they discussed Rambouillet
3 much, if at all, in terms of witnesses or anything in their case in
4 chief.

5 PRESIDING JUDGE SMITH: Thank you. We've heard enough. We'll
6 get a decision made and then we'll move on.

7 So you can bring the witness in.

8 Mr. Pace, do you have some idea? Are you going to finish today
9 or are you going to have some of tomorrow as well?

10 MR. PACE: I think if I don't -- there is 45 minutes left. If I
11 don't finish today, it will be very close. I don't have that much
12 material. We'll see how it goes. But either by 4.30 or soon enough
13 in the morning.

14 PRESIDING JUDGE SMITH: Thank you.

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: Sorry you had to wait. We try to keep a
17 tight schedule, but we had a technical problem.

18 THE WITNESS: There are plenty of cookies in the room, so I'm
19 happy.

20 PRESIDING JUDGE SMITH: No one brings us cookies.

21 THE WITNESS: Next time I can come back with some.

22 PRESIDING JUDGE SMITH: All right. We'll continue.

23 Mr. Pace, you have the floor.

24 MR. PACE: Thank you, Your Honour.

25 Q. And, Witness, if you recall before the break, we were looking at

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1 the item that's on your screen.

2 A. Yes.

3 Q. And we were saying that it's a cable, that you're familiar with
4 the nature of this item, not the item itself. And we said that it's
5 from November 1998, the US embassy in Belgrade to Secretary of State.

6 MR. PACE: And within the same cable, I'd now like to turn to
7 page 075306, please. And if we could scroll all the way to the
8 bottom, I'm going to read from paragraph 15.

9 Q. And here we see:

10 "Thaqi and his colleagues not surprisingly demand independence
11 and say that they will ultimately never support a political solution
12 without some explicit reference to that event in the final document."

13 And my question, Witness, is were you aware that Hashim Thaci
14 and his colleagues had expressed such views prior to Rambouillet?

15 A. I was not specifically necessarily aware that Thaci and his
16 colleagues expressed these views. However, these are 100 per cent
17 consistent with the views of the American Albanians and others that I
18 was interacting with in the provision of my *pro bono* legal advice.

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

20 Q. Witness, you've never met or had contact with Adem Demaci;
21 right?

22 A. Correct.

23 Q. And he wasn't a member of the KLA's General Staff; right?

24 A. I have no knowledge of that one way or the other.

25 Q. Do you know whether or not he was appointed to his role by the

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1 KLA General Staff?

2 A. I have no knowledge of that one way or the other.

3 Q. When you were asked this morning for the basis upon which you
4 drew the conclusion Mr. Thaci was being closely controlled from the
5 outside, you mentioned a number of factors. And the first related to
6 multiple telephone conversations.

7 You didn't hear what Mr. Thaci said during those telephone
8 conversations; right?

9 A. I did not understand the Albanian being used in those telephone
10 conversations.

11 Q. And as you testified this morning, when those phone calls came
12 in, he went to the corner of the room or outside; right?

13 A. Correct.

14 Q. Does that also mean that you were not able to hear what was
15 being said to Mr. Thaci by the speaker on the other end of the line?

16 A. That is correct. Yes.

17 Q. Over the last two years, have you met or had any contact with
18 any member of Mr. Thaci's Defence other than when you gave your
19 interview, your -- you provided your statement and your preparation
20 sessions?

21 A. Not with respect to the case.

22 Q. And in respect to other matters?

23 A. Yes.

24 Q. And who was that contact with?

25 A. Kate Gibson.

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1 Q. And would that be by virtue of her position in the PILPG?

2 A. Yes.

3 Q. During your Defence preparation meeting, you said that at
4 Rambouillet you never advised Mr. Thaci or the Kosovar delegation
5 that they had an obligation to investigate and prosecute crimes on
6 their own. And you also said that crimes by the KLA were not part of
7 the conversation or the narrative at the time, and you testified to
8 that effect earlier today as well.

9 A. Correct.

10 Q. I'm going to show you a document, and then I'm going to ask you
11 some questions.

12 MR. PACE: Could we please call up SPOE40010969-40010978.

13 Q. And on our screen is a book you co-authored; right?

14 A. Correct.

15 Q. I should be even more precise. It's the cover of the book you
16 co-authored.

17 A. Yes.

18 MR. PACE: And let's please turn to page SPOE40010971. And if
19 we could zoom in.

20 Q. We see towards the middle "Copyright 2002." Is that when this
21 book was published?

22 A. Yes.

23 Q. And do you recall whether you wrote this in 2002 or earlier?

24 A. Likely would have been earlier. It takes about a -- yes.

25 Q. So, for example, in 2001, perhaps?

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1 A. Yes.

2 MR. PACE: I'd like to turn to, within the same document, page
3 SPOE40010975, please. And here let's zoom in on the right-hand side,
4 the right page, and then the second paragraph from the bottom. So as
5 we are and a little further down. Thank you.

6 Q. So I'm going to read from the last sentence of the penultimate
7 paragraph, starting with "As a result ..."

8 "As a result, in the mid 1990's some elements of the Kosovo
9 Albanian population formed the Kosovo Liberation Army, which murdered
10 members of the Serbian police and military forces and perceived
11 Kosovo Albanian collaborators."

12 Witness, when did you first learn that KLA members murdered
13 perceived Kosovo Albanian collaborators?

14 A. Let me try to recall. I guess -- well, sorry. I do not know.

15 MR. PACE: We can take this item down and instead let's please
16 call up SPOE40010668-40010708.

17 Q. And, of course, Witness, your answer was "I do not know," but
18 certainly, given your answer earlier, it must have been at the latest
19 in 2001. Would that make sense?

20 A. Yeah. I was trying to not misstate a specific fact as to when,
21 but it would have been before the book was published, probably in
22 conducting the research in 2000, 2001.

23 Q. Thank you for clarifying.

24 A. Sure.

25 Q. And on the screen now, we see an article which you authored, or

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1 at least attributed to you, "Earned Sovereignty: The Road to Resolve
2 the Conflict over Kosovo's Final Status." And do you recall this
3 article?

4 A. Yes.

5 Q. And you wrote it; right?

6 A. Yes.

7 Q. And we see it seems to have been published in January 2003. Do
8 you recall if you wrote it in January 2003 or before?

9 A. This would have been a closer timeline, so it would have been
10 the end of 2002. Let's say November, December.

11 MR. PACE: Within this article, I'd like to turn to page
12 SPOE40010680, please. And here, if we can zoom in on the first
13 paragraph, I'm going to read from "As a result ..."

14 Q. "As a result, in the mid 1990s some elements of the Kosovar
15 Albanian population formed the Kosovo Liberation Army, which murdered
16 members of the Serbian police and military forces and perceived
17 Kosovar Albanian collaborators."

18 Witness, so here essentially you're using the identical language
19 in the previous publication; correct?

20 A. Yes.

21 MR. PACE: We can take this item down.

22 Q. As we mentioned briefly, earlier today you made an assertion
23 about the KLA crimes not being part of the conversation also in your
24 Defence preparation session. Does that mean you were not aware, for
25 example, of Ambassador Gelbard's February 1998 very strong

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1 condemnation of unacceptable KLA violence?

2 A. What specific press release or interview are you referring to so
3 I can be as precise as possible in my answer?

4 Q. We can start with the question I asked without specific
5 references. Were you aware of any statement by Ambassador Gelbard to
6 that effect?

7 A. I was aware that Ambassador Gelbard was using the word
8 "terrorist organisation" in referring to the KLA. That is my
9 recollection on that question.

10 Q. And when did you learn that Ambassador Gelbard was using the
11 word "terrorist organisation" in relation to the KLA?

12 A. That I do not know.

13 Q. Do you know whether it was before Rambouillet that you learned
14 that?

15 A. He was using the word "terrorist organisation" before
16 Rambouillet.

17 Q. When you got to Rambouillet, were you aware that almost a year
18 earlier, in March 1998, US Secretary of State Albright referred to
19 the liberation movement in Kosovo as having judged, tried, and
20 executed the ethnic Serbs and Albanians it did not like?

21 A. I was not aware of her comments.

22 Q. Were you aware of a November 1998 *New York Times* article
23 reporting that experts estimate that the rebels in Kosovo had
24 kidnapped more than 200 Serbs, with most believed to have been
25 killed?

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1 A. I do not recall at the moment whether I had read that article.

2 Q. Let's call it up just to see if it refreshes your recollection.

3 MR. PACE: And this is V000007, please.

4 So here we see a page from *The New York Times International*
5 dated 25 November 1998, and the article titled "Tiny Step to Help the
6 Cease-fire in Kosovo." And if we can zoom in on the first paragraph,
7 please, so the first column.

8 Q. I'm just going to read from the last sentence of this column:

9 "After American diplomats had interceded, a Serbian police
10 officer whom rebels kidnapped a week ago, Goran Zbiljic, was
11 released.

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

15 Does that refresh your recollection as to whether you were aware
16 or not of this report from November 1998?

17 A. I do not have a specific recollection of this particular article
18 on this topic.

19 MR. PACE: We can take this item down.

20 Q. And, Witness, am I correct in recalling that on 26 February
21 1999, you would have been back in Washington DC?

22 A. Yes.

23 Q. And during your time -- so there we're in the period of time
24 between Rambouillet and Paris; right?

25 A. Yes.

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1 Q. At that time, or at any point thereafter, would you have read
2 parts of the US Department of State report, which was released on
3 26 February 1999, addressing Kosovo in the context of human rights
4 practices for 1998?

5 A. No, I would not have.

6 Q. So you weren't aware that this report refers to elements of the
7 KLA being responsible for killings, disappearances, abductions,
8 detentions, including of Serb and Albanian civilians suspected of
9 loyalty to the Serbian government; right?

10 A. I would not have read that report.

11 Q. Ever?

12 A. The State Department human rights report? No.

13 Q. You have stated that in spring of --

14 A. Sorry, to be clear, you mean the annual report that the
15 State Department does for every country around the globe? Is that
16 the report you're referring to?

17 Q. I'll call it up to avoid --

18 A. Yeah. Just to --

19 Q. -- any confusion?

20 A. Yes.

21 MR. PACE: And can we please call up SPOE00397688-00397704,
22 please. And if we can zoom in but go a little bit further down.

23 Q. We see "US Department of State, Serbia-Montenegro Country Report
24 on Human Rights Practices for 1998, Released by the Bureau of
25 Democracy, Human Rights, and Labor, February 26, 1999."

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1 A. Yes. So this would be one of the reports that they do for every
2 country around the globe, and I would not have read this.

3 MR. PACE: We can take the item down.

4 Q. You've stated that in spring and summer 1999, you continued to
5 follow the Kosovo conflict, including through the media, and that, as
6 you followed the conflict at the time, through the media and other
7 ways, you did not learn of any crimes allegedly committed by KLA
8 members; is that right?

9 A. And where -- is this in my statement or -- okay.

10 Q. I can take you to it.

11 A. Yeah, that would be helpful.

12 MR. PACE: Let's please call up --

13 THE WITNESS: Just so I can be as precise as possible.

14 MR. PACE: Of course.

15 Let's please call up 128837-TR-ET Part 1, please.

16 Q. So I'm not sure if you've seen this document, Witness, but this
17 is a transcription of the SPO interview you had that we had via Teams
18 two weeks ago.

19 A. I have not seen this document. Thank you.

20 Q. And we see the date 2 September 2025. Do you recall meeting the
21 SPO on that date?

22 A. Yes.

23 MR. PACE: And let's please turn to page 26 of this document.

24 Q. And I'm going to read from line 12:

25 "Q. In your statement, you said after spring and summer 1999,

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1 you happened to follow the Kosovo conflict, and you spoke frequently
2 with public media about NATO intervention in Kosovo. How did you
3 follow the conflict at the time?

4 "A. Through tracking the media, conversations with the American
5 Albanian community present here in the United States, and also
6 conversations with the Americans that were policy shapers on this
7 question.

8 "Q. And as you followed the conflict at the time through the
9 media and the other ways you just described, did you learn of any
10 crimes allegedly committed by KLA members?"

11 And your answer was:

12 "No."

13 Does this refresh your recollection?

14 A. Yes, this is -- yes, it refreshes my recollection.

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

16 Q. And does this then mean, for example, that you did not hear
17 about German troops finding 15 prisoners, including an elderly man
18 who was found dead, handcuffed to a chair and badly beaten, in a
19 building that had been taken over by the KLA in June 1999?

20 A. That specific instance, no.

21 Q. Did you have access to *The New York Times* at the time in June
22 1999?

23 A. Yes.

24 Q. And would you have had access to CNN at the time or around that
25 time?

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1 A. Yes.

2 Q. And do you recall a *New York Times* front page reporting about
3 the incident I referred to?

4 A. No.

5 Q. Do you recall *cnn.com* reporting on the incident I referred to?

6 A. No.

7 Q. Earlier we mentioned -- or, rather -- yes, we mentioned, or you
8 testified this morning, your close relationship with Veton Surroi.
9 Are you aware of any threats made to Surroi in *KosovaPress* in October
10 1999 after he published an article in *Koha Ditore* referring,
11 *inter alia*, to the organised and systematic intimidation of all Serbs
12 simply because they are Serbs and therefore are being held
13 collectively responsible for what happened in Kosovo?

14 A. No, not specifically. I can provide more context if you'd like.

15 Q. Please.

16 A. Veton, when that -- we -- I'm thinking of the timing now. Veton
17 was always focused, appropriately so, on maintaining a multi-ethnic
18 Kosovo. And in the many conversations that Veton and I have had, he
19 was keen on that balance between protecting the rights and privileges
20 of Serbian minorities but not going so far that it would create
21 partition or a political gridlock.

22 Q. Understood.

23 MR. PACE: Can we please call up P01519. And here can we turn
24 to page 105848, please.

25 Q. And, Witness, we can see at the top here this reads: "Forces Of

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1 Intolerance Threaten To Consume Kosovo, By Peter Finn,
2 *Washington Post* Foreign Service, *Washington Post*, October 13, 1999."
3 And I'm going to read from the bottom half of this page, starting
4 with the words "'From having been victims ...'"

5 MR. PACE: So if we scroll down a little bit -- yes, I see the
6 words there.

7 Q. And you can follow as I speak or on your screen:

8 "'From having been victims of Europe's worst end-of-century
9 persecution,' wrote Surroi in his newspaper commentary, 'we are
10 ourselves becoming persecutors and have allowed the spectre of
11 fascism to reappear....I know the excuses - that we have been through
12 a barbaric war in which Serbs committed the most heinous crimes; that
13 the intensity of violence has generated a desire for vengeance.
14 This, however, is no justification.'

15 "The response to Surroi's plea for pluralism demonstrated the
16 virulence of a smothering orthodoxy here that brooks no criticism.
17 In an article this month in Kosovapress, the official news agency of
18 the interim government led by former KLA political leader
19 Hashim Thaqi, Surroi and his editor-in-chief, Baton Haxhiu, were
20 described as a 'pro-Serb vampires.'

21 "The author, heaping the life-threatening charge of
22 collaboration on Surroi and Haxhiu, went on to say that 'people like
23 them...should themselves realise that, one day, they too may be the
24 targets of some personal vendetta, which is quite understandable.
25 Therefore, both Veton Surroi and Baton Haxhiu, these ordinary

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1 Mafiosi, should not be left unpunished for their criminal acts, since
2 their idiosyncrasies deliver water to arch-criminal Milosevic's
3 mill.'

4 "The published attack, which was read as a death threat by the
5 United Nations and human rights workers here, drew only the most
6 muted condemnation from the Thaqi government. Kouchner 'read the
7 riot act' to Thaqi, Western officials said, and then refused to meet
8 with representatives of his government for a number of days in
9 response.

10 "'We didn't take calls, denied meetings to register our
11 disgust,' said one UN official.

12 "UN officials, however, fear that the article, despite Thaqi's
13 denials, was sanctioned at the highest level of the government. And
14 they therefore feel that it represents a troubling authoritarian
15 streak in the political class emerging from the KLA, which fought a
16 16-month war for independence against the Yugoslav army and Serbian
17 police and paramilitary forces."

18 And my question is: Would you have read this article in
19 *Washington Post*, or would Mr. Surroi have discussed any of this with
20 you in any of the years when this happened or thereafter?

21 A. Vetton did not discuss this with me beyond a general
22 understanding that there was a tense relationship. And I don't
23 recall reading this specifically.

24 Q. A tense relationship between whom?

25 A. Between the -- between Vetton at the time -- at the time between

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1 Veton and Hashim Thaci.

2 Q. And could you be more specific? When you say "at the time,"
3 what time is that?

4 A. It would have been after the end of the NATO campaign and the
5 efforts of Kosovo and NATO and the UN to establish a stable peace in
6 Kosovo. As I mentioned earlier today, the political situation in
7 Kosovo is like a kaleidoscope, and at any given time --

8 Q. Thank you, Witness. I was asking for a time period, and I think
9 you've answered.

10 MR. PACE: So we can take this item down, and I'm just going to
11 call up another document, DHT06689-DHT07080. And here we can turn to
12 page DHT06691, which should be the third page. And if we can zoom
13 out a little bit.

14 Q. We see here "Kosovo, War and Revenge, Tim Judah." Are you
15 familiar with this publication?

16 A. I'm familiar with Tim Judah. The publication does not ring a
17 bell off the top of my head.

18 MR. PACE: Let's turn to page DHT07025, where I will read from
19 the second paragraph and then to the following page. Thank you.
20 That's good. I'll start reading.

21 Q. "Now the situation had reversed itself. Surroi was reopening
22 the Pristina office of *Koha Ditore*, which, during the bombing and
23 thanks to British money, had been published in Tetovo in Macedonia.
24 He decided to use its pages to speak out."

25 And we see this in block which indicates a quotation:

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1 "In the past month an old woman has been beaten to death in her
2 bath; a two-year-old boy has been wounded and his mother shot dead;
3 two youths have been killed with a grenade launcher; and a woman
4 dares not speak her name in public for fear that those who attempted
5 to rape her will return."

6 Now we're out of the block quote.

7 "The article went on to point out that these were 'not isolated
8 incidents' and that frightened Serbs had locked themselves in their
9 homes 'terrified by an atmosphere in which every sound seems
10 threatening and every vehicle that stops might take you away to your
11 death'. Albanians had been warned not to 'feed Serbs,' he said."

12 MR. PACE: We're now getting -- if we can scroll down to the
13 next block quote.

14 Q. "I know how Kosovo's remaining Serbs, and indeed Roma, feel,
15 because I, along with nearly 2 million Albanians, was in exactly the
16 same situation only two and a half months ago. I recognise their
17 fear ... This is why I cannot hide my shame to discover that, for the
18 first time in history, we Kosovo Albanians are also capable of such
19 monstrous acts. I have to speak out to make it clear that our moral
20 code, by which women, children and elderly should be left unharmed,
21 has been and is being violated.

22 "I know the obvious excuse, namely that we have been through a
23 barbaric war in which Serbs were responsible for the most heinous
24 crimes and in which the intensity of the violence has generated a
25 desire for vengeance among many Albanians. This however is no

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1 justification."

2 Again, now we're moving out of the quotes.

3 "What was happening, thundered Surroi, was 'the organised and
4 systematic intimidation of all Serbs simply because they are Serbs
5 and therefore are being held collectively responsible for what
6 happened in Kosovo.' Everyone understood this to mean the KLA."

7 And if we go on to the next page, please.

8 THE INTERPRETER: The interpreters kindly ask the speaker to
9 slow down when quoting. Thank you very much.

10 MR. PACE: Certainly. We're now getting to a quote, and I will
11 slow down.

12 Q. "Such attitudes are fascist. Moreover it was against these very
13 same attitudes that the people of Kosovo stood up and fought, at
14 first peacefully, and then with arms, during the past 10 years. The
15 treatment of Kosovo's Serbs brings shame on all Kosovo Albanians ...
16 from having been victims of Europe's worst end-of-century
17 persecution, we are ourselves becoming persecutors and have allowed
18 the spectre of fascism to reappear.

19 "Anybody who thinks that the violence will end once the last
20 Serb has been driven out is living in an illusion. The violence will
21 simply be directed against other Albanians. Is this really what we
22 fought for?"

23 And now we're moving on to the non-quoted portion. I just have
24 a few more lines to read and then I'll ask you a question.

25 "Surroi was widely praised abroad for his courageous stance.

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1 But not at home. On 2 October *Kosovapress*, which had been the
2 mouthpiece of the KLA and was now linked to Thaci and his provisional
3 government, attacked Surroi and Baton Haxhiu who was now editing
4 *Koha Ditore* (Surroi is the proprietor). It warned that they risked
5 'eventual and very understandable revenge,' said that 'such criminals
6 and enslaved minds should not have a place in the free Kosovo' and
7 accused them of having a 'Slav stink' about them."

8 And, Witness, in your interactions over the years since 1999
9 with Mr. Surroi, has he ever mentioned anything to this effect about
10 the views that this book and the article before it stated he
11 expressed in Kosova and thereafter of the reaction that provoked, in
12 particular, the *KosovaPress* article?

13 A. Veton and I discussed quite frequently an adjacent question.
14 Veton and I discussed that in Kosovo's path to independence, the
15 situation, the violations that had occurred after the NATO air
16 campaign jeopardised the progressive path toward independence. So
17 this detail, this level of focus, no. But I want to be clear that
18 from the end of the air campaign and the human rights violations
19 which occurred after the air campaign, I was aware of. I don't want
20 to create the impression that I was never aware of any human rights
21 violations.

22 And when Veton and I had conversations, it was more as him and I
23 speaking, him speaking to me as a lawyer, how does this impact our
24 progress towards self-determination and independence, and he was
25 deeply and quite appropriately worried about that.

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1 Q. Thank you, Witness.

2 MR. PACE: I have no further questions for you.

3 Your Honour, as with the last witness, I have no further
4 questions at this point, bearing in mind that there are multiple
5 Defence witnesses for whom we have no summary and no statement whose
6 evidence may touch upon issues related to the substance of this
7 witness's testimony. While we make no application for re-call at
8 this stage, we reserve our right to do so.

9 PRESIDING JUDGE SMITH: Thank you. You may be seated.

10 Mr. Misetic.

11 MR. MISETIC: If I may just consult with my client for a moment.

12 PRESIDING JUDGE SMITH: Sure.

13 MR. MISETIC: Thank you.

14 [Specialist Counsel confer]

15 MR. MISETIC: Thank you, Mr. President. We have no redirect.

16 PRESIDING JUDGE SMITH: All right. Since there's only about
17 five minutes left, we will end for today. You'll have to be here
18 tomorrow morning at 9.00. We will hopefully be able to deal with the
19 rest of your testimony tomorrow in an efficient manner. Thank you
20 for being with us.

21 Remember not to discuss this with anyone. I know I don't need
22 to tell you that because of your training, but I do anyway because
23 it's embedded here, you know. So thank you for being with us. We'll
24 see you tomorrow.

25 THE WITNESS: Thank you.

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 --- Whereupon the hearing adjourned at 4.22 p.m.

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