

1 Tuesday, 18 November 2025

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

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

12 Today we will continue to hear the evidence of Thaci Defence
13 Witness 1DW-007.

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

16 On 30 October 2025, the SPO requested to add or replace
17 currently admitted versions of several documents with recently
18 disclosed revised versions of the admitted exhibits. There are seven
19 individual requests. The Defence and the Victims' Counsel will have
20 an opportunity to comment on each one of them after all the requests
21 have been read.

22 First, the SPO request to replace P00515_ET.77 with
23 008879-00881-ET_extract_F03214, which was disclosed in Disclosure
24 Package 1815. The Panel notes that the new extract contains only the
25 pages of the item that were tendered by the SPO in F03114-A02, item

1 2, and admitted by Decision F03214.

2 Second, the SPO request to add 066769-066769-ET to P01616, which
3 was disclosed in Disclosure Package 1814. The Panel notes that the
4 new item provides a translation of the witness's handwritten
5 annotations on P01616.

6 Third, the SPO request to replace P0310_ET with
7 SPOE00056467-SPOE00056467-ET Revised. The item was disclosed in
8 Disclosure Package 1793. The SPO submits that the revised item
9 accurately reflects the admitted original, and that page
10 SPOE00056467, at the fourth paragraph, includes a part that was
11 missing from the admitted translation in P00310_ET. The Panel notes
12 that the word added to the revised translation is "Bujar."

13 Fourth, the SPO request to add 125893-02-TR/125893-02-TR-ET,
14 which was disclosed in Disclosure 1757, to P04221/P04221.1. The
15 Panel notes that the new items are the English and Albanian
16 transcripts of a video admitted in Decision F03214 as P04221,
17 together with the corresponding *Associated Press* archive file which
18 was admitted as P04221.1.

19 Fifth, the SPO requests to replace P01712.1_ET with 06119-TR-ET
20 Part 1 Revised RED. The revised item was disclosed in Disclosure
21 Package 1793. The SPO submits that page 16, line 6 of this English
22 transcript was revised to accurately reflect the admitted Albanian
23 original.

24 Sixth, the SPO requests that P01086_ET/P01086_AT be replaced by
25 061427-03-TR-Revised and 061427-03-TR-Revised-ET, which were

1 disclosed in Disclosure Package 1813. The SPO submits that the new
2 items more accurately reflect the admitted video, including the
3 correction of an inaccurate reference to "Cali" on page 1 which
4 should be "Celik."

5 Seventh, the SPO requests that page SPOE00231058 of P01091_ET be
6 replaced by page SPOE00231058 of SPOE00231037-SPOE0023118-ET_Revised.
7 The revised page was disclosed in Disclosure Package 1814. The SPO
8 submits that paragraph 2 of the item was revised to accurately
9 reflect the admitted Albanian original.

10 So I almost got my voice back before I had to read that all to
11 you again. Any objections to these additions and corrections?

12 MR. DIXON: Your Honours, we do have to double-check a few of
13 them, and I would ask if we could just have time over the break to do
14 that. We don't expect there to be any issue, but there are just one
15 or two that do need to be reviewed.

16 PRESIDING JUDGE SMITH: I believe we will have a break at
17 11.30 -- 11.00, I'm sorry, to 11.30, so during that time period you
18 can perhaps have time. Will that give everyone adequate time to
19 check? All right.

20 MR. DIXON: Yes, I'm grateful for that.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. DIXON: Thank you, Your Honours.

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

24 We will now continue with the evidence of Thaci Defence
25 Witness 1DW-007. I remind the parties and participants of the

1 measures authorised for this witness in filing F03558 pursuant to
2 Rule 107.

3 Madam Court Officer, please bring the witness in.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: Good morning, General Clark.

6 THE WITNESS: [Microphone not activated].

7 PRESIDING JUDGE SMITH: General Clark, today we will continue
8 with your testimony. I remind you to please try to answer the
9 questions clearly with short sentences. If you don't understand a
10 question, feel free to ask counsel to repeat the question or tell
11 them you don't understand and they will clarify. Also, please try to
12 indicate the basis of your knowledge of the facts and circumstances
13 upon which you will be questioned.

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

16 Please also remember to speak into the microphone and wait five
17 seconds before answering a question, and then try to speak at a slow
18 pace for the interpreters to catch up.

19 And, once again, if you feel the need to take a break, just let
20 us know and we will accommodate you.

21 We continue with the cross-examination by the Special
22 Prosecutor's Office. Please give them your attention.

23 Mr. Halling, you have the floor.

24 MR. HALLING: Thank you, Your Honour.

25 WITNESS: WESLEY CLARK [Resumed]

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 Cross-examination by Mr. Halling: [Continued]

2 Q. Good morning, General. How are you?

3 A. Good morning.

4 MR. HALLING: So if the Court Officer could please pull up
5 1D214, page SPOE00212681.

6 Q. Witness, we were talking yesterday about --

7 PRESIDING JUDGE SMITH: Just a second. I'm not getting -- oh,
8 okay. I wasn't getting a feed, but go ahead.

9 MR. HALLING: Yes. You can hear me now?

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. HALLING: Yes.

12 Q. You were talking yesterday about having -- as NATO had to be
13 prepared for anything that could happen, NATO had to be planning for
14 the prospect of a Serb counterattack into Kosovo. That's correct,
15 right?

16 A. Say that again? What's the question?

17 Q. The question was whether NATO had to plan for the prospect of a
18 Serb counterattack?

19 A. No, NATO did not have to plan, and I was given no instructions
20 to do such a plan. But it was incumbent upon me, as the commander
21 overall, to warn my subordinates to be prepared in the event of an
22 eventuality that was unforeseen, just as it happened at Prishtina
23 airfield.

24 Q. So with that in mind, I would like to go to something in
25 General Jackson's book that you were shown in your preparation

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Cross-examination by Mr. Halling (Continued)

1 session.

2 A. Yeah.

3 Q. It's on this page. It's a little further down. I understand
4 you were shown the third paragraph on the page.

5 So it's this exchange with General Jackson. You're quoted as
6 saying the following:

7 "'When the Serbs come over I am going to do everything I can to
8 finish the fight,' Wes told me on the VTC from Mons. This time, he
9 said, 'we will go the whole way' - presumably all the way to
10 Belgrade. Clark talked a lot about Serbs coming back in. He said
11 that we should 'welcome' a Serb attack."

12 Now, this is discussed a lot in your preparation session.
13 First, was this an exchange that you had with General Jackson?

14 A. You know, honestly, I don't remember it. And if I do remember
15 anything like it, it wasn't characterised this way. Jackson and I
16 had a different appreciation of the situation, and so I think it's
17 fair to explain to the Court what this difference was.

18 It was a difference in national perspectives. Jackson had been
19 involved -- he was a Brit. He had been involved in the situation in
20 Ireland. He'd seen it. I'd been involved in a situation in Bosnia.
21 I'd seen that up close. I knew what the Serbs were capable of, and I
22 knew what the consequences would be. And from the very beginning, I
23 think there was a difference in our perspectives on this. And I
24 think that was sharpened by the discussion at Prishtina airfield.

25 I never read Jackson's book, but I do know, and I don't want to

1 disparage a colleague who is no longer with us, but I think there's
2 some, let's say, creative interpretation of what I said here.

3 Q. Now, when you were shown this, you responded as follows in your
4 preparation session, and I'll just read --

5 A. Actually, I was never -- correction: I was never shown this
6 bottom paragraph. I never saw it. So my response was to the upper
7 paragraph.

8 Q. Okay.

9 A. The one that began: "... only a few days later ..."

10 And I would not characterise it as obsessing. I would say it
11 was my responsibility as the commanding general in the overall
12 strategic operation to be prepared for unforeseen contingencies.

13 Q. So what you said in the preparation session connects to what you
14 just said now, that your responsibility was to ensure that, should
15 the Serbs attempt to invade Kosovo, they would be met by a prepared
16 NATO force. However, you did realise Milosevic still harboured
17 malign intent, and he believed he may attempt to strengthen his
18 forces in Montenegro.

19 A. That's right.

20 Q. You reiterated -- sorry?

21 A. Correct.

22 Q. That's correct.

23 A. That's what I said.

24 Q. Yes. And then just to finish, you reiterated that you never saw
25 any real indication of the possibility of Serb re-invasion. You

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Cross-examination by Mr. Halling (Continued)

1 wanted to make sure General Jackson was to prepare to deal with
2 anything that happened.

3 We've been told that's in response to the third paragraph on
4 this page. Did the quote at the beginning, "'When the Serbs come
5 over I am going to do everything I can to finish the fight,'" just is
6 that something you said?

7 A. It may have been something I said. Because from the outset of
8 this, I made clear to the NATO command that we were going to do what
9 we could to succeed in this operation. And from the beginning, I
10 applied the lessons I had learned from Vietnam, from my military
11 experience, from the planning of Haiti and Bosnia participation, that
12 when you go into an operation like this, you should seek decisive
13 outcomes.

14 Q. And part of the mandate for this operation was to deter renewed
15 hostilities; correct?

16 A. Say the question again? I want to make sure I answer it
17 correctly.

18 Q. Part of the mandate for this operation --

19 A. Which operation?

20 Q. The operation you were just describing in your previous answer,
21 the international security presence in Kosovo --

22 A. Okay.

23 Q. -- part of that was to deter renewed hostilities.

24 A. That's exactly right.

25 MR. HALLING: If we could now go to SPOE00405847 to 00405880,

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Cross-examination by Mr. Halling (Continued)

1 and we'll just stop for a moment on the first page.

2 Q. General, you actually gave multiple testimonies before the
3 United States Senate Armed Forces Committee in 1999 and 2000; is that
4 correct?

5 A. I do remember testifying.

6 Q. Yes. So you can see on the page here this is one of those, and
7 it's one that you -- on 1 July 1999. And there's a specific answer
8 that you gave that I wanted to ask you about.

9 MR. HALLING: It's on page SPOE00405851.

10 Q. And so you are asked around the middle of the page how long an
11 international force would be present in Kosovo, and this is how the
12 beginning of your answer is recorded:

13 "Mr. Chairman, I think it's not possible at this time to give a
14 definitive answer to the question. So let me sketch out some of the
15 considerations that I think bear on the issue. First of all, there
16 is no peace settlement yet in Kosovo. We're essentially in there
17 under a cease-fire."

18 So what you were entering in Kosovo wasn't a peace settlement,
19 it was a cease-fire; correct?

20 A. That's the way I characterise it, yes. A cease-fire plus a
21 withdrawal of the Serb forces under a UN mandate.

22 Q. And there still wasn't a peace agreement even by mid-September
23 1999; correct?

24 A. That's technically correct. And there wasn't really until, I
25 think, 2008 when Kosovo achieved independence.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 Q. And in your position as SACEUR, you remained concerned about
2 Serb generals threatening to come back into Kosovo even after
3 September 1999; isn't that right?

4 A. I remained concerned about Serb potential aggression in the
5 region, not only in Kosovo but also in Montenegro, and there was a
6 reason for that.

7 Q. So when you were talking yesterday about Serb generals giving
8 disinformation, not wanting to admit defeat, there was still a real
9 concern on your part that they would come back?

10 A. Let's put it this way: If you had asked me were they coming
11 back, I would have said no. If you'd asked me what my responsibility
12 was, it was to make sure they did not come back. And, therefore, it
13 was my responsibility to make sure that the command understood the
14 potential risk, and to make sure that there was no complacency on --
15 complacency on the part of the commanders working for me, including
16 Mike Jackson.

17 Q. I actually asked you neither of those questions. What I asked
18 was, was there a real concern on your part that they would come back.

19 A. I know you didn't ask me those questions, but, counsel, if you
20 will give me the -- Mr. Prosecutor, if you will give me the
21 understanding of where this conversation's going. I understand that
22 -- what you're attempting to show. What I'm attempting to explain is
23 why I made the statements I did, not because there was a state of war
24 and continuing conflict, but because of the lack of resolution,
25 because of the continuing information I was receiving about Serb

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Cross-examination by Mr. Halling (Continued)

1 statements and other things and the belligerence and anger in the
2 Serbs's military from having left, and the fact that Milosevic was a
3 -- he was a clever, canny character who had many ways to operate.

4 So if you're asking me to make a judgment 25 years, 26 years
5 later, was there a chance that Serbia would come back in, it's easy
6 to say: Of course there was no chance Serbia was going to come back
7 in. And when Mike Jackson wrote this book somewhere 10 or 15 years
8 after the event, of course everybody knew they weren't coming in.
9 But at the time, I would have been remiss in my responsibilities had
10 I simply said, "Gentlemen, it's over. Let's relax. This is a state
11 of peace, and, you know, go about our business." That would have
12 been an improper attitude for me as a commander in the field.

13 Q. I understand that that's what you needed to project as a
14 commander in the field.

15 A. Right.

16 Q. My question is just about you personally. Were you personally
17 concerned about the Serb generals threatening to come back?

18 A. You know, it's -- I must have been somewhat concerned because I
19 wouldn't have said anything. But on the other hand, it was my
20 responsibility. Remember, this was -- when this conflict ended, it
21 ended with the Russian attempt to discredit and destroy the NATO
22 operation through the Prishtina airport caper. We never have
23 learned, really, the truth behind this. We know that
24 Colonel General Ivanov, who was one of the leaders at the time, was
25 decorated in the Kremlin for this operation and considered it a great

1 success. But, in fact, what happened, and thanks to Mike Jackson on
2 the ground, is that the Russians were sort of bottled up in the
3 airfield.

4 So what they had was a momentary crisis of command. But it was
5 a crisis in command that was very, very significant because at the
6 time that the operation kicked off in -- when the Russians crossed
7 the Drina, it was early morning on Friday, June 11th, and shortly
8 thereafter, we began to get indications through intelligence sources
9 that this wasn't simply a one battalion renegade force, that there
10 was a malign plan behind it, and that plan stemmed from -- with
11 Russian airborne divisions preparing to be moved into Kosovo. And so
12 that added a much more sinister context to it.

13 Now, after the incidents on the 11th of December and the
14 settlement, then, as I recall, Secretary Albright, Secretary Cohen
15 were in Finland for some time trying to negotiate this out with the
16 Russians. I was on the phone several times, as I recall, with
17 Secretary Cohen, explaining that, no, the Russians are not legitimate
18 actors, the Russians are there with an axe to grind, and please don't
19 upset the NATO operation and the plans that have been laid by making
20 extra accommodations after Moscow has tried to disrupt the
21 operations.

22 I don't remember all the details of these conversations. Maybe
23 Secretary Cohen would. But the point was that there was an unsettled
24 period that went on for maybe two weeks, three weeks afterwards,
25 during which these other incidents occurred.

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Cross-examination by Mr. Halling (Continued)

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1 So we knew that there was a certain dissatisfaction, let's say,
2 further east, with the outcome of the operation. And this also
3 coincided with the rise of Yevgeny Primakov and Vladimir Putin inside
4 Russia. Primakov had been re-called from exile. He was at that time
5 the foreign minister --

6 PRESIDING JUDGE SMITH: Just --

7 THE WITNESS: I'm --

8 PRESIDING JUDGE SMITH: You're kind of answering a question that
9 wasn't asked.

10 THE WITNESS: It's true, but I think it's important that the
11 Court understand the context in which I as the strategic commander,
12 not the man on the ground --

13 PRESIDING JUDGE SMITH: Just a second, General --

14 THE WITNESS: -- the strategic commander --

15 PRESIDING JUDGE SMITH: General, he's going to have to ask you
16 questions, and you have to answer them, and then Defence counsel has
17 a chance to have another go.

18 THE WITNESS: Okay.

19 PRESIDING JUDGE SMITH: So they'll get a chance to --

20 THE WITNESS: I see.

21 PRESIDING JUDGE SMITH: -- delve into some those issues that
22 maybe you thought should have been asked but weren't.

23 THE WITNESS: Okay. Thank you.

24 MR. HALLING: Yes. And, General, just to focus on exactly the
25 statement that I'm interested in, if we could go to DHT10293 to

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Cross-examination by Mr. Halling (Continued)

1 DHT10336.

2 Q. And this is, I believe, consistent with what you were saying at
3 the beginning of your last answer, but I just would like to confirm
4 it for the record.

5 MR. HALLING: I'll wait for the Court Officer to pull it up on
6 the screen.

7 Q. You can see this is another hearing of the US Senate Armed
8 Services Committee and you are there.

9 MR. HALLING: And if we go to page DHT10335.

10 Q. And this is also -- this is actually a discussion about the
11 Apache helicopter deployment, but the part of the answer I was
12 interested in was here, where you said:

13 "Yes, sir, that's correct. And of course at the time we had no
14 idea how long it was going to be. But in retrospective, as I look
15 back on it of course, the other things is I am still concerned about
16 the Serb forces. We still got defiant Serb generals out there
17 threatening to come back into Kosovo."

18 That's testimony that you gave in February 2000; correct?

19 A. Mm-hmm. Yes.

20 MR. HALLING: Your Honour, we would ask to admit the pages shown
21 of the US Senate hearings that were just used with the witness from
22 the July 1, 1999, hearing. It would be the first page, which would
23 be SPOE00405847, and then page SPOE00405851, and then from the
24 hearing that's currently on the screen, DHT10293 and then DHT10335.

25 PRESIDING JUDGE SMITH: Any objection?

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Cross-examination by Mr. Halling (Continued)

1 MR. MISETIC: Your Honour, if we can have until the 11.30 break.
2 I just want to research whether a Senate hearing is considered a
3 legal proceeding which would convert this to a statement for purposes
4 of 153 to 155.

5 MR. HALLING: Well, we've already done that research. This is
6 not a statement taken in the context of --

7 MR. MISETIC: Mr. President, can I --

8 MR. HALLING: -- law enforcement.

9 MR. MISETIC: -- have a chance to review it and then we can
10 argue on it if it needs to be argued.

11 PRESIDING JUDGE SMITH: Do you have any more questions on this
12 subject?

13 MR. HALLING: We have no more questions about these Senate
14 hearings, but our argument would be that this is similar to
15 parliamentary hearings that have been admitted in other places in
16 this trial. I can give the example of P942 which is, again, not
17 exactly the same kind of hearing, but this is not a hearing taken in
18 the context of a law enforcement investigation.

19 PRESIDING JUDGE SMITH: Well, we'll give counsel the opportunity
20 to take a look before we rule on it. So, yes, you may have until the
21 break, the half-hour break.

22 MR. HALLING: So, Your Honour, would these items then be MFI'd
23 for now?

24 PRESIDING JUDGE SMITH: Yes, they will be.

25 THE COURT OFFICER: Your Honours, the SPOE00405847 to 00405880,

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1 in particular pages SPOE00405847 and page 00405851 will be MFI'd with
2 number P04515.

3 And for the ERN range DHT10293 to DHT10336, and in particular
4 pages DHT10293 and the page 10335 will be marked for identification
5 with P04516.

6 Just to clarify the classification. For the P04515, currently
7 classified as confidential. And MFI P04516, currently classified as
8 public.

9 Thank you, Your Honours.

10 PRESIDING JUDGE SMITH: Yes, go ahead.

11 MR. HALLING: We would say that both of these can be public.

12 PRESIDING JUDGE SMITH: I'll rule on that when I decide on the
13 admissibility.

14 Go ahead.

15 MR. HALLING: Understood.

16 And the document can be taken off the screen.

17 Q. Moving to a new topic, General. You said that you viewed the
18 violence in the summer and fall of 1999 as a very personal conflict
19 of neighbour versus neighbour for which the KLA leadership was not
20 responsible. You said that in your statement; right?

21 A. That's right.

22 Q. And this was shown to you yesterday, the PBS News Hour, the
23 KLA's calls for a multi-ethnic society that you considered to be
24 genuine. I mean, just to begin, you were talking there about a lack
25 of evidence of KLA ethnic cleansing; correct?

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Cross-examination by Mr. Halling (Continued)

1 A. Correct.

2 MR. HALLING: If we can now put up on the screen 1D387.

3 Q. This is a statement from a newspaper called *Shekulli*, and I
4 don't believe it was shown to you previously by the Thaci Defence but
5 it has a quote of yours in it that I wanted to ask you about. It's
6 been asked about to other witnesses in this trial.

7 You're talking on August 14, 1999, and it says in relevant part:

8 "Clark said that the leaders of the KLA have supported their
9 calls for the Serbs to remain in the region. 'I will not point my
10 finger at the KLA. Their leader has been very cooperative with us at
11 senior levels,' the American general said for journalists in KFOR
12 headquarters. Some international officials have said that the KLA is
13 the initiator of attacks against Serbs, that they have expelled
14 170.000 Serbs from Kosovo."

15 General, this statement that you're giving that's reported here,
16 this is also about a lack of ethnic cleansing evidence on the part of
17 the KLA; correct?

18 A. Well, I had no evidence that the KLA was behind this, and I had
19 the contrary indications.

20 Q. Right. And when you say "this" in that answer, you're referring
21 to ethnic cleansing; yes?

22 A. I'm referring to the statement about the 170.000 Serbs allegedly
23 expelled from Kosovo.

24 Q. So your remarks about the KLA leadership are in relation to
25 those 170.000 Serbs --

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Cross-examination by Mr. Halling (Continued)

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1 A. That's right.

2 Q. -- leaving Kosovo. Now, the questions I want to ask now, they
3 are not about the broad wave of violence and house burnings and so on
4 in summer 1999 Kosovo. I only want to focus now on the KLA targeting
5 people for arrests and detention.

6 MR. HALLING: The article can now be taken off the screen.

7 Q. General, you spoke about how you seldom attended JIC meetings.
8 Do you know if concerns about KLA arrests and detentions were ever
9 discussed at those meetings?

10 A. I don't recall.

11 Q. Do you know if the KLA came to KFOR to report any crimes
12 committed by its members for investigation?

13 A. I don't recall that.

14 Q. At least until the UNMIK police apparatus became established,
15 KFOR was prepared to investigate such crimes; correct?

16 A. Correct.

17 Q. I'd like to now turn to your August 1999 visits to Kosovo.

18 MR. HALLING: And, Your Honour, because some of the documents
19 here are covered by Rule 107 restrictions, for the same reason they
20 were in private session yesterday for direct, we would ask that we
21 move into private session to discuss them again.

22 PRESIDING JUDGE SMITH: Private session, please,
23 Mr. Court Officer.

24 [Private session]

25 [Private session text removed]

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

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Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

Page 28220

Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

Page 28221

Cross-examination by Mr. Halling (Continued)

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Witness: Wesley Clark (Resumed) (Private Session)

Page 28222

Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

Page 28223

Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Private Session)

Page 28224

Cross-examination by Mr. Halling (Continued)

1 [Private session text removed]

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Witness: Wesley Clark (Resumed) (Open Session)

Page 28225

Cross-examination by Mr. Halling (Continued)

1 [Open session]

2 THE COURT OFFICER: Your Honours, we are in open session. Thank
3 you.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. HALLING: And, Your Honour, I note the time. Is it still
6 the Court's intention to take a ten-minute break?

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MR. HALLING: It can be now.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 I'm sorry. We'll give you a ten-minute comfort break.

11 THE WITNESS: Okay. Thank you.

12 [The witness stands down]

13 PRESIDING JUDGE SMITH: We are adjourned for ten minutes.

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

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

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

18 [The witness takes the stand]

19 PRESIDING JUDGE SMITH: All right. We'll continue.

20 Mr. Halling, you have the floor.

21 MR. HALLING: Thank you, Your Honour.

22 Q. Good morning, again.

23 A. Morning.

24 Q. I wanted to now talk about something that you've discussed in
25 various guises across your evidence, the multi-ethnic society

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 promotion in Kosovo, and there's a particular area I want to ask you
2 about in that regard. Where is the Presevo Valley?

3 A. The Presevo Valley is over in -- actually, it's in Yugoslavia,
4 in Serbia.

5 Q. And this was a sensitive area in the year after the war; is that
6 fair to say?

7 A. That's right.

8 Q. Can you explain why?

9 A. There was a large -- there was -- well, let's put it this way.
10 It was a significant population of Albanians in this area of Serbia.

11 Q. Now, Kosovo Albanians calling Presevo an Albanian area where
12 Albanians had the right to live, statements like that would risk
13 aggravating relations between the Serbs and Albanians in Kosovo;
14 correct?

15 A. They would.

16 Q. And similarly, Kosovo Albanians talking about how violence in
17 the Presevo Valley could not be tolerated was dangerous at the time
18 because this area was part of Serbia; is that fair to say?

19 A. Ask the question again, please.

20 Q. And similarly, Kosovo Albanians talking about how violence in
21 the Presevo Valley could not be tolerated was dangerous at the time
22 because this area was part of Serbia; is that fair to say?

23 A. I'm not sure if it was dangerous, because I think they had a
24 right to talk about the impact of Serb actions on Albanians in a
25 neighbouring region.

Witness: Wesley Clark (Resumed) (Open Session)

Page 28227

Cross-examination by Mr. Halling (Continued)

1 MR. HALLING: Well, then why don't we go to -- if the
2 Court Officer could pull up SPOE40015904 to SPOE40016230-ET
3 REV-partial-combined.

4 And in this regard, I note that this same ERN is applied to two
5 different items. One of them is P4497, and one of them is a 94-page
6 version of the entire translated version. It's the latter we want to
7 pull up on the screen. So the 94-page version of that exhibit, and
8 specifically SPOE40016149.

9 Q. And, General, as this is being pulled up, do you know an
10 individual by the name of Klaus Reinhardt?

11 A. Yes, I do.

12 Q. And who was Klaus Reinhardt?

13 A. He was the successor to Mike Jackson in KFOR.

14 Q. And you were working with him in that capacity after he became
15 the KFOR commander.

16 A. That's right.

17 Q. He made a diary that we have had translated, and there's an
18 entry from 10 March 2000 that mentions you, and I would like to show
19 it to you and ask you a question. And I'll wait until it's up on the
20 screen.

21 MR. HALLING: So, again, the specific page for the Court Officer
22 is SPOE40016149. So that's a little ahead of the entry. So 6149.
23 Perfect. Thank you, Mr. Court Officer.

24 Q. So this is the entry. Now, General, before I start reading, is
25 it too small on the right side of the screen to see?

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 A. No, I can read it.

2 Q. Okay. So General Reinhardt is talking with Hashim Thaci at a
3 press conference about the Presevo Valley, and he says the following.
4 He starts:

5 "My message is brief. 'I am deeply concerned about the recent
6 events in the Presevo Valley. The situation on the border between
7 Kosovo and the Presevo Valley could quickly escalate into a conflict
8 affecting the entire region. This is not in the interests of the
9 local population, KFOR or the international community ... We
10 therefore condemn in the strongest possible terms any use of force in
11 the area.'"

12 And then if we go to the next page, we can see Hashim Thaci's
13 statements at the same press conference:

14 "Thaci takes a completely different view. He accuses the
15 Serbian side of renewed genocide and expulsion. He paints a grim
16 picture of the situation of the refugees he has just seen, alleging
17 that they had to flee on foot over the mountains with their last
18 possessions. I think he must have been in a different film than I
19 was. He then speaks of the suffering of the persecuted Albanian
20 people, who are now no longer willing to put up with anything. Not a
21 word about distancing himself from the UCPMB, not a word of
22 reassurance, quite the reverse: twisted, false statements and
23 propaganda. I am boiling with rage, but I cannot intervene in front
24 of the rolling cameras. As soon as we are out of the room, I
25 confront Thaci. He acts completely surprised. It almost renders me

1 speechless, but I tell him that I feel he has deliberately and
2 maliciously betrayed me. He counters that he was speaking as a
3 Kosovo Albanian politician. I told him that I never want to do
4 another press conference or similar event with him and that I will
5 limit my cooperation with him to the minimum necessary. This does
6 not seem to bother Thaci; he has made his 'national' points, which he
7 expects will secure him the approval of the Albanian population.

8 "I then call the SACEUR and tell him that I feel I have been
9 clearly 'duped' by Thaci and will never appear with him in front of a
10 microphone again, as the man is simply not to be trusted.
11 General Clark is also angry, as Thaci had promised him something
12 completely different."

13 General, do you remember this event as described by
14 General Reinhardt?

15 A. Yeah, I do remember vaguely this event.

16 Q. And is General Reinhardt's description of it accurate to the
17 best of your recollection?

18 A. Well, I wasn't there, so I don't know the full extent of it.
19 But I do know that what we had was a transition of the KLA from being
20 a military organisation in the resistance to oppression to
21 individuals seeking out a political future for themselves in the
22 country of Kosovo.

23 We were lucky -- if I could extend this -- this question. We
24 were fortunate that we had Ibrahim Rugova waiting, and there was a
25 political movement that was extant in Kosovo when we entered, and

Witness: Wesley Clark (Resumed) (Open Session)
Cross-examination by Mr. Halling (Continued)

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1 that political movement re-emerged with the Liberal Democratic Party
2 of Kosovo and Ibrahim Rugova as I remember it. So Thaci was taking a
3 different view and setting himself on a different course.

4 But I also remember reading that, actually, there was violence
5 against the Albanians in Presevo Valley.

6 Q. Thank you.

7 MR. HALLING: Your Honours, we would tender this entry of
8 General Reinhardt's diary and propose that it be added to P4497.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MR. HALLING: The entry, so the two pages, which would be
11 SPOE40016149 to SPOE40016150.

12 MR. MISETIC: We will object as to relevance as to both the
13 substance and the timing of the entry.

14 MR. HALLING: With respect to W04868, the Presevo Valley was
15 discussed at great length in that witness's testimony. In
16 particular, a speech that Hashim Thaci gave after the charged
17 indictment timeframe, which was saying things similar to the one that
18 prompted the reaction of General Reinhardt in his diary. So
19 General Clark's evidence on this is relevant to substance, and that
20 speech was found to be relevant to timing even though it was after
21 the indictment period as well.

22 PRESIDING JUDGE SMITH: The two pages are admitted.

23 THE COURT OFFICER: Thank you, Your Honours. These two pages
24 will be added to already assigned Exhibit P04497. Thank you,
25 Your Honours.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 MR. HALLING: Thank you. And the document can be taken off the
2 screen.

3 Q. General, we'll turn in a little bit to the meetings that you had
4 with the KLA, but I first want to talk a little more generally about
5 what information you had from them.

6 From the beginning of 1998 to the end of the air campaign, how
7 many times did you visit Kosovo?

8 A. I'd have to go back and check my records.

9 Q. There aren't any visits in that period mentioned in "Waging
10 Modern War." Did you visit Kosovo during that period? Can you
11 remember?

12 A. So I did not visit prior to the start of the air campaign. It
13 was a part of Serbia. I wasn't exactly -- I didn't expect to be
14 welcomed there. I had talked to the Serb generals, as I indicated,
15 in late October 1998. In 1999, we ran the air campaign, so I
16 certainly wasn't going to go in there between the Recak massacre and
17 the end of the air campaign. And I don't remember how many times I
18 visited after the air campaign was over.

19 Q. Okay. That answers my question. Isn't it true that the KLA's
20 early actions had them condemned as terrorists in the international
21 community?

22 A. I think there was a dispute on this. I remember that Ambassador
23 Bob Gelbard called the Jashari family terrorists, but it was also --
24 he was rebuked by US leadership and the statement was corrected.

25 MR. HALLING: If we can now pull up SPOE00406262 to 00406262.

1 Q. General Clark, this is an interview that you are reported as
2 having given on 9 March 1998. So this would be just after --

3 A. Okay.

4 Q. -- the Jashari incident. And you say the following:

5 "'We condemn violence against people who express their political
6 orientation in a non-violent way. We also condemn terrorist methods
7 that are being used in order to achieve certain goals' ..."

8 So you are yourself one of the people that was connecting
9 actions going on at the time in Kosovo to terrorism; yes?

10 A. I was condemning terrorist methods.

11 Q. And NATO was not able to engage with the KLA directly until
12 after the air campaign because they'd been labelled as terrorists.

13 A. I'm not sure that that's correct.

14 Q. I'll show something else in a moment about this.

15 MR. HALLING: But for the moment, can we admit this article,
16 which would be SPOE00406262 to 00406262.

17 PRESIDING JUDGE SMITH: Any objection?

18 MR. MISETIC: No objection.

19 PRESIDING JUDGE SMITH: SPOE00406262 to 00406262 is admitted.

20 THE COURT OFFICER: And it will be assigned Exhibit P04517,
21 currently classified as confidential.

22 MR. HALLING: That can be public, Your Honour. And,
23 Your Honour, would you like to reclassify P4517 now or would you like
24 to do it later?

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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Cross-examination by Mr. Halling (Continued)

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1 Now, please.

2 THE COURT OFFICER: Thank you, Your Honours. In that case,
3 P04517 will be reclassified to public. Thank you.

4 [Trial Panel and Court Officer confers]

5 PRESIDING JUDGE SMITH: All right. Go ahead.

6 MR. HALLING: Thank you, Your Honour.

7 Q. Witness, in relation to the last answer you gave, you mentioned
8 Klaus Naumann yesterday, and this is at page 23 of the realtime
9 transcript. He --

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 [Trial Panel and Court Officer confers]

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. HALLING: Thank you, Your Honour.

14 If the Court Officer could please pull up on the screen
15 SPOE00406441 to 00406504.

16 PRESIDING JUDGE SMITH: Several of us now are not working.

17 JUDGE BARTHE: Now it's working again.

18 PRESIDING JUDGE SMITH: Mine's not.

19 JUDGE BARTHE: No, it's not working.

20 [Trial Panel confers]

21 MR. HALLING:

22 Q. And apologies, General. Klaus Naumann's statement wasn't
23 supposed to be a cliff-hanger, but if we could wait until that item
24 is pulled up on the screen.

25 MR. HALLING: I'll give the ERN again. It's SPOE00406441 to

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 00406504.

2 Q. And, General, this is Klaus Naumann's testimony from the
3 Milutinovic *et al.* trial before the ICTY, and there was a passage in
4 it I wanted to ask you about.

5 MR. HALLING: If we could go to page SPOE00406463.

6 Q. Now, General, before I read the quote, what was Klaus Naumann's
7 role in NATO up until early 1999?

8 A. He was the chairman of the Military Committee of NATO.

9 MR. HALLING: So if we scroll down to the bottom of the page --
10 and, actually, it would be the previous page. And if we scroll down
11 there.

12 Q. And Judge Bonomy, you can see at the very bottom of the page, is
13 talking about the extent of the terrorist threat.

14 MR. HALLING: And now if we can turn the page.

15 Q. Judge Bonomy eventually asks the following question in the
16 middle there:

17 "Now, was there any NATO plan as to how the KLA might be dealt
18 with in the environment you were trying to create, which was an
19 environment of mediation?"

20 And Klaus Naumann's answer is as follows.

21 MR. HALLING: And if we can scroll down to see it.

22 Q. He said:

23 "That, Your Honour, was our Achilles' heel, if I can say this.
24 We had made a -- I'm saying this quite openly and bluntly, and I hope
25 straightforward -- in a straightforward way. We had made a mistake.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 We, I mean the political leadership of NATO in spring 1998 when we
2 called the KLA a group of terrorists. That you find in NATO
3 documents like foreign ministers' meeting. And having stated that
4 the KLA is a group of terrorists, we had I think inadvertently
5 paralysed our own instrument to cope with them, since in NATO was
6 the -- there is no -- there was never any hope at all to contact
7 terrorists directly. You need -- for a decision, you need for the
8 consensus of, at this time 16 nations. And since some of the nations
9 had a terrorist problem at their hands, they simple and flatly
10 refused that we should ever talk to terrorists. And that was our
11 Achilles' heel. We had simply no instrument to rein-in the KLA."

12 Klaus Naumann here, General, he is accurately describing the
13 complexities that NATO had engaging with the KLA; correct?

14 A. I think he is.

15 Q. Now, Mike Durkee was one of your advisers during the war.

16 A. That's right.

17 Q. And he was talking last week in this hearing about the meeting
18 that you had in March 1999 with the KLA delegation that you discuss
19 at paragraph 22 of your statement.

20 MR. HALLING: And just for the record, this is transcript page
21 28078.

22 Q. He said there was a certain protocol for how foreign visitors
23 would be shown around NATO headquarters in a kind of ceremonial tenor
24 before meeting you. That's typically what happened when people
25 visited you; is that right?

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 A. That's right.

2 Q. Durkee then said that you met the KLA in March 1999 in an
3 airfield just outside the NATO headquarters. He said this was done
4 because you wanted to get to know them and did not want to legitimise
5 them necessarily. That's correct, isn't it?

6 A. As I recall, that wasn't the motivating force for meeting at the
7 airfield. That was the only time that I could arrange a meeting
8 given my schedule and where Thaci was, and I had to fly off that day.
9 Now, Mike Durkee may have seen that as a wise move, from the
10 diplomatic standpoint, to protect me from the wrath of NATO
11 parliamentarians and other people, but that wasn't my concern. My
12 concern was I wanted to meet them and the airfield was the only way
13 to do it given the timing involved.

14 Q. I follow you. Now, you were asked in direct examination about
15 that Barbara Larkin letter by the Thaci Defence. The terrorist label
16 given to the KLA really foreclosed the international community
17 agreeing to give them arms. That's fair to say, isn't it?

18 A. I'm not sure exactly what happened and how they got arms.

19 Q. Well, isn't it true that arming the KLA would have been
20 incompatible with the terms of the Rambouillet agreement that the
21 international community - yourself included - tried to convince the
22 KLA to sign?

23 A. The KLA did sign the Rambouillet agreement, but I think -- I
24 think that there were -- somehow there were -- there was recruiting
25 done and there were weapons provided at some point after the

1 Rambouillet agreement was signed when the Serbs refused to sign and
2 we moved into conflict. I've never really received the details of
3 that, but it's my impression that they received support from some
4 quarter.

5 Q. I'd like to go now to an interview that you gave in August 1999.

6 MR. HALLING: And this is SPOE00397623-00397624. And it will be
7 the first page.

8 Q. This is something reported by the Cleveland *Plain Dealer* and
9 it's an interview that you gave on 15 August. And I just want to
10 show it to you to talk about the extent of direct communication that
11 you had with the KLA.

12 MR. HALLING: If we can scroll down the page.

13 Q. Now, this is on 15 August, and it says:

14 "Clark said KLA officials didn't consult directly with allied
15 commanders during the war, which started March 24 when NATO bombed
16 Yugoslavia to force Yugoslav President Slobodan Milosevic to end his
17 ethnic cleansing campaign against Kosovo's Albanian population.

18 "'We didn't have any direct communication with them, to the best
19 of my knowledge,' Clark said."

20 So, first, that's correct, isn't it, what you said?

21 A. That's correct.

22 Q. It was actually important to keep some distance from the KLA
23 during the air campaign. You actually didn't want to have direct
24 contact with them.

25 A. That's not correct. That's why I talked to Thaci. I actually

1 asked him for help. So -- you know, you raise -- you know, you're at
2 a critical point of history, values, ethics, democracy, on this
3 point, and I'm going to be told I can't address this by the Court,
4 but at some point -- and, Your Honour, just stop me when I run over
5 my remit here. But at some point people are fighting against
6 repression. At some point, they go from being terrorists to freedom
7 fighters. And at some point, the world opinion and consensus says:
8 Yes, people have a right to resist oppression. It's in the
9 declaration -- the US Declaration of Independence, and it's also just
10 a common practice.

11 And somewhere along this spectrum, from the time that the -- in
12 1974, Kosovo was supposed to be a separate administrative state,
13 Milosevic took that away, and some heavy repression began. At some
14 point, something that could have been called terrorism eventually
15 became collectively defence of a people.

16 Q. And, General, I understand that. And I guess, really -- I'll
17 ask the question in a different way with a page of your book.

18 MR. HALLING: If we can go to "Waging Modern War," to DHT11103
19 to DHT11632, and it's page DHT11483.

20 Q. I can show you what the basis of my question before was.

21 A. But may I, sir, refer back to that previous page?

22 PRESIDING JUDGE SMITH: General, please wait for the question.

23 MR. HALLING: And it would be DHT11483. Thank you. And if we
24 scroll a little bit further down the page.

25 Q. It's this passage that you wrote here:

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Cross-examination by Mr. Halling (Continued)

1 "I warned there would be other difficult decisions: the
2 capabilities of the KLA would have to be fully exploited (we had
3 scrupulously avoided direct contact with them in Albania); political
4 constraints on targeting must be relaxed; access to Serbia through
5 Montenegro and up the Danube must be blocked; and other forces might
6 be need to be deployed around the periphery of [Kosovo]."

7 And it's that line in parentheses --

8 MR. MISETIC: Just a correction, it's "around the periphery of
9 Yugoslavia."

10 MR. HALLING: Oh, apologies. "... around the periphery of
11 Yugoslavia."

12 Q. But the passage I'm interested in is the part in parenthesis
13 about how you made a point of avoiding the KLA when you went to
14 Albania; is that correct?

15 A. Yes, that was the political guidance, I guess, coming out of
16 Brussels.

17 But if I could just return to the previous section where -- I
18 just want to point out that it wasn't that -- maybe I was exceeding
19 my mandate, but I wanted to get military guidance or military advice,
20 military targeting from the KLA because it would facilitate the air
21 campaign. And so that's what I asked of Mr. Thaci, and the fact was
22 he couldn't provide it. He was not in command, and there was no
23 effective command and control that I could see at that point.

24 Q. One more.

25 MR. HALLING: If we could please go to 128928-03-TR-AT-ET,

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Cross-examination by Mr. Halling (Continued)

1 page 2. And there's an Albanian transcript of this as well. And we
2 have a video of this as well, but we don't need to show it on the
3 screen now.

4 Q. General, there is an interview that you gave for Kosovo
5 Television in August 2020, and there is a short passage of it I
6 wanted to ask you about related to these same matters. And it's on
7 page 2 of the transcript, and just this line just above the 0:04:41
8 time stamp:

9 "However, NATO did not have direct relations with the KLA. We
10 simply did not get reports from them, and we could not know what was
11 happening."

12 That's correct, isn't it?

13 A. That's correct.

14 MR. HALLING: So, Your Honours, we will hold this for admission,
15 we will tender it at a later point, but we would like to admit the
16 *Cleveland Plain Dealer* article, which would be SPOE00397623 to
17 00397624.

18 And we would also like to add page DHT111483 to "Waging Modern
19 War." I would also add, we did not tender the cover material for
20 that book when we asked to have it admitted yesterday --

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 We're going through several different things. We first of all,
23 start with *The Plain Dealer* article.

24 MR. HALLING: Certainly.

25 PRESIDING JUDGE SMITH: Any objection to *The Plain Dealer*

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 article?

2 MR. MISETIC: No.

3 PRESIDING JUDGE SMITH: SPOE00397623 to 00397624 is admitted.

4 THE COURT OFFICER: That will be assigned Exhibit P04518,
5 currently classified as confidential.

6 MR. HALLING: And that can be public.

7 PRESIDING JUDGE SMITH: Reclassified as public.
8 Now the second one.

9 MR. HALLING: That would be DHT111483, which was the page used
10 in "Waging Modern War." And just for clarity in the record, we would
11 also tender DHT11103 to 11108, which is just the cover material for
12 the book.

13 PRESIDING JUDGE SMITH: Any objection?

14 MR. MISETIC: Just one second, Mr. President. I need clarity on
15 cover material. Five pages of what?

16 MR. HALLING: It's from the Thaci Defence scan. It's the cover,
17 the title. It's the copyright information. We're just trying to
18 tender whatever the minimum information is to understand that it is
19 from this book.

20 MR. MISETIC: Yeah, we have no objection.

21 PRESIDING JUDGE SMITH: So DHT111483 is admitted.

22 THE COURT OFFICER: Thank you, Your Honours. In that case, this
23 page will be added to P04514. And if my understanding is well,
24 DHT11103 to DHT11108, they are recently tendered pages, could also be
25 added to P04514.

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Cross-examination by Mr. Halling (Continued)

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1 PRESIDING JUDGE SMITH: That's correct.

2 THE COURT OFFICER: Thank you, Your Honours.

3 MR. MISETIC: Mr. President, just for the record, other excerpts
4 of this book are part of our bar table motion, so we would ask that
5 those pages be added to this one exhibit so --

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. MISETIC: To put it all in one place, yes.

8 PRESIDING JUDGE SMITH: One exhibit is fine. We'll make a note
9 of that.

10 MR. MISETIC: Thank you.

11 MR. HALLING: Yes, and we've already indicated this for the
12 record, we had no objection to any of those pages tendered by the
13 Thaci Defence in their bar table motion.

14 PRESIDING JUDGE SMITH: Okay.

15 MR. HALLING: This document can be taken off the screen.

16 Q. Now, General, we have been talking about direct contacts, direct
17 relations with the KLA. But you also spoke in paragraph 25 of your
18 statement about never being able to get any information from the KLA,
19 even directly or indirectly, such that you couldn't use them as
20 forward observers; yes?

21 A. Yes.

22 Q. And you make a connection between this and the KLA's lack of
23 sufficient organisation to be able to provide that information.

24 A. That's correct.

25 Q. And you even -- you said it yet in response to the Krasniqi

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Cross-examination by Mr. Halling (Continued)

1 Defence, and this is from realtime transcript page 76:

2 "... the KLA might have known ... there was specific really
3 cruel Serb attacks on the population, but to be able to actually do a
4 coordinated response, to report it to NATO, to do anything like this,
5 no, it wasn't getting through."

6 Is that still your evidence?

7 A. That's my recollection, yes.

8 Q. Now, before continuing, when you talk about forward observers,
9 you're asking about getting assistance on targeting; is that right?

10 A. That's correct.

11 Q. And do you agree that targeting information is quite
12 time-sensitive such that what could be properly targeted was
13 constantly changing?

14 A. Some was, some wasn't.

15 Q. But it was a -- in general, there was time sensitivity, that was
16 a relevant consideration to getting the information?

17 A. Time is always important in evaluating information, but it
18 didn't mean that the targets were simply fleeting targets. They
19 could have been fixed targets. They could have been hideout
20 locations and other things.

21 Q. But you yourself were saying yesterday, even a fixed target, if
22 a bunch of Albanian civilians are forced into that fixed target, that
23 would change the targeting calculus and in that sense it was realtime
24 changing; correct?

25 A. I think you're -- I don't want to say it's correct. What I said

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1 was we didn't have information -- good information on what was
2 happening on the ground yesterday. And I cited this as an example,
3 this friendly fire incident where we mistakenly struck a holding
4 area. But that doesn't mean that we wouldn't have sought such
5 information through the KLA if we could have gotten it.

6 And if that information had been available, I would have gone
7 back up the chain of command to Secretary General Solana. We would
8 have arranged all the different -- whatever legal niceties were
9 required to be able to incorporate that information. But it simply,
10 as far as I could tell, wasn't available.

11 Q. And with that answer, we would like to go back to "Waging Modern
12 War."

13 MR. HALLING: If the Court Officer could please pull up on the
14 screen DHT11103 to DHT111632, and it's DHT111472.

15 Q. And, General, as this page is being brought up, you become aware
16 of a KLA operation on Mount Pashtrik in May 1999. You discuss this a
17 lot in your book. That's right, isn't it?

18 A. Yes.

19 Q. I want to ask you a question about one of the pages where you're
20 discussing that operation. As it's being pulled up, that operation
21 was of some significance for NATO. That's true, isn't it?

22 A. So what I recall was that we did receive some rudimentary
23 indication that there was an effort by the KLA to penetrate through
24 -- from Albania into Kosovo. Now, this was in addition to the --
25 whatever the holdout groups were of the KLA that had been isolated in

1 various places around Kosovo.

2 So, yes, I was aware that there was an effort being made by the
3 KLA to drive their force into Kosovo. And this was -- would have
4 been useful to me because if the Serbs massed to attack this force,
5 then I had a target. And the principal challenge throughout the air
6 campaign was to hit military targets and not just empty buildings,
7 but to actually hit ground forces so that Milosevic would be
8 compelled to cease the ethnic cleansing.

9 Q. And NATO wanted to help the KLA hold that mountain because of
10 the exact reason you said, that it would draw out the Serb forces so
11 that they could be targeted.

12 A. That's right. I don't know if it was to haul them out or not.
13 I don't remember that phraseology. My recollection of it is that the
14 KLA forces were attempting to move offensively, and that the Serb
15 forces, as best as we could understand it, were attempting to mass
16 against them.

17 MR. HALLING: So now if we can go to the page which is DHT11472.
18 So if we can scroll a little bit further down to the beginning of the
19 first full paragraph.

20 Q. So you used the word "rudimentary" just now. In your book you
21 said:

22 "By the morning of May 26 we had considerable information about
23 the KLA's plans to attack into Kosovo."

24 How did you get this information?

25 A. I had special forces people on the ground who had liaison with

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1 somebody, and I never figured out who it was by name they were
2 speaking to.

3 Q. And if we turn the page, it says:

4 "I was encouraging the close exchange of information between
5 Task Force Hawk and the Combined Air Operations Centre (CAOC) in
6 Vicenza. Hawk was in direct contact with the Albanian Army who, in
7 turn, were monitoring the KLA, and many targets were being passed to
8 the CAOC."

9 It sounds like you were getting KLA information indirectly from
10 the Albanian army.

11 A. I assume that we were.

12 Q. So when you said in your statement you did not get any indirect
13 information from the KLA, that's not quite right, is it?

14 A. Yeah, that -- it should have been clarified. Yeah.

15 MR. HALLING: We would now like to go to a different exhibit,
16 but if we could add these two pages now shown to "Waging Modern War."
17 So if we could add DHT111472 to DHT111473 and please add it to
18 P04514.

19 PRESIDING JUDGE SMITH: Any objection?

20 MR. MISETIC: No objection.

21 PRESIDING JUDGE SMITH: 111472 and 111473 will be added.

22 THE COURT OFFICER: Thank you, Your Honours. Those two pages
23 will be added to P04514. Thank you.

24 MR. HALLING: If we could now pull up 077978 to 077982-ET
25 Revised 1, page 077981.

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1 Q. Now, General, you can see here, this is 1 April 1999. It's an
2 order of the minister of defence of the Provisional Government of
3 Kosovo.

4 MR. HALLING: And if we just scroll to the bottom just to orient
5 you.

6 Q. You see that it's signed by Azem Sylja, who is a gentleman you
7 said you didn't know yesterday. I wanted to direct you to point 5:

8 "I appoint Agron Haradinaj as Organisational and Communication
9 Chief, and coordinator between KLA, NATO and Albanian Army forces."

10 So the KLA appointed someone specifically to coordinate with
11 NATO and the Albanian army. Were you aware of that?

12 A. No, I wasn't.

13 MR. HALLING: And if we can now go to P642, specifically
14 page SPOE00231512.

15 Q. And, General, this latter document we seized from
16 Jakup Krasniqi's residence. And on SPOE00231512, you can see on the
17 bottom there it says section on "Cooperation with NATO":

18 "Cooperation with NATO was on a daily basis, as can be seen from
19 the operational communications which we hold in the Operation
20 Shigjeta dossier ..."

21 And then you also see that same gentleman, Agron Haradinaj, just
22 above that, under "KLA Head of Organisation."

23 Did you know that the KLA was communicating with NATO every day?

24 A. I knew that we had -- according to this, we had the American
25 team located in Kukes, and I knew we had them. Now, how it was

1 formally organised on the KLA side, I never saw that.

2 MR. HALLING: One last one, P787, page SITF00009126.

3 Q. And to orient you as to this one as it's pulled up, this is
4 testimony that Kadri Veseli gave in the Arben Krasniqi *et al.*
5 proceedings on 26 September 2011. And if we go to the page that I
6 referenced, which would be page 3 in the document, you can see there
7 at question 14, if we scroll a little further down, so it's a
8 question:

9 "During the NATO bombing, did you see Mr. Limaj again?"

10 Mr. Veseli responds:

11 "I have seen him during one meeting of the General HQ during
12 which we discussed the issue of communication. An issue that we
13 often faced as an army was to collect information about the enemy
14 positions and pass them on to our international partners."

15 So the KLA was sending you this information even if you may not
16 have been directly asking for it. Did you know that?

17 A. Well, I knew apparently they were attempting to send it, yeah.
18 Now, whether it was getting through and whether it was evaluated and
19 so forth, I don't know because the information I had was at the very
20 end of this. In May, we knew about the Pashtrik operation.

21 Q. And we'll pick up that point after the break.

22 MR. HALLING: But, Your Honours, the three documents we've just
23 shown, the latter two are already admitted, but page 077981, which
24 was that Agron Haradinaj appointment order, is not admitted. Another
25 page in that same range has an exhibit number, and that's P02499. We

1 would ask to add that page to P02499.

2 PRESIDING JUDGE SMITH: Any objection?

3 MR. MISETIC: No objection.

4 PRESIDING JUDGE SMITH: 077981 is admitted and will be added to
5 P02499.

6 THE COURT OFFICER: Thank you, Your Honours. That's noted.

7 MR. HALLING: And, Your Honour, I note the time. We could take
8 the break now. We will finish in the next session.

9 PRESIDING JUDGE SMITH: So we'll have a half-hour break now,
10 General Clark.

11 THE WITNESS: Okay.

12 PRESIDING JUDGE SMITH: We'll see you back here at 11.30.

13 THE WITNESS: Thank you.

14 [The witness stands down]

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

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

17 --- On resuming at 11.32 a.m.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 Any objection to that -- those --

20 MR. DIXON: No, Your Honours. Thank you for the opportunity.

21 There are no objections to those eight corrections that were outlined
22 earlier.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 The MFI can be removed?

25 MR. MISETIC: We're talking about two different things now.

1 MR. DIXON: Yes.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. DIXON: So I'm talking about the document Your Honours
4 identified right at the beginning of the session today, the eight
5 documents where there were corrections.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. DIXON: We double-checked those, and there are no objections
8 to those.

9 PRESIDING JUDGE SMITH: No objection to those. All right.

10 MR. DIXON: But the other matter is for Mr. Misetic to deal
11 with.

12 MR. MISETIC: Just for the record, we will object to that MFI'd
13 exhibit.

14 PRESIDING JUDGE SMITH: Let me take care of this first one then.

15 Having heard no objections, the Panel orders CMU to proceed in
16 the following manner: First, that P00515_ET.77 be replaced by 008879
17 to 008881-ET Extract F03214; second, 066769 to 066769-ET will be
18 added to P01616; third, P00310-ET will be replaced by SPOE00056467 to
19 SPOE00056467-ET Revised; fourth, 125893-02-TR/125893-02-TR-ET will be
20 added to existing Exhibit P04221; fifth, P01712.1-ET will be replaced
21 by 060119-TR-ET Part 1 Revised RED; sixth, P01086-ET/P01086-AT will
22 be replaced by 061427-03-TR Revised and 061427-03-TR Revised-ET;
23 seventh, page SPOE00231058 of P01091-ET will be replaced by page
24 SPOE00231058 of SPOE00231037-SPOE00231118-ET Revised.

25 This concludes the Panel's oral order.

1 Now, what's the basis of your objection?

2 MR. MISETIC: Yes. With respect to P4515 MFI and P4516 MFI, our
3 position is they constitute statements pursuant to the Trial Panel's
4 oral order at transcript page 27162 to 27164.

5 The Prosecutor this morning suggested that they were not -- that
6 the Senate testimony was not taken pursuant to a law enforcement
7 purpose. We tendered a exhibit from a civil lawsuit that was
8 excluded on the basis that it constituted a statement, so whether
9 it's a law enforcement purpose or not is irrelevant. The Panel has
10 held that all that is necessary is that the statement is testimonial
11 in nature and was given in relation to legal proceedings.

12 This statement -- those two statements were given under oath in
13 a Senate hearing. We consider that that is testimonial in nature and
14 in a legal proceeding. It is pursuant to the Senate's oversight
15 responsibilities. And the reference to the Prosecutor to
16 Exhibit P942 is inapposite because that dealt with -- that exhibit
17 deals with parliamentarians speaking in parliament. It is not an
18 evidentiary hearing with a witness testifying under oath. Those were
19 statements made by parliamentarians in parliament. Thank you.

20 MR. HALLING: And, Your Honour, if we could just briefly respond
21 to that.

22 The definition given by this Panel of a statement in F01380 RED,
23 paragraph 12(1) is:

24 "They must constitute or form part of a 'written statement of a
25 witness' taken in the context of a criminal investigation or

1 proceedings ..."

2 The ruling mentioned by counsel just now extends that definition
3 to a civil proceeding, but this is neither. This is not a proceeding
4 of the same kind. It is closer to a parliamentary hearing, and for
5 that reason this provision does not apply.

6 JUDGE METTRAUX: Mr. Misetic, since you're on your feet, I'll
7 use you.

8 Can you tell us what would be the difference between the
9 document now being offered and a document offered by you now admitted
10 as Exhibit 1D290, which is the record of a Senate hearing that you
11 put to Mr. Rubin, and you, just to help you remember it, put to him a
12 specific passage of testimony of then Senator Biden?

13 MR. MISETIC: Senator Biden is not a witness in that proceeding,
14 so it's not testimonial in nature. It is a statement made by a
15 senator in Senate. This is literally testimonial in nature.
16 General Clark raised his right hand and swore to tell the truth and
17 was then examined. So it's a fundamental difference. And it
18 squarely fits in your definition.

19 And if I may respond to Mr. Halling, nothing in the decision I
20 cited says that you're now extending a criminal law definition of
21 statement to civil proceedings. I literally am reading out what your
22 definition is:

23 "It suffices that the concerned statement is testimonial in
24 nature and was given in relation to legal proceedings." Full stop.

25 Thank you.

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Cross-examination by Mr. Halling (Continued)

1 PRESIDING JUDGE SMITH: We'll enter an order. Thank you.

2 You may bring the witness in now.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. We continue with the
5 cross-examination.

6 Mr. Halling.

7 MR. HALLING: Thank you, Your Honour.

8 Q. We will pick up what we were discussing just before the break,
9 but I did have one follow-up question on something you said, and it's
10 at realtime transcript page 42, where you were talking about the
11 Rambouillet agreement, and I just had one follow-up question. It's
12 in relation to this answer:

13 "The KLA did sign the Rambouillet agreement, but I think -- I
14 think that there were -- somehow there were -- there was recruiting
15 done and there were weapons provided at some point after the
16 Rambouillet agreement was signed when the Serbs refused to sign and
17 we moved into conflict. I've never really received the details of
18 that, but it's my impression that they received support from some
19 quarter."

20 Now, I appreciate if you don't know the answer to this question,
21 and please let us know if there's any Rule 107 -- if there's any
22 confidentiality restrictions to what I'm about to ask you. But are
23 you able to confirm if the weapons provided to the KLA were provided
24 by a government quarter of a NATO state?

25 A. I can't confirm that.

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Cross-examination by Mr. Halling (Continued)

1 Q. Because of the confidentiality reasons. Is that -- that's my
2 understanding of your answer?

3 A. No. I simply don't know.

4 MR. HALLING: Sorry, the counsel wishes to speak.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 [Witness and US Government representative confer]

7 THE WITNESS: [Microphone not activated].

8 PRESIDING JUDGE SMITH: No.

9 THE WITNESS: No, I --

10 PRESIDING JUDGE SMITH: Now you are.

11 THE WITNESS: I don't know the answer.

12 MR. HALLING:

13 Q. That's all the information that I need. Thank you.

14 Now going back. You were saying just before the break that
15 apparently the KLA was attempting to send information to NATO, but
16 you don't know if it was getting through.

17 MR. HALLING: I would like to go to SPOE00406592 to 00406597.

18 And actually we can briefly start on the first page of the document
19 just to show you what it is, and then we'll go to the last page.

20 Q. So you can see on the top this is a briefing of the British
21 Foreign Secretary Robin Cook, and you see the date of 9 April 1999;
22 yes?

23 A. Yes.

24 MR. HALLING: If we go now to the last page. Towards the
25 bottom.

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Cross-examination by Mr. Halling (Continued)

1 Q. So:

2 "Question: There have been reports that the KLA is asking the
3 West for help in the way of arms. What are your communications with
4 the KLA and have they asked you for arms and if so, will you be
5 supplying them?"

6 And this was Cook's answer:

7 "We have received a number of reports from the KLA over recent
8 days and the last two weeks and it is helpful to have their
9 perspective on what is happening within Kosovo but we have no
10 intention of supplying arms and to do so would be in breach of the UN
11 embargo on Yugoslavia."

12 So, General, the British seem to be getting the information to
13 the KLA. Do you see that?

14 A. No, I don't see that. Just a second. Let me read it again.

15 Q. Of course. I'll give you a moment to read the answer. It's in
16 particular the first line.

17 A. Yes, okay. May I explain how I interpret this?

18 Q. Please.

19 A. I'm sure there were statements by somebody saying they were the
20 KLA knocking on doors and asking for help. That's a lot different
21 than having a unified command and control system that could support
22 NATO. And when we started this conversation yesterday, that was my
23 understanding of sort of the genesis of this is, was there a command
24 and control. Someone asked me, I can't remember if it was you or the
25 Defence, to define command and control.

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1 And so, you know, the fact that there's communications like this
2 and somebody says, Help, help, that's not command and control.

3 Q. General, my question was simpler than that. I just wanted to
4 know if you knew that the British had been receiving a number of
5 reports from the KLA.

6 A. I knew that they'd been receiving requests. I didn't know what
7 the reports were.

8 MR. HALLING: If we can go now to maybe an American source,
9 SPOE00406608 to 00406620.

10 Q. General, you remember yesterday you were shown a video from
11 Pentagon spokesman Ken Bacon?

12 A. Yes.

13 Q. Yes?

14 A. Yes.

15 Q. This is another briefing of his -- and I'll wait for it to come
16 up. This is 17 May 1999 you see there.

17 MR. HALLING: If we now go to page SPOE00406611, and we scroll a
18 little bit further down the page. So a little more. Towards the
19 bottom. Yes, thank you.

20 Q. So you can see in the answer after the question that suggests
21 his strategy is working, part of Bacon's answer is as follows:

22 "We don't have good figures on the number of troops that have
23 been lost. We do have reports, anecdotal reports through KLA and
24 other sources, of units being unable to move because they're out of
25 fuel or supplies. Obviously some of the units are continuing to

1 move. But there is a steady accretion of information that the
2 attacks are working."

3 So your Department of Defense was also, at least indirectly,
4 receiving this same information. Is that --

5 A. Yes, but there's a difference between -- as you went through the
6 campaign -- what was the date of this again from Bacon?

7 Q. It was 17 May 1999.

8 A. Yeah. As it went from the 24 March start into the end of May
9 and into the early June -- and you quoted something from my book on,
10 I think it was, 26 May, when we were looking at Mount Pashtrik.
11 There was no question that everybody was struggling to get
12 information out of the KLA. We had to have as much information as we
13 could from the ground, and gradually we got more information. We
14 were sucking it out in every possible way.

15 But as I indicated in my statements yesterday, I think to the
16 Defence, I never got anything from Mr. Thaci, who was, you know,
17 allegedly in charge. It wasn't coming to me. It was being extracted
18 at lower levels from people in casual conversations. And I had the
19 impression that my Special Forces guys that were in Kukes -- I think
20 I had a couple guys up there from my US Army Special Operations
21 Command Europe. I think those guys were, basically, kibitzing with
22 people. I never got the impression that there was like a formal
23 briefing: Come in here, we're going to show you the plan. I think
24 they sort of worked their way in and got as much as they could.

25 And the same thing with the targeting. And that was my

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Cross-examination by Mr. Halling (Continued)

1 impression, because I did go up there. I don't remember the date. I
2 actually flew up to Kukes. I did a reconnaissance of the route we
3 were going to invade on, and so forth. Even brought the minister of
4 defence from Albania with me on that trip. And so I was, you know,
5 doing what I could to -- along with other people from NATO, to
6 extract information from these people on the ground.

7 Q. Right.

8 MR. HALLING: SPOE00406266 to 00406436.

9 Q. General, I understand your last answer and the distinction
10 between not getting a formal briefing but nevertheless extracting
11 information. What is being pulled up on the screen now is a 2002
12 report prepared for the US Army by Rand. Are you familiar with Rand?

13 A. Sure.

14 Q. Can you just explain briefly to the Court what that [Overlapping
15 speakers] ...

16 A. It's a government-funded research institution.

17 Q. Yes. And you can see this is a report called "Disjointed War."
18 Are you familiar with this report?

19 A. No.

20 MR. HALLING: Okay. If we can go to page SPOE00406372.

21 Q. And you can see on the bottom of that paragraph there:

22 "Additionally, during May, reports from the KLA became an
23 important source of intelligence and targeting information for
24 TF Hawk. Data from these sources was collated by the Deep Operations
25 Coordination Cell to develop a picture of Yugoslav forces operating

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1 in southwestern Kosovo."

2 General, this is yet another indication that this information
3 from the KLA was getting to you, wasn't it?

4 A. No, I flew down. I sat with Task Force Hawk. I did the Deep
5 Operation Coordination Cell, and I demanded that they extract as much
6 information as they could. But, you know, when you see these
7 statements in this, I don't -- I don't remember this Rand report.
8 Maybe they talked to me. I don't know. I don't remember it, and I
9 don't remember reading it. But, sure, we were doing everything we
10 could. No doubt about it.

11 But, you know, that's different -- trying to extract information
12 from a force like the KLA was a lot different than having an allied
13 force that had a structure, radios, reporting, and all that stuff.
14 At least I thought it was based on the quality I was told of the
15 targeting.

16 MR. HALLING: Yes. And if we can go to page SPOE00406412.

17 Q. You said in that last answer that you don't remember if they
18 talked to you.

19 A. Well, obviously, they did.

20 Q. There you go.

21 MR. HALLING: Your Honours, we would like to tender those last
22 three exhibits that were shown to the witness. That would be the
23 Cook briefing, which would be SPOE00406592 to 00406597; the Bacon
24 briefing, which would be SPOE00406608 to 00406620. And the Rand
25 report is quite long, so we would just tender the pages that were

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1 shown to the witness, which would be SPOE00406266, then page 406372,
2 and finally, this one, page 406412.

3 PRESIDING JUDGE SMITH: Any objection?

4 MR. MISETIC: I have no objection in principle, but I'm
5 wondering if the first two exhibits, do we need the whole exhibit or
6 can we just admit the portions that were shown to the witness.

7 MR. HALLING: They're both relatively short briefings. We leave
8 it in the Panel's hands if you would like the entire exhibit or just
9 the pages shown.

10 PRESIDING JUDGE SMITH: Well, for purposes of context, unless
11 there's something offensive in there.

12 MR. MISETIC: I'm doing the math, like 14 pages and only one was
13 shown, so I'm --

14 PRESIDING JUDGE SMITH: Oh, at this point --

15 MR. HALLING: The first page of each and a page after that, so
16 four pages shown.

17 MR. MISETIC: That's fine. That's fine. That's fine.

18 PRESIDING JUDGE SMITH: Those enumerated exhibits are all
19 admitted.

20 THE COURT OFFICER: Thank you, Your Honours.

21 SPOE00406592 to SPOE00406597, page SPOE00406592 and page
22 SPOE00406597 will be admitted with Exhibit P04519, currently
23 classified as public.

24 MR. HALLING: And just for the Court Officer, just to confirm
25 it's that range. As I understood, it was just agreed to being

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1 admitted as the exhibit and not just the two individual pages shown.

2 PRESIDING JUDGE SMITH: That is the Court's understanding.

3 THE COURT OFFICER: Thank you, Your Honours.

4 Then for the next ERN, in this case are we admitting only the
5 first page and the page 611 or the entire range?

6 MR. HALLING: For that one as well. So it would be 406608 to
7 406620.

8 MR. MISETIC: That's the point I was making. It's 12 pages, if
9 I understand it, and I'm hoping just to admit whatever shown to the
10 witness. We haven't had an opportunity to go through 12 pages.

11 PRESIDING JUDGE SMITH: [Microphone not activated]. So you're
12 concerned about not knowing what's in the document?

13 MR. MISETIC: Well, and it hasn't been put to the witness. So I
14 have no problem with what was shown to the witness and asked to
15 comment on, but ...

16 PRESIDING JUDGE SMITH: It's admitted. You can certainly show
17 it to him.

18 THE COURT OFFICER: Thank you, Your Honours. In that case,
19 SPOE00406608 to 00406620 will be assigned Exhibit P04520, currently
20 classified as public.

21 And the last ERN is SPOE00406266 to SPOE004063 --

22 MR. HALLING: If it assists the Court Officer, for this one we
23 are only tendering the pages shown because this is quite a long
24 report. I can repeat the pages being tendered. It would be
25 SPOE00406266, 406372 and 406412. And that's all for this one.

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1 THE COURT OFFICER: In that case, these three pages will be
2 assigned Exhibit P04521, and it's classified as public. Thank you,
3 Your Honours.

4 MR. HALLING: Thank you. And this document can now be taken off
5 the screen.

6 Q. General, it's true, isn't it, that the only time you met with
7 anyone from the KLA anywhere during the air campaign was the meeting
8 with Hashim Thaci you said in your statement occurred in probably
9 1999; is that right?

10 A. That's right.

11 Q. Where was that meeting?

12 A. Well, I remember -- I remember a meeting in, as I said, at
13 Chievres air force base.

14 Q. Now, there was a meeting at an airfield in March 1999 --

15 A. Yeah, that's the one.

16 Q. I'm talking about the meeting after that. You said it was
17 probably April.

18 A. Yeah, he may have come to my headquarters. I have a vague
19 recollection of this. But I didn't go back and -- I mean, I'm sure I
20 have a record of it in my papers that are locked up at Fort McNair
21 and classified. I just haven't gone back and looked at it. I didn't
22 know what the question was.

23 MR. HALLING: Yes. If we can, just to be super clear, put
24 1D00430, paragraph 23 on the screen.

25 Q. I want to direct you to the exact meeting with Mr. Thaci I'm

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 talking about just to make sure that all my subsequent questions are
2 clear.

3 THE INTERPRETER: Interpreter's note: The speakers are kindly
4 requested to pause between question and answer. Thank you.

5 MR. HALLING: Guided by the interpreter.

6 And it's paragraph 23.

7 Q. So this meeting:

8 "I recall meeting Mr. Thaci a third time sometime during the
9 campaign, probably in April 1999, to seek his assistance with
10 identifying target locations for NATO air strikes."

11 In relation to this meeting, do you remember where it was?

12 A. I'm pretty sure that was in my headquarters.

13 Q. And what did you understand Mr. Thaci's role to be at the time
14 you had this meeting?

15 A. He was like a liaison officer. I figured he was out looking for
16 money and support from the Albanian expatriate community.

17 Q. So did you ask to see him or did he ask to see you?

18 A. I don't remember. I probably asked to see him because I was
19 still looking for help on targeting.

20 Q. And in the end you met with Hashim Thaci because he was one of
21 the KLA's top people, and as SACEUR, you were meeting with top
22 people?

23 A. He was outside the country, outside of Kosovo, he was available
24 to meet, and, yeah, he was supposed to be one of the top people.

25 Q. I first want to confirm the exact date of this meeting.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 MR. HALLING: If we could go to SPOE00405042 to 00405042.

2 Q. This is a media article that we found from 28 May 1999. And I
3 just want to show it to you to see if this is the same meeting that
4 we're talking about now. So it says:

5 "KLA political chief to meet with top NATO officials in
6 Brussels."

7 You see it's dated 28 May 1999:

8 "The political leader of the rebel Kosovo Liberation Army,
9 Hashim Thaci, said he planned to meet Friday in Brussels with NATO
10 Secretary General Javier Solana and the alliance commander
11 General Wesley Clark."

12 Is this the meeting?

13 A. No, I don't think so.

14 Q. So you talk about having only three meetings during the air --

15 A. No.

16 Q. -- during -- up until the end of the air campaign, and the third
17 one was probably in April 1999. So what's this one?

18 A. I don't know. I don't remember going to this meeting. But
19 then, you know -- I have to apologise to the Court because I -- I
20 just -- I could have spent a long time going back to Fort McNair
21 trying to read everything. I just wasn't aware what you needed me to
22 know to fulfil my obligation as a witness here. But I don't remember
23 this meeting. I'm sorry.

24 MR. HALLING: If we now go to P814_ET.17, and this is from a war
25 archive of news reports by the *KosovaPress*.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 Q. So it says:

2 "Prime Minister Thaci took part in the NATO Council meeting."

3 It says reporting from Brussels:

4 "Yesterday the Prime Minister of the Provisional Government of
5 Kosovo, Hashim Thaci, spent the day in Brussels."

6 And this was a report of 29 May 1999. And then you see at the
7 beginning of the second paragraph:

8 "Mr. Thaci also had a meeting with NATO [commander]
9 General Wesley Clark, to whom he set out the situation in Kosovo. In
10 these high-level meetings the Prime Minister of Kosovo requested the
11 continuation and intensification of the NATO attacks on the Serbian
12 military activity in Kosovo."

13 General, is it possible that what you're remembering as the
14 probably April 1999 meeting is, in fact, this one of 28 May 1999?

15 A. You know, I don't think so, but is your -- if it's material, may
16 I find a way to check on it?

17 Q. I think that we can just continue from there. But you actually
18 don't remember then, from what you're saying currently --

19 MR. MISETIC: Objection, Your Honour. This is asked and
20 answered. The witness has already said this.

21 PRESIDING JUDGE SMITH: Overruled.

22 Go ahead.

23 MR. HALLING: I didn't finish my question.

24 Q. You don't currently remember whether you met Hashim Thaci once
25 or twice during the air campaign.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 A. That's correct. But I think we could get an answer to that if
2 it's material.

3 Q. I want to focus on whatever the meeting was where you were
4 talking about seeking Hashim Thaci's assistance for identifying
5 target locations for airstrikes. You'd previously said earlier today
6 that you didn't have direct relations with the KLA. We've also
7 talked about NATO still getting KLA targeting information from other
8 sources, so why would you seek Hashim Thaci's assistance on
9 targeting?

10 A. Ah. Because -- what I've tried to explain is the air campaign
11 was a dynamic process from start to finish. When it began, we had a
12 list of targets that were in Kosovo. They were fixed targets, and
13 they were basically ammunition storage bunkers and barracks that the
14 Serb military was in. And we knew when we struck these that it was a
15 symbolic strike, they were empty.

16 So the question then was how was the campaign going to proceed.
17 Because of restrictions on satellite observation and transmission of
18 data that were extant in 1999, we had a very limited list of targets
19 before the campaign began, some 200 targets maybe, and they weren't
20 good targets, and they weren't targets that would have been
21 considered decisive against the government in Belgrade.

22 I had a discussion with Javier Solana about this. My military
23 commander said, "Oh, we want to strike immediately in Belgrade and
24 turn out the lights, like we did against Baghdad." And so Javier and
25 I discussed this and it wasn't going to be possible. The US was

1 responsible for the targeting, and they had prioritised targeting
2 against North Korea, Iraq, and Iran at the time, and I was told this
3 by the Chairman of the Joint Chiefs of Staff.

4 Now, I'm not trying to filibuster you. I just want to explain
5 that when we started we had a very limited list of targets, and it
6 was clear that bombing fixed installations wasn't going to be key in
7 stopping Milosevic's ethnic cleansing. And that's why I established
8 the merits -- measures of merit which were referenced in one of the
9 earlier exhibits, and that measure of merit was to strike the Serb
10 forces.

11 To strike the Serb forces, we needed active real-time
12 intelligence as best we could. So we had overflight, we had radio
13 intercepts, we had Predator. I brought in a second type of drone,
14 but they were very primitive compared to what's out there now. They
15 didn't show you where they were looking. You had no idea what you
16 were seeing on the screen or where it was.

17 So we realised we had a real deficit, and we -- over the time
18 and duration of the campaign, we progressively tried to remedy this
19 problem, and that's why I saw Thaci. And that's why I think I saw
20 him in April sometime in my headquarters, not this meeting. I --
21 this meeting -- I'm sure this meeting occurred, but it didn't make an
22 impression on me, I guess, because I remember asking him earlier and
23 not getting a successful -- much of an answer.

24 Q. Thank you, General. And you're not filibustering. This isn't a
25 legislative hearing. It's a formal proceeding.

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 You did know by this time that Mr. Thaci was focusing on
2 international outreach; right?

3 A. Right. Well, I didn't know that. He was the only connection we
4 had.

5 Q. In paragraph 22 of your statement, when you talk about the
6 meeting in mid-March 1999 at the airfield, you said:

7 "Thaci's focus, however, seemed to be on international outreach
8 with contacts in Switzerland and the US."

9 So you knew at that point that he was focusing on international
10 outreach?

11 A. That's right.

12 Q. Given the time sensitivities of targeting that we were talking
13 about earlier today, why would you have expected him to know the
14 latest on the KLA and Serb positions?

15 A. Well, I didn't expect him to know the latest. I expected him to
16 get information to us and to set up a system to get us the
17 information.

18 Q. Thank you.

19 A. But when I came back to him a second time, he still didn't know
20 anything.

21 MR. HALLING: So I would now like to play a video that we looked
22 briefly at the transcript of earlier, and this is 128928-03_2. And
23 if we could also get the accompanying transcript back on the screen,
24 which is 128928-03-TR-AT-ET, page 2.

25 Q. Now, General, I will have to apologise at the outset for this

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 one. This is an interview you gave on Albanian television in August
2 2000. You spoke in English. Your answers were then dubbed into
3 Albanian, so we have subtitles indicating what was said.

4 MR. MISETIC: Just to orient the witness, the transcript says it
5 was August of 2020, not August of 2000.

6 MR. HALLING: Apologies. Thank you, counsel. It was 1 August
7 2020. Thank you for the correction.

8 And it was for RTK Television. And if we go to page 2 of the
9 transcript, and then we go to the video. The part of the video that
10 I would like to have played is from 02:34 to 03:41.

11 Q. And as you'll see, the excerpt played is going to end with the
12 part of this transcript that I showed you previously.

13 MR. HALLING: The video itself is extracted, so -- but, yes, in
14 the extract it starts at 02:34 to 03:41.

15 [Video-clip played]

16 MR. HALLING: Yes, we can stop the video there.

17 Q. General, you said that you met Thaci once briefly outside the
18 NATO headquarters in Belgium. Is this the meeting about the
19 targeting discussion you're discussing here?

20 A. I think that -- I'm referring to the time he came to the
21 airfield.

22 Q. Is there any indication other than your statement where you have
23 publicly acknowledged that you had a discussion with Hashim Thaci
24 about targeting?

25 A. I don't know if there's such a statement, but if there is, it --

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 you would probably have found it.

2 Q. And as we discussed earlier, this precedes you saying that NATO
3 did not have direct relations with the KLA. And I put it to you that
4 that remark only makes sense if the meeting with Hashim Thaci was not
5 about targeting assistance.

6 A. Well, I'm not -- I'm not sure how to -- I'm not sure what your
7 question is.

8 Q. Do you agree with that proposition or not?

9 A. Well, I think there's -- there's two matters of fact here that
10 may be contradictory. I notice the title of the Rand report was a
11 "Disjointed campaign." And this was the first experience that any of
12 these analysts had ever had of looking at an alliance operation in
13 something like NATO, so maybe it looked disjointed to them. Simple
14 fact was that NATO nations, as Klaus Naumann said, did not want to
15 have relations with the KLA.

16 But everything in this air campaign was dynamic. It changed.
17 What I mean to say is this. Let me give you an example. When this
18 operation began, I was asked how long would it last. Everybody
19 wanted to know this. So some people - the French, the Spanish -
20 like, ah, once NATO strikes, Milosevic is certainly to surrender. He
21 can't withstand NATO. But who knew that? So I wasn't going to say
22 that's not true. I was hoping that it would be over in a day. In
23 fact, the morning after the first strike I called General Ojdanic,
24 and I said, "Now we've struck. I think it's time for you to pull
25 your forces out, and let's get on with the agreement that was laid

1 out at Rambouillet."

2 So after three or four days, it became clear as the Serbs
3 continued their ethnic cleansing. And I went to
4 Secretary-General Solana, I said we have to change the objective of
5 the operation. It's no longer to persuade the Serbs to accept a NATO
6 force in Kosovo that would pacify the country the way we did in
7 Bosnia.

8 Q. General, I follow you --

9 A. So --

10 Q. -- and I want to focus --

11 A. -- I mean, everything changed --

12 Q. -- on the meeting with Hashim Thaci.

13 A. Everything changed. So, you know, from the time that we started
14 and didn't know how long it was going to last, as I said in my press
15 conference, which I wrote without Pentagon guidance, even though I
16 requested it, I said on the -- I think it was the morning of the
17 25th, with Solana, we're going to attack, attrit, degrade, and
18 ultimately destroy those elements that Milosevic most values --

19 Q. General, just to cut you off there. You're going well beyond
20 the scope of question --

21 A. Okay.

22 Q. -- that I asked. We're talking about Hashim Thaci and the
23 meeting you had with him.

24 MR. HALLING: If we can now put P524 on the screen.

25 Q. I take your point that you don't remember exactly --

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 A. No --

2 Q. -- when the meeting is.

3 A. But my point is you have to think of the campaign as an
4 progression. It was the opposite of good military planning. It was
5 a politically driven campaign. Had it been actually a planned
6 military campaign, we would have done it from start to finish.
7 Instead, we fought at each level to increase the pressure on
8 Milosevic.

9 MR. HALLING: If the Court Officer can now please pull up P524.

10 Q. Witness, I take your point that you don't remember exactly when
11 you had this targeting discussion with Hashim Thaci.

12 A. Right.

13 Q. But it must have happened by 29 May 1999.

14 A. Yes.

15 Q. Is that fair to say?

16 A. Yeah, it must have happened by then.

17 Q. This is an interview with Hashim Thaci on that date. And if you
18 scroll to the bottom of that page, Hashim Thaci is asked a question:

19 "Is it true that the KLA helps NATO locate targets inside
20 Kosova?"

21 And he begins his answer:

22 "It is possible but I think that NATO already has the
23 information it needs."

24 How could Hashim Thaci give an answer like that if you had asked
25 him about targeting prior?

Witness: Wesley Clark (Resumed) (Open Session)

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Cross-examination by Mr. Halling (Continued)

1 A. He could because he didn't have the information.

2 Q. The question was:

3 "Is it true that the KLA helps NATO locate targets inside
4 Kosova?"

5 And he says:

6 "It is possible ..."

7 And I put it that he couldn't have had a conversation with you
8 about targeting and this answer would also make sense.

9 A. Well, he did have a conversation with me about targeting. He
10 was unable to provide any assistance in targeting. I directed my
11 command to get as much information as they could from however they
12 communicated, whether it was through the Albanian government or
13 directly to these isolated elements in northern -- north-eastern
14 Albania, to find out what was going on.

15 And, you know, my impression was that Hashim Thaci was not
16 connected well to this.

17 Q. In that relation --

18 MR. HALLING: We can take this article down from the screen.

19 Q. And the meeting I want to focus on now is the meeting that you
20 were discussing yesterday with Hashim Thaci there and the zone
21 commanders just before the end of the demilitarisation period. Was
22 that meeting the only time you saw Hashim Thaci and the zone
23 commanders in the same place? If it helps, to the best of your
24 recollection.

25 A. I'd say to the best of my recollection, probably not, because

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Cross-examination by Mr. Halling (Continued)

1 when I went back in, I -- and we sat down with Mike Jackson and we
2 worked out the agreement, I seem to recall that I'd seen many of
3 these people before.

4 Q. And I take it from your answers yesterday, you'd seen them
5 before but you don't remember who these people were?

6 A. No. I mean -- and -- I don't -- I didn't have business cards on
7 them. I didn't have the spellings of their names. And they're
8 introducing themselves, and, you know, it's just very hard in the
9 midst of that to keep track of who's who.

10 Q. Yes.

11 MR. HALLING: And if we could please pull up P04501 on the
12 screen.

13 Q. Yesterday, and this was at realtime transcript pages 49 to 50,
14 you were shown a page from General Jackson's book by the Thaci
15 Defence where it talks about your engagement with the zone commanders
16 at this meeting. This is actually just before in the book where
17 Jackson is talking about the moments just before your visit.

18 MR. HALLING: And if we scroll down to the bottom of the page.

19 Q. It says:

20 "As the eleventh hour arrived, the negotiations became extremely
21 tense."

22 So it's just before you arrive.

23 MR. HALLING: The next page.

24 Q. Jackson then says:

25 "We reached D+89. Thaqi turned nasty. 'Nobody plays games with

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Cross-examination by Mr. Halling (Continued)

1 the KLA,' he shouted at me. 'If you think you can issue directions
2 to us, then you are mistaken and you will regret it.'"

3 General, did you know about this exchange with Hashim Thaci and
4 General Jackson shortly before you arrived?

5 A. I probably did know about it, and I figured that Jackson had
6 handled it properly.

7 Q. So you spoke in paragraph 31 of your admitted statement about
8 how Hashim Thaci's lack of influence over the KLA soldiers was
9 reinforced by him standing off to the side at the conclusion of your
10 meeting; is that right?

11 A. That's right.

12 Q. But it happened just after this exchange. Isn't it true that
13 Hashim Thaci had a political authority that was different in kind
14 from the soldiers that you were speaking to?

15 A. Well, it seems that that's the case. That does seem to be the
16 case, yeah. And he was speaking politically, and he was making, you
17 know, pronouncements politically. And he had a different vision, as
18 Mike Jackson says in this book, and talking about -- just reading the
19 previous page on what Ceku was saying. Yes.

20 I mean, as I tried to explain earlier, this was the process.
21 You had a resistance organisation that had, with NATO support, felt
22 that it had run the Serbs out. It then wanted a rightful place in
23 the government of Kosovo in the future. And what NATO was saying is,
24 hey, wait a minute, you've got to be disarmed and you're going away.

25 And what I did when I came down there was assure them that they

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Cross-examination by Mr. Halling (Continued)

1 could still maintain an association but it wouldn't be a military
2 association, and that was what became the Kosovo protective force.
3 Now, those were the major muscle movements. And what we're talking
4 about here is sort of the details of how this went down, and, yeah,
5 there was a lot of friction, a lot of anger, and a lot of statements
6 expressed.

7 Q. It's true, isn't it, that a key part of your remarks to the zone
8 commands was to emphasise how the military must be subject to a civil
9 authority?

10 A. Yeah.

11 Q. And during your military career, you were subordinate to the
12 President of the United States, who was the Commander-in-Chief of the
13 Armed Forces?

14 A. And the Secretary of Defense.

15 Q. Do you know if the KLA had identified anyone as its
16 commander-in-chief at this time?

17 A. No, I didn't. I didn't think of it that way. And the way I
18 looked at it is Ceku is in charge. That's how he presented himself.

19 Q. General, these inferences that you make throughout your
20 evidence, on authority, command, influence, they all led to a
21 conclusion in paragraph 52 of your statement that you do not believe
22 it would be just to attribute the misconduct of others to
23 Hashim Thaci. That's what you said; right?

24 A. That's right.

25 Q. I put it to you that you don't know enough about what the KLA

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Cross-examination by Mr. Halling (Continued)

1 was doing throughout the war to know if the charges he faces in this
2 Court stand or not. What do you say to that?

3 A. Well, that's a charge that is only partially relevant to the
4 proceedings of the Court, because, as a strategic commander, no, I
5 didn't have the ability to do the research that you've done.
6 However, from my experience with it, and what I saw was, he was not
7 effectively acting as a commander-in-chief in which everybody obeyed
8 his orders, and I think that's the crux of the case here.

9 Now, maybe I'm wrong, but all of the impressions that I had at
10 the time, and maybe this was an elaborate deception planned on the
11 part of Mr. Thaci or others, this was a group of people who came
12 together over a period of time to try to defend their population
13 against Serb ethnic cleansing. Thaci just happened to be the most
14 articulate and presentable of the people, and he was an ambitious man
15 from the start, and he worked his way up.

16 But to have control, no way that I could see, because these
17 elements didn't have the kind of structure that a normal organisation
18 would have. They were individual groups of people fighting for their
19 survival, no matter what the paper might say. And why do I say this?
20 Because if you look at relevant historical examples, and the best
21 researched historical example is actually the American Revolution --

22 Q. General, we're not talking about the American Revolution right
23 now, and we're not talking about anything other than whether you know
24 if the charges he faces stand or not. What is your answer to that
25 question --

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Cross-examination by Mr. Halling (Continued)

1 A. Charges --

2 Q. -- it's a yes --

3 A. -- don't stand.

4 Q. Thank you.

5 MR. HALLING: If we could now go back to the video that we were
6 showing earlier, 128928-03_2, and this would be ERN

7 128928-03-TR-AT-ET, page 1. And in a moment, I'll ask for the 00:22
8 mark to the 01:04 mark be played.

9 Q. General, I want to go back to this RTK interview, and I'm
10 grateful --

11 [Video-clip played]

12 MR. HALLING: If we can pause it for a moment.

13 Q. Because I'm grateful for the correction of counsel earlier,
14 because the date of this interview is significant. 1 August 2020 was
15 just over a month after the indictment was first publicly released in
16 this case. And you're being asked about it in the excerpt that I'm
17 about to play now.

18 MR. MISETIC: I'm going to object to the mischaracterisation.
19 It is not correct that the indictment was released by that date.

20 MR. HALLING: The announcement of it was released.

21 PRESIDING JUDGE SMITH: Overruled. That was the question that
22 was stated.

23 MR. MISETIC: Well, can I just say, Mr. President, if I can
24 clarify, I also don't believe the indictment was even confirmed by
25 that point, so I don't know how it could have been announced to have

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Cross-examination by Mr. Halling (Continued)

1 been released.

2 MR. HALLING: I can direct counsel to the press release of
3 24 June 2020, but that is the basis of my question.

4 MR. MISETIC: It's --

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. HALLING: If we could ask the Court Officer to please play
7 the extract.

8 [Video-clip played]

9 MR. HALLING: Thank you. If we can pause there.

10 Q. Witness, that's what you said about this Court and these
11 charges. You said in 2020 you had no idea if these charges against
12 Hashim Thaci stand or not. And you still don't know, do you?

13 A. Well, actually, I didn't know what the charges were when I made
14 that statement. The charges I remembered thinking about were the
15 charges of something to do with organ selling. And I think it was in
16 the 2007, 2008 period that someone had charged that the KLA was
17 harvesting organs and so forth, and so I considered that likely to be
18 some kind of disinformation.

19 So I don't remember exactly when I finally realised what these
20 charges were, but I'm pretty sure that when I made that statement I
21 had not read the charge sheet. In fact, I was asked by you yesterday
22 had I read these charge sheets, and I don't remember having read them
23 until I read it last night.

24 Q. So before last night, you had not been specifically informed of
25 the charges, you'd not read the indictment or the pre-trial briefs?

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Cross-examination by Mr. Halling (Continued)

1 A. That's right.

2 Q. That's what you said yesterday.

3 A. That's right. I did not get any information from Mike Durkee or
4 John Duncan or any of these other people about what they testified
5 on, so I had no idea, you know, how much research I needed to do to
6 be able to properly answer your questions.

7 Q. Thank you, General. You have answered my questions.

8 MR. HALLING: And, Your Honour, at this point we would now
9 tender this video and its accompanying transcript. I can give the
10 ERN again if it assists.

11 PRESIDING JUDGE SMITH: I have the ERN.

12 Any objection to the --

13 MR. MISETIC: No.

14 PRESIDING JUDGE SMITH: ERN 128928-03-TR-AT is admitted.

15 THE COURT OFFICER: Thank you, Your Honours. That will be
16 assigned Exhibit P04522. And it's currently classified as
17 confidential.

18 MR. HALLING: Yes. So it can be public. And just to be clear
19 as to the tender, it would be the video and the Albanian and English
20 transcripts of the video.

21 PRESIDING JUDGE SMITH: [Microphone not activated]. The English
22 and Albanian translations are included, and it is now reclassified as
23 public.

24 MR. HALLING: Thank you, Your Honour.

25 Q. And thank you, General.

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Re-examination by Mr. Misetic

1 MR. HALLING: No further questions.

2 PRESIDING JUDGE SMITH: Do you have any redirect?

3 MR. MISETIC: Yes, Your Honour.

4 PRESIDING JUDGE SMITH: Go ahead.

5 Re-examination by Mr. Misetic:

6 Q. General, while we have this on the screen, you, I believe, noted
7 that at this point in August it still wasn't clear what the charges
8 actually were; correct?

9 A. Right.

10 Q. And you mentioned in your answer that you had heard that the
11 allegations were related to organ trafficking; correct?

12 A. Correct.

13 Q. Can you tell us a little bit about what you had originally
14 understood this case to be about in August 2020 about organ
15 trafficking?

16 A. I assumed it was -- finally they had -- someone had come up with
17 some concrete evidence about it.

18 Q. And you linked the allegations of organ harvesting to a
19 disinformation campaign.

20 A. Yes, I did.

21 Q. Tell us a little bit about how that disinformation -- why you
22 think it was a disinformation campaign, the organ harvesting issues.

23 A. I thought --

24 MR. HALLING: Objection, irrelevant.

25 THE WITNESS: No.

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Re-examination by Mr. Misetic

1 MR. MISETIC: It went directly to his opinion that he
2 expressed --

3 PRESIDING JUDGE SMITH: The objection is overruled.
4 Go ahead.

5 THE WITNESS: I thought it was a ridiculous suggestion that in
6 the middle of this air campaign, somehow organs would be harvested
7 and sold to someone. It didn't make any sense. It was a kind of
8 prejudicial charges that -- it reeked of disinformation.

9 MR. MISETIC:

10 Q. Who did you think was launching a disinformation campaign?

11 A. The same people that gave me the book in the fall of 1998 that
12 identified the KLA as Chechens.

13 Q. And that would be whom?

14 A. That would be the Russians.

15 Q. Thank you, General.

16 Now, what I had planned for redirect, I want to start just with
17 a question of my own curiosity that you can help us with. At
18 various -- you were the Supreme Allied Commander of Europe. The
19 acronym has been now pronounced three different ways in this Court,
20 and I would like you to tell us how to pronounce that acronym.

21 A. SACEUR.

22 Q. SACEUR. Thank you. Okay.

23 I'd like to start by asking you this question: The conclusion
24 of the cross-examination asked you about your basis of knowledge for
25 your conclusion that you don't think Mr. Thaci should be responsible

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1 for the actions of others. You've now been cross-examined by the
2 Prosecutor for four hours.

3 Have you seen any order from Mr. Thaci to anyone?

4 A. I have not.

5 Q. Did the Prosecutor show you any reports that were issued by any
6 subordinates to Mr. Thaci?

7 A. They did not.

8 Q. Okay. Did you see anything that the Prosecutor showed you in
9 cross-examination which would indicate to you that he, in fact, might
10 have been a military commander?

11 A. I did not.

12 Q. Did anything that the Prosecutor showed you in cross-examination
13 lead you to question your conclusion as to whether Mr. Thaci should
14 bear responsibility for the actions of others?

15 A. It did not.

16 Q. Thank you. You mentioned two people just now, John Duncan and
17 Mike Durkee. Did they report to you?

18 A. Yes, they did.

19 Q. If they had met with zone commanders on the ground, would they
20 have reported that to you?

21 A. Well, if they had met with them during the conflict, there would
22 have been no way -- there would have been no way to do that.

23 Q. I'm talking about -- I should correct. After 1244, if they went
24 to Kosovo and had meetings with zone commanders, would that have been
25 information that you would -- they would have reported to you one way

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1 or another?

2 A. Yes, but it wouldn't have been significant information. I
3 wouldn't have tagged it because I didn't -- you know, I just assumed
4 there were people that were considered subordinates of whoever was in
5 charge of trying to make this thing work. But the fact that there
6 were specific -- called zone commanders or what their names were,
7 it's not -- it wasn't relevant at my level of command.

8 Q. Now, the impressions that they made on the ground in their
9 meetings, did they give you -- forward those impressions to you?

10 A. Yes.

11 Q. And did you form your conclusions on the basis of the
12 information that was provided to you by your subordinates, including
13 people like John Duncan and Mike Durkee?

14 A. I did.

15 Q. Okay. You were asked several questions, and there was an
16 attempt for you to draw a comparison in terms of command and control
17 with whether Mike Jackson could simply disregard one of your orders
18 and that's just the way things go in command, sometimes they disagree
19 with you. Do you remember that conversation?

20 A. Yes.

21 Q. Yes. Now, I'm going to ask you some questions here --

22 A. But, I want -- I'm glad you brought this up. And can I --

23 Q. Well, I'm going to give you plenty of opportunity, believe me.
24 You'll have plenty of rope to tell us what the distinctions are here.

25 What I was trying to say was let's talk about and see if we're

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1 comparing apples to apples or apples to oranges. Okay? Let's start
2 here.

3 Within the United States Army, if General Wesley Clark, a
4 four-star general, issues an order to a subordinate, and he says to
5 you, "General Clark, I don't feel like implementing your order," what
6 steps do you take?

7 A. I'd probably ask him why. I mean, as opposed to the -- let me
8 just explain something to the Court.

9 In the Russian Soviet military system, when an order is given,
10 if you don't execute it according to the doctrine, you're a traitor,
11 and so you're sabotaging the operation. That's the way the Soviet
12 military doctrine emerged. Ours is different. When we give an order
13 for an operation, it's normally passed down, and the subordinate
14 commanders look at it and they analyse it, and they might well come
15 back and say, "I can't do that." Say, "You've given me a river. I
16 need more engineer support to cross the river. I need more
17 artillery." In the Soviet command and control system, this would
18 have been considered sabotaging the plan of the higher headquarters
19 by asking for resources that weren't allocated to you. In the
20 American way, we have a more collaborative planning process.

21 Now, that's -- that's simply the fact. And so when -- okay. So
22 that's -- let's stop there. Go ahead with your --

23 Q. Okay.

24 A. -- next question.

25 Q. But I'm talking about we get to the scenario where you've heard

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1 all the arguments, all the contrary arguments, et cetera, and now
2 you've made the final decision.

3 A. Yeah.

4 Q. After the collaboration, you've had to make the call --

5 A. Yeah.

6 Q. -- and still a subordinate says he's going to disobey your
7 order?

8 A. Well, then he's out.

9 Q. What does that mean?

10 A. Well, I've got to remove him from command.

11 Q. Got it. So that's within the United States Army.

12 Now, in a NATO setting, and, in this particular case, KFOR, can
13 you tell us what the operational plan was and whether each contingent
14 country retained any command over its own forces with respect to the
15 NATO operational plan?

16 A. Are you talking about KFOR after the end of the air campaign?

17 Q. Correct.

18 A. Okay. Always within NATO, command remains with the parent
19 country. So removing officers, disciplining officers, rewarding
20 officers, whatever. Operational control is given to NATO. But if
21 the commander of the country's detachment objects to the NATO order,
22 he, of course, had the right to go back to his own channel of
23 command.

24 Q. And I'm told I was speaking too fast, so I'm going to take a
25 pause for a second, General. Now, you were asked questions by the

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1 Prosecutor about General Mike Jackson and the Prishtina airfield,
2 et cetera.

3 A. Right.

4 Q. Do I understand your answer correctly that, in the NATO context,
5 General Jackson had the ability to follow his own chain of command on
6 that issue?

7 A. Yeah, on any issue.

8 Q. Okay. And when I say "his own chain of command," I mean to the
9 British?

10 A. To the British. Absolutely. He had the right to appeal to the
11 British on any of these issues.

12 Q. Thank you.

13 A. And, of course, I had the right to object. But he didn't -- I
14 didn't have the right to fire him or discipline him. And, you know,
15 it was a matter of professional military judgment.

16 Q. So when we talk about command and control within a nation's
17 army, not in a multinational force, is it necessary to have effective
18 command and control that the superior commander has the ability to
19 replace the subordinate commander if he disobeys an order?

20 A. Yes, if you have real command and control, that's correct.

21 Q. Okay.

22 A. Now, can I just say that -- I want to make clear that that's not
23 usually the prerogative of the immediate superior. It might get
24 moved two or three levels up the chain of command.

25 Q. Okay. Understood. Now, you were asked some questions about

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1 intelligence and intelligence failures. Do you recall being asked
2 that by the Prosecutor --

3 A. Yes.

4 Q. -- yesterday? Okay. Your own conclusions about Kosovo, they
5 were based on intelligence you received; is that correct?

6 A. Correct.

7 Q. Were they also based on your own personal trips to Kosovo?

8 A. Yes.

9 Q. You say in your statement that they were based also on that
10 meeting you attended in September with Mr. Thaci and the zone
11 commanders; is that --

12 A. Yes.

13 Q. -- correct? Would they have also been based on the observations
14 that Mr. Durkee and Mr. Duncan were reporting to you?

15 A. Yes.

16 Q. General Jackson also, would he have been informing you about
17 what he was seeing?

18 A. He would have.

19 Q. Did General Jackson indicate to you that he wanted zone
20 commanders to be present at JIC meetings?

21 A. I don't recall specifically that statement.

22 Q. Okay.

23 MR. MISETIC: If we could please have on the screen
24 Exhibit P02516.

25 Q. You were asked a series of questions about the possibility of

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1 renewed hostilities with Serbia, and I want to ask you if
2 General Jackson reported to you what he's recorded as saying here.

3 MR. MISETIC: And if we could go to PDF page 22, please.

4 Q. This is testimony that General Jackson gave in 2016 in the
5 British courts.

6 MR. MISETIC: And if we could -- yeah.

7 Q. If you look in about the sixth line down. The lines are
8 numbered on the left-hand column.

9 MR. MISETIC: Sorry, if we could scroll up, please. Yes, right
10 -- that top paragraph.

11 Q. He says:

12 "... leaving aside what I thought was quite a remote possibility
13 but it was not zero, of the Serbs mounting a counter attack ..."

14 Was General Jackson reporting to you also that he felt it was a
15 remote possibility but it wasn't zero of the Serbs mounting a
16 counterattack?

17 A. Yeah, I think that's a fair characterisation. However, that was
18 his opinion. And I had a somewhat different response -- set of
19 responsibilities, so I took more seriously the threat that the Serbs
20 might mount an attack.

21 Q. Yes, but he was giving you this information, and it formed -- it
22 formed your own conclusions --

23 A. Of course.

24 Q. -- about the lack --

25 A. Yeah.

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1 Q. -- of a likelihood of a Serb counterattack?

2 A. Yes.

3 MR. MISETIC: While we're on this document, if we could go to
4 PDF page 16, please.

5 Q. And I would like to ask you if General Jackson also reported to
6 you sentiments that he expresses here.

7 MR. MISETIC: If we could go to -- yes, that line, beginning at
8 line 4.

9 Q. The question he's asked is:

10 "... would you agree, that were targets of the KLA?"

11 And he says:

12 "Yes. I had no evidence myself that, as I think you are
13 inferring -- forgive me if I have got this wrong -- that the KLA
14 institutionally, by policy if you wish, were committing terrorist
15 acts against whomever. I am not saying that individuals did not do
16 this, but I have no evidence that this was KLA policy."

17 A. That's what Jackson told me, yeah.

18 Q. Okay.

19 MR. MISETIC: And if we could go to PDF page 21, please.

20 Q. He's asked on cross-examination - down on the bottom, towards
21 the bottom, please - beginning at line 13:

22 "Were you alive to what you might need to do to prevent the KLA,
23 in part if not in whole, conducting themselves like that?"

24 His answer:

25 "There is a lot in that question."

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1 Then he is asked:

2 "So I am sorry, there is, but I think it may be" --

3 And he says, General Jackson:

4 "I say, I have no evidence that institutionally the KLA had
5 adopted a policy of ethnic cleansing of the remaining Serbs."

6 Did General Jackson report those sentiments to you in realtime
7 in the summer of 1999?

8 A. He did, but I want to go to line 20 there and that answer
9 because this is what I have been trying to say in a perhaps less
10 eloquent way over the last two days.

11 Q. Yes, well, let me read it out then. He also goes on and says:

12 "I know, 99% know, that individual members of the KLA were,
13 frankly, out of control."

14 Is that what he was reporting to you and that led to your
15 assessment that there was no command and control --

16 A. Yes.

17 Q. -- of the KLA?

18 A. Yes.

19 Q. Thank you.

20 MR. MISETIC: If we can go to PDF page 22, please. At the
21 bottom, please.

22 Q. He's asked about something called the Marty report. Are you
23 familiar with the Marty report, General?

24 A. No.

25 Q. Okay. He's asked:

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1 "I just want to concentrate on the KLA and [so] I am just
2 focusing on the findings of Senator Marty?"

3 And he answers:

4 "You are beginning to imply that this was a policy of the KLA" -
5 if we go to the next page, please - "and I cannot say that I agree
6 with you on that."

7 Again, is that consistent with what General Jackson was
8 reporting to you about a lack of a KLA policy --

9 A. Yes.

10 Q. -- to commit crimes?

11 A. Yes.

12 Q. Thank you.

13 MR. HALLING: Just to clarify, "policy of the KLA to cleanse out
14 every single Serb" is what's exactly written.

15 MR. MISETIC: Fine.

16 Q. Is that what was being reported to you?

17 A. Yes, that it wasn't a KLA policy. But referring to the previous
18 page, sure, as I've tried to -- I've said this ten times to the
19 Court, I think. Look, this is a terrible situation for these people
20 who were fearing for their lives. They were angry, there was
21 vengeance taken, of course. And Jackson put it very clearly there
22 about the Balkans' sentiment of an eye for an eye. This is not from
23 a -- you know, it's not post-Protestant Reformation Christianity.

24 Q. Just one second.

25 General, you were shown some testimony before the ICTY by

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1 General Klaus Naumann. Do you recall --

2 A. Naumann, Naumann.

3 Q. Naumann. I apologise. Klaus Naumann before the ICTY. Do you
4 recall that?

5 A. Yes.

6 Q. I would like to show you portions that were not shown to you by
7 the Prosecutor.

8 MR. MISETIC: So if we could please have SPOE00406441 to
9 00406504.

10 Q. And I just want them shown to you because you might have been
11 seemingly misled by not being shown this portion.

12 MR. MISETIC: If we could go to page SPOE00406464, please. Yes.
13 And if we go to line 6 at the bottom.

14 Q. You are asked here:

15 "So, General, if I" -- not you, I'm sorry, General Naumann:

16 "So, General, if I understand then, part of the problem, as you
17 see it, is because NATO has earlier declared KLA a terrorist group.
18 By NATO's own rules, then you couldn't negotiate with them or have
19 discussions with them?"

20 And then his answer is:

21 "That's correct. We had to ask nations, individual nations, to
22 contact them."

23 So General Naumann there is not saying that there was no
24 contact. He, as I understand it, is saying it didn't go through
25 NATO. It went through the individual NATO member states; is that

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1 correct?

2 A. Correct.

3 MR. MISETIC: Now, if we can go back one page in this document,
4 and this is where the Prosecutor stopped the quote. And if we can
5 scroll down to line 19. If we could scroll up again, sorry. Right
6 there.

7 Q. This is the portion that was read out:

8 "That, Your Honour, one hour Achilles' heel ..."

9 And if we go down to line 6, he continued, and it was not read
10 out to you:

11 "We had simply no instrument to rein-in the KLA. We had to do
12 it. We tried to do it by asking the one or the other NATO nation to
13 take advantage of contacts which may exist. But the instrument which
14 we used in the case of [Yugoslavia]; namely, to threaten military
15 action, was not applicable to the Kosovars."

16 So, again, my question to you is, is it the case that, in fact,
17 there was contact but it went through other NATO nations? Is he
18 right there?

19 A. Yes, there was -- sure. There was contact. Of course.

20 Q. Thank you. Now, you were shown an excerpt from
21 General Reinhardt's diary from March 2000. Do you recall that?

22 A. Yes, I do.

23 Q. I'd like to show you -- the date of that entry in
24 General Reinhardt's diary is 10 March 2000. And I'd like to show you
25 an article in *The New York Times* reporting on that event from

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1 11 March 2000.

2 MR. MISETIC: And if we could please have on screen 1D00181 from
3 the new queue released by the Thaci Defence.

4 Q. And you'll see there "NATO Chief in Kosovo Fears a Cross-Border
5 Insurgency," and then the first two paragraphs say:

6 "The commander of peacekeeping troops in Kosovo, with the former
7 political leader of the disbanded Kosovo Liberation Army beside him,
8 vowed today to stop any insurgency mounted from Kosovo into Serbia.

9 "The warning came at a joint news conference when the commander,
10 [General] Klaus Reinhardt, was joined by Hashim Thaci, the Albanian
11 leader. The appearance, which Mr. Thaci was urged to make by
12 [General] Wesley K. Clark, NATO's Supreme Commander, was an effort to
13 send a political message to the population of Kosovo and beyond into
14 Serbia."

15 MR. MISETIC: And if we can scroll down to see -- on the next
16 page, please. Sorry. And then scroll down. Yes.

17 Q. "Mr. Thaci ..." that paragraph. It says:

18 "Mr. Thaci and leaders of the Kosovo Protection Corps, the
19 civilian structure that has replaced the liberation army, are
20 apparently already listening and are moving to take the appropriate
21 public stance. In an interview this week, just after a meeting in
22 Kosovo with General Clark, Mr. Thaci clearly stated that the Presevo
23 Valley, long a majority Albanian area and once part of Kosovo, was
24 not his concern.

25 "'I respect the right of the Albanians in Presevo. They should

1 have the rights of democratic citizens. But in Kosovo we have
2 different circumstances and we now have a different approach to the
3 region,' he said. 'Now as the president of a political party in
4 Kosovo, my concerns only cover the territory of Kosovo.'"

5 If we read one more sentence:

6 "He stressed that Albanians did not want violence. 'More than
7 anyone else in the region, Albanians know what violence means.'"

8 Just one second, General.

9 A. Counsel, if I could just --

10 Q. Just for the interpreters. I'll ask the question, and then you
11 feel free to expound as you need to, General.

12 My question to you is you're mentioned in the first two
13 paragraphs of this *New York Times* article as someone who encouraged
14 Mr. Thaci to deliver a political message. Is what he is reported as
15 saying here consistent with the message you wanted him to deliver?

16 A. What he says there is consistent, but maybe he didn't say the
17 right thing with Klaus Reinhardt.

18 Q. Okay.

19 A. But I come down to the last sentence which is relevant to the
20 whole set of issues that are being raised here. "Ramush Haradinaj, a
21 powerful commander of the former Kosovo Liberation Army, showed a
22 more independent mind."

23 Q. We can scroll --

24 A. Now --

25 Q. Let me scroll --

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1 A. -- this is precisely my impression and what drives my impression
2 of the command and control nature that was present in the KLA. These
3 were strong personalities, men who were risking their lives, whose
4 families depended on their decisions. They weren't easily
5 subordinated. It wasn't a regular chain of command. They were
6 fighting for their lives up through the end of the air campaign, and
7 they carried that attitude forward into the post air campaign period.
8 That's why Jackson had a hard time with them, that's why there was
9 still revenge taken, that's why individual elements may have
10 conducted violent operations against the Serbs. There's no doubt
11 about it.

12 Q. Thank you, General.

13 A. Yeah.

14 Q. General, last week Ambassador Christopher Hill testified that
15 the KLA was never designated as a foreign terrorist organisation by
16 the United States. Is that consistent with your understanding?

17 A. That's what I said earlier. After someone had made that
18 statement, then it was clarified and rebutted by the United States.

19 Q. Thank you.

20 MR. MISETIC: Sorry, Your Honour. I need one second.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. MISETIC: Yes, Mr. President, I'm just being told that at
23 transcript page 101, line 11, I believe in the first sentence, if
24 I -- I'll just ask the witness to repeat, because I think we have the
25 wrong --

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1 PRESIDING JUDGE SMITH: That's fine.

2 MR. MISETIC: Yeah.

3 Q. General, you brought up the issue of the reference to
4 Ramush Haradinaj in *The New York Times* article, and you're recorded
5 on the transcript as saying:

6 "... but I come down to the last sentence, which is irrelevant
7 to the whole set of issues that are being raised here ..."

8 Did you mean to say "relevant" --

9 A. Yes.

10 Q. -- or "irrelevant"?

11 A. If I said "irrelevant," I didn't mean to say "irrelevant."

12 PRESIDING JUDGE SMITH: He said "relevant." He said "relevant."

13 MR. MISETIC: Thank you. I'm just confirming. Thank you.

14 Q. General Clark, I'd like to show you portions of your book that
15 have been shown to you by the Prosecutor.

16 MR. MISETIC: If we could please have -- sorry, let me just
17 double-check. Okay.

18 If I could please have page DHT11103 to DHT11632, please, on the
19 screen. And this is, again, your book "Waging Modern War," and you
20 were shown DHT11473. If we could take a look at that.

21 Q. And I just -- I'm going to ask you a question to help us
22 interpret the sentence that was shown to you. So at the very top,
23 you were read the second sentence, which says:

24 "Hawk was in direct contact with the Albanian Army who, in turn,
25 were monitoring the KLA, and many targets were being passed to the

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1 CAOC."

2 My question to you is, is this sentence saying that it's the
3 Albanian army who is passing along targeting information after
4 monitoring the KLA, or is it saying that the KLA is passing along
5 targeting information through the Albanian army?

6 A. You know, it was probably a little of both. But they were
7 getting -- they had direct contact at the airfield in Tirana with the
8 Albanian army. We didn't have any way of directly ourselves
9 monitoring the KLA, not in Task Force Hawk.

10 Q. I guess my question is it's unclear. Is the Albanian army, to
11 your understanding, being given information by the KLA; or is it that
12 they're surveilling the KLA and then reporting it back to you?

13 A. The sentence is ambiguous because that's the way it was.

14 Q. Okay.

15 A. It wasn't clear. You know, the events -- as I tried to explain,
16 this came together very, very quickly near the end of the campaign.
17 During the time, we were also negotiating. Mike Jackson was trying
18 to negotiate an end to this. I was trying to bring the B52s in on
19 Mount Pashtrik to make sure there was no backsliding by Milosevic on
20 his willingness to resolve the issue. And I think information was
21 flowing more and more readily.

22 But as I tried to explain, what was present at the end of the
23 campaign wasn't there 78 days earlier.

24 Q. Understood.

25 MR. MISETIC: And within this book, if we could go to another

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1 page, DHT11419, please, which, for the record -- just one second,
2 please.

3 Yes, Mr. Court Officer, could we please have DHT11419, please,
4 on the screen. And I'd like to show the sentence that begins,
5 "Meanwhile when asked ..." If we go down, please. I don't see it
6 on -- is this 11419? Yes. Sorry.

7 MR. HALLING: If it assists, counsel, I believe this is one of
8 the pages that was tendered through the bar table and for which we
9 have no objection.

10 MR. MISETIC: Thank you.

11 MR. HALLING: If that matters.

12 MR. MISETIC: Thank you. Yeah, this is actually the right page.

13 Q. The third -- the paragraph that begins:

14 "We had tried to set up a system to use reports from the Kosovo
15 Liberation Army to help us determine which villages were clear of
16 Kosovars. The idea was that the KLA could tell us through
17 intermediaries whether certain villages were unoccupied. We soon
18 discovered that this method wasn't reliable. The KLA's information
19 might be old, or the Serbs could have infiltrated their
20 communications, or perhaps it wasn't really as accurate as we needed.
21 I had suggested the system but quickly became disenchanted. We would
22 have to rely primarily on unmanned aerial vehicles' real-time TV to
23 help us avoid harming civilians, and we'd have to be very wary of
24 striking villages."

25 Now, General, is that consistent with your assessment of the

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1 quality of the information you were receiving from the KLA?

2 A. Yes, it is.

3 Q. And did this impact at all your assessment of command and
4 control in the KLA?

5 A. Yes, it did.

6 Q. And why is that?

7 A. Because there simply wasn't an effective way of getting
8 information from the battlefield back up the chain of command to us.

9 Q. Thank you.

10 A. We got spots of information. It might or might not have been
11 reliable. And as I indicated earlier, as the campaign progressed,
12 and as this offensive focused on the Mount Pashtrik region, then it
13 was easier to get the information because there was more direct
14 physical contact. But any areas -- when we were trying to strike
15 Serb forces elsewhere, out in Drenica and further, Gjilan and
16 elsewhere, there were KLA people out there, I'm sure. I don't know
17 who they were. We knew there were friendlies out there. We knew
18 there were enemies.

19 I was down at the Combined Air Operations Centre one day looking
20 at the Predator feed. We could see a tank backing into wood lines by
21 a lake with road nearby. We had an A-10 overhead, and we tried to
22 explain to the pilot what we were seeing. It was impossible. And so
23 we were really betwixt and between. That's why we kept trying to
24 encourage something from the KLA. But it didn't become halfway
25 reliable until the last two or three days, when they were at Mount

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1 Pashtrik. To get that information out of the areas that are 10, 20,
2 40 kilometres deep, it wasn't coming to us.

3 Q. Thank you, General.

4 A. It just wasn't coming.

5 Q. Thank you, General.

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

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

8 MR. MISETIC: I just want to consult with my client. I may be
9 finished, actually, but I just want to have an opportunity to ask him
10 if he has anything to add.

11 PRESIDING JUDGE SMITH: [Microphone not activated]. We can wait
12 and let you finish up now if you want, or if you need a short break.

13 MR. MISETIC: I'll talk to him right now. But in the meantime,
14 I'll tender the page that I just put to the General.

15 PRESIDING JUDGE SMITH: Which one? 419?

16 MR. MISETIC: Yes. And I understand there's no objection.

17 PRESIDING JUDGE SMITH: Any objection to 419?

18 MR. HALLING: Not as I understood the previous proposal. This
19 would then be added to P04514.

20 MR. MISETIC: Yes.

21 PRESIDING JUDGE SMITH: DHT11419 is admitted and will be added
22 to the existing exhibit.

23 THE COURT OFFICER: And the existing exhibit is P04514,
24 classified as public. Thank you, Your Honours.

25 [Specialist Counsel confer]

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1 MR. MISETIC:

2 Q. General Clark, thank you very much.

3 MR. MISETIC: Mr. President, that concludes the redirect
4 examination.

5 PRESIDING JUDGE SMITH: Thank you.

6 General, you'll be happy to know you're finished with us now.
7 The last question has been asked. You will be released and may leave
8 the courtroom. We thank you for being with us, for sharing your
9 information with us. And you can leave with the Court Attendant now.

10 THE WITNESS: Thank you very much. But I never got a chance
11 to -- you promised me I could say something.

12 PRESIDING JUDGE SMITH: You've been saying quite a bit.

13 THE WITNESS: Well, can I just take two minutes and say this
14 from my perspective.

15 PRESIDING JUDGE SMITH: Do you understand the problem is then
16 nobody is going to be able to cross-examine you.

17 THE WITNESS: I'm not going to say anything that's
18 cross-examinable. I'm just going to try to put this in perspective.
19 Okay?

20 I mentioned the American Revolution several times. We're in an
21 era in this age right now where there are major forces contending to
22 impact governance. Since World War II, we've tried to establish a
23 rules-based international system. That rules-based international
24 system has worked to some extent, it's been shaky to some extent.
25 And after the fall of the Berlin Wall and the opening of Eastern

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1 Europe, Yugoslavia came apart, and the people in Yugoslavia sought
2 the same freedoms that they saw people enjoying elsewhere in the
3 West. This rollback of traditional Habsburg monarchy, Russian
4 monarchy domain has -- is continuing with the war in Ukraine today.

5 And the issue that's here in this trial -- and I don't mean to
6 disrespect anybody or the proceedings, because I think the
7 proceedings are important. But there's a line that's crossed
8 somewhere in terms of law and order versus standing up for your
9 individual human rights as a person, and that line was crossed by the
10 KLA somewhere in the early 1990s when they simply rejected Serb
11 oppression and did their best to resist it. And so at that point
12 they aren't terrorists, despite the fact that when I went to see the
13 Serb generals they said they were terrorists. That point, they're
14 not terrorists. They're fighting against a regime which is an
15 unjust, immoral, illegal regime which deserved to be replaced.

16 Today, the same effort is going on in Ukraine, and it may go on
17 further. And I think this does present profound challenges in
18 jurisprudence. Because at one point, the Baader-Meinhof gangs are in
19 Germany. I'm sure they would have liked to have changed the German
20 government. They were ruled as terrorists. We had a democratic
21 government in Germany. And here you have people fighting for their
22 own freedom.

23 And so somehow the laws and procedures of civilised society have
24 to accommodate the needs of people for their own personal freedom,
25 liberty, and dignity. This is a revolution that started in the

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1 United States, and that's why I referred to it several times, and
2 those American patriots in 1775, 1774, were considered terrorists by
3 the very British who are American allies today. And yet, America
4 became a great country and forced this in.

5 So I think we have to -- as we go through these proceedings, and
6 whether this goes forward, or whether there is Ukrainian proceedings,
7 or whatever, I think we have to understand that there's an
8 application for criminal laws and criminal liability, and there are
9 higher strategic issues that sometimes override what individual
10 responsibilities and capabilities are.

11 So I thank you for letting me explain that. That's my view and
12 how I've looked at this trial. And I stand by my previous conviction
13 that Hashim Thaci is not responsible for what happened there in the
14 sense of individual actions of revenge and violence.

15 PRESIDING JUDGE SMITH: Thank you, General Clark.

16 THE WITNESS: Thank you.

17 PRESIDING JUDGE SMITH: Thanks for being with us.

18 THE WITNESS: Thank you.

19 [The witness withdrew]

20 PRESIDING JUDGE SMITH: Ms. Gearhart-Serna, thank you very much
21 for being with us again. It's good to see you. And you may leave
22 now if you wish as well. The rest of this gets pretty boring. Or
23 maybe all of it.

24 We have a Status Conference scheduled tomorrow. We had thought
25 we would still be hearing him tomorrow. So we'll schedule it for

1 2.00, and I don't think it will take more than one hour. Tomorrow,
2 yes.

3 MR. MISETIC: I'm going to just ask if there's -- if we can do
4 it earlier. I think some of us would like to do it earlier. But if
5 it's 2.00, we'll be ready.

6 PRESIDING JUDGE SMITH: It's going to have to be 2.00 tomorrow.

7 MR. MISETIC: Okay.

8 PRESIDING JUDGE SMITH: All right. Thank you all very much.
9 Oh, yes, Mr. Ellis.

10 MR. ELLIS: Your Honour, I haven't raised it with him yet, but
11 if Mr. Krasniqi and the other accused wish to follow from the DU for
12 the Status Conference --

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. ELLIS: I apologise. I'm losing my voice. I was just
15 raising the possibility that Mr. Krasniqi might wish to follow the
16 Status Conference from the DU rather than in court. I haven't
17 discussed it yet.

18 PRESIDING JUDGE SMITH: Any of the accused that want to watch
19 from the facility is perfectly all right with us. We have no
20 objection.

21 MR. ELLIS: Thank you.

22 PRESIDING JUDGE SMITH: So we'll see you tomorrow at 2.00.

23 --- Whereupon the hearing adjourned at 1.10 p.m.

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