

1 Monday, 25 March 2024

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 Good morning, everyone. I note that the accused are all the  
12 present in court today.

13 Today we start hearing the evidence of Prosecution Witness 4147.  
14 Before we do, there are a few matters to deal with.

15 Regarding the SPO's offer of admission of two documents during  
16 the testimony of W04571, bearing, respectively, MFI P01064 and MFI  
17 P01065, the Panel rules as follows.

18 First, regarding relevance, the Panel is satisfied that the  
19 documents are relevant as they refer to a number of individuals who  
20 it is alleged were victims of crimes charged in this case and because  
21 the documents refer to suspicions associated with those individuals  
22 which might have provided reasons and explanations for what happened  
23 to those individuals during the war.

24 Furthermore, the documents are relevant to establishing: One,  
25 the nature of the work carried out by those collecting information

1 about suspected collaborators; two, when this work started in the  
2 area concerned by these documents; and, three, the magnitude of those  
3 concerned by such activity.

4 Regarding authenticity, the Panel finds that there is no  
5 indication that the records are anything other than records of  
6 intelligence and counter-intelligence gathering conducted by unknown  
7 individuals in respect of individuals suspected of collaboration with  
8 Serb authorities or Serb officials. There is no indication that the  
9 documents have been tampered with or that they are anything other  
10 than contemporaneous records of the information they contain.

11 The SPO indicated that the documents were seized by Serbian  
12 authorities and then provided them to the ICTY, which the Defence is  
13 not disputing. There is no indication before the Panel that these  
14 documents were interfered with or tampered with by Serbian state  
15 agents.

16 The Panel further observes that both documents appear to refer  
17 to KLA members, meetings, and operations. Witness W04571 gave live  
18 testimony that is consistent with the handwritten notes about his  
19 alleged links with the particular Serbian police officer and other  
20 individuals mentioned in these documents. The documents are also  
21 corroborated in part by other handwritten notes in evidence; in  
22 particular P00651, which indicates that there was a warrant for the  
23 witness's arrest issued prior to his detention.

24 Finally, though the Defence bears no burden in this regard, the  
25 Panel finds that the Defence has not offered any credible explanation

1 as to why the documents should be taken to be anything other than  
2 records of intelligence and counter-intelligence gathering conducted  
3 by unknown individuals in respect of individuals suspected of  
4 collaboration with Serb authorities or Serb officials.

5 The Panel has found in a prior decision, that is F01963,  
6 paragraph 28, that there is no basis to suggest that documents  
7 provided by Serbian authorities are *prima facie* suspicious and that  
8 the Defence itself has offered such documents for admission. Thus,  
9 the Panel is satisfied that the documents are *prima facie* authentic.  
10 In so finding, the Panel emphasises that it has not relied upon the  
11 declaration of an ICTY investigator in the Haradinaj case as  
12 submitted by counsel for the SPO. That document is not part of the  
13 record in this case and is not being offered for admission.  
14 *Prima facie* authenticity can be established without it for the  
15 reasons already stated.

16 Regarding the probative value of the documents, the Panel has  
17 determined the following. While the Panel need not establish  
18 authorship of these documents to decide their admission, the Panel is  
19 satisfied that their content is consistent with the suggestion that  
20 they were prepared by members of the KLA or individuals associated  
21 with them. This is apparent from the nature of the allegations  
22 contained in the documents and from the names and identities of the  
23 individuals concerned by the activities recorded in these documents.  
24 This is also consistent with the fact that individuals mentioned in  
25 the documents are alleged to have been subsequently victimised by the

1 KLA.

2 The Panel notes furthermore that there is no indication of any  
3 third party engaging in observation and surveillance or having any  
4 interest in respect of any of the supposed collaborators mentioned  
5 and listed in the documents.

6 The Panel finally notes that the content of the two documents is  
7 partly corroborating insofar as they refer to some of the same  
8 individuals. On that basis, the Panel is satisfied that the  
9 documents have *prima facie* probative value.

10 Finally, the fact that the documents may contain inaccurate  
11 information or untruths does not undermine their probative value as  
12 they are not being offered to establish the truth of their content  
13 but, as articulated by the SPO, the fact that claims were being made  
14 against individuals who were treated and regarded as collaborators by  
15 those who drew up these documents.

16 Regarding the question of prejudice, the Panel notes that the  
17 Defence was able to ask questions to witnesses, to Witness 04571,  
18 regarding the contents of the documents, and that the Panel agreed to  
19 delay its decision on admissibility until after the Defence was able  
20 to cross-examine this witness on the content of the documents. The  
21 Panel is satisfied that the admission of this document does not cause  
22 unfair prejudice to the Defence.

23 Based on what has been said, the Panel admits both of these  
24 documents pursuant to Rule 138.

25 Madam Court Officer, please assign exhibit numbers to the

1 documents marked for identification as P01064 and P1065.

2 This concludes the Panel's order.

3 THE COURT OFFICER: [Microphone not activated].

4 Your Honours, document assigned previously P01064 MFI with ERN  
5 U001-8211-U001-8252 and its English translation will now become  
6 Exhibit P01064.

7 Another MFI -- previously marked as MFI Exhibit P01065 with ERN  
8 099952 to 099952 and its English translation will now become  
9 Exhibit P01065.

10 And they are both marked as confidential at the moment.

11 PRESIDING JUDGE SMITH: Mr. Ferdinandusse, do you wish to  
12 maintain their confidential status at this time?

13 MR. FERDINANDUSSE: Yes, Your Honour. We do.

14 PRESIDING JUDGE SMITH: All right.

15 We have received the revised time estimates from the Defence for  
16 W04147, among other witnesses, and we are grateful for the efforts  
17 made by everyone to reduce the length of cross-examination. I  
18 appreciate that W04739 was not among the witnesses for whom the Panel  
19 sought a revised estimate. But I also note that 4739 is scheduled to  
20 be the second witness this week. Thus, the Panel instructs the  
21 Defence teams to reassess their time estimates for 4739 and to be in  
22 the position to give revised estimates at the start of tomorrow's  
23 hearing.

24 Now some reminders concerning 4147's testimony.

25 There are a couple of matters I would like to address. First, I

1 recall that the Victims' Counsel has sought leave to ask questions of  
2 the witness, and the Thaci Defence has objected to that request. The  
3 Panel will rule on these submissions at the conclusion of the SPO's  
4 direct examination.

5 Does anyone wish to be heard further on this matter from the  
6 Defence? Apparently not.

7 Next, before we start with the witness, I would like to remind  
8 everyone of some of the points covered in the decision F01847 on  
9 information falling under the protection of Rule 107, in particular  
10 paragraphs 11, 21, 27, 29, and 34 of that decision.

11 First, the Panel authorised the presence of a representative of  
12 the US Government as a Rule 107 provider during the testimony of the  
13 witness. The Panel will permit this person to consult with the  
14 witness if necessary.

15 Second, the Panel authorised that the scope of the direct  
16 examination of this witness be limited to the three topics authorised  
17 by the Rule 107 provider; namely, one, the structure, command, and  
18 operations of the KLA; two, the roles and responsibilities of  
19 particular individuals within the KLA, including their involvement in  
20 prisoner releases; and, three, general information about the  
21 incidents involving detentions and mistreatments by individuals  
22 associated with the KLA or other topics covered by the witness's  
23 statements.

24 This witness has confirmed that he does not have personal  
25 knowledge of Mr. Veseli's external intelligence activities between

1 November 1998 and the end of the war, and the Panel has not received  
2 any notification from the parties that authorisation was sought from  
3 the provider to question the witness on that issue.

4 Third, the Panel directed the Defence to seek authorisation from  
5 the Rule 107 provider to cross-examine on any issues that do not fall  
6 squarely within the topics authorised by the Rule 107 provider. Upon  
7 commencing cross-examination, the Defence shall notify the Panel of  
8 any additional authorisation obtained from the Rule 107 provider  
9 relevant to the permissible scope of cross-examination.

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

15 The Panel recalls that it will strictly police the  
16 implementation of the above. Unless there have been new developments  
17 relating to contact with the Rule 107 prior or with the witness that  
18 the Panel should be aware of at this stage, then we are ready to  
19 proceed.

20 Anything to be brought up on that regard -- or in that regard?  
21 All right.

22 Madam Court Usher, please bring the witness in together with the  
23 representative of the US Embassy.

24 MR. FERDINANDUSSE: Your Honour, while we wait, I would like to  
25 raise a housekeeping issue.

1           PRESIDING JUDGE SMITH: All right.

2           MR. FERDINANDUSSE: In the presentation queue, items 32, 34 are  
3 transcripts of a video on 27 November 1998. That video is admitted  
4 as Prosecution Exhibit 93 as is its transcript. But when we made the  
5 presentation queue, we understood from CMU that there's an issue with  
6 the transcript. So when that is resolved, we would ask that the  
7 present exhibit number 93 is properly assigned to the revised  
8 versions that are now in the presentation queue.

9           And the relevant filing is 1848, footnote 98, where that  
10 transcript is also discussed as P93. Thank you.

11          PRESIDING JUDGE SMITH: Thank you.

12                               [The witness entered court]

13          PRESIDING JUDGE SMITH: Good morning, Witness. Good morning.  
14 Can you hear me all right?

15          THE WITNESS: I can hear you fine. Thank you.

16          PRESIDING JUDGE SMITH: The Court Usher will provide you now  
17 with the text of the solemn declaration which you are asked to take  
18 pursuant to our Rule 141(2). Please read it aloud.

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

23                               WITNESS: SHAUN BYRNES

24          PRESIDING JUDGE SMITH: Thank you. You may be seated.

25          THE WITNESS: May I say something before we start?



1           PRESIDING JUDGE SMITH: Yes.

2           THE WITNESS: I'd like to say that I am here at the request of  
3 the Department of State and of the Special Prosecutor. It is not on  
4 my own initiative. But I accept the responsibility to testify given  
5 my responsibility and my position in Kosovo in 1998 and 1999. Thank  
6 you, Your Honour.

7           PRESIDING JUDGE SMITH: [Microphone not activated].

8           Thank you. You may be seated.

9           Witness, today we will start your testimony, which is expected  
10 to last approximately three and a half days. As you may know, the  
11 Prosecution will ask you questions first, and then counsel for  
12 victims. And once they are done, the Defence has the right to ask  
13 questions of you, and members of the Panel might also ask questions  
14 of you.

15           The Prosecution's estimate for your examination is three hours.  
16 The Defence estimates that it will need 11.5 hours for their  
17 cross-examination. As regards each estimate, we hope that the  
18 counsel will be judicious in their use of their time, and the Panel  
19 may also allow for redirect examination if the conditions for it are  
20 met.

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

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Procedural Matters

1           In the event you are asked by the SPO to attest to some  
2           corrections made regarding your statements, you are reminded to  
3           confirm on the record that the written statement as corrected by the  
4           list of corrections accurately reflects your declaration.

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

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

12          The Panel understands that the SPO has hard copies of your prior  
13          witness statements for you to reference during your testimony in case  
14          of need. If you cannot recall something and therefore wish to  
15          consult these documents to refresh your memory, please notify the  
16          Panel before doing so. I repeat that this should be only done in the  
17          event that you need to make that reference because you cannot recall.  
18          You should not read directly from the documents.

19          Please stop talking if I ask you to do so and also stop talking  
20          if you see me raise my hand. These indications mean that I may need  
21          to give you an additional instruction. If you feel the need to take  
22          breaks at any point or wish us to repeat anything or make an  
23          indication and an accommodation will be made.

24          Finally, I note that you are accompanied in court today by the  
25          deputy legal counsel of the US Embassy in The Hague. In this regard,

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1 the Panel has made a prior ruling that your testimony will be limited  
2 in scope and the US representative is in court today to help us with  
3 that. Please, if you have any doubt about the scope of your  
4 testimony, you may ask the Panel or the deputy legal counsel.

5 Do you understand all of that?

6 THE WITNESS: I do. Thank you, Your Honour.

7 PRESIDING JUDGE SMITH: All right.

8 We begin with the Prosecution's questions. They're seated to  
9 your left.

10 Mr. Ferdinandusse, you have the floor.

11 MR. FERDINANDUSSE: Thank you, Your Honour.

12 Examination by Mr. Ferdinandusse:

13 Q. Good morning, Mr. Witness. We have met before, but for the  
14 record, my name is Ward Ferdinandusse, and I will be asking you  
15 questions today for the Prosecution. Can you hear me well?

16 A. I can. Thank you.

17 Q. Could you please tell us your name.

18 A. My name is Shaun Michael Byrnes.

19 Q. And your date of birth?

20 A. 9 March 1943.

21 Q. What is your nationality?

22 A. I'm an American.

23 Q. Thank you. Sir, did you give a statement to the  
24 Specialist Prosecutor's Office that you signed in February 2020?

25 A. I'm sorry? Would you repeat?

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1 Q. Did you give a statement to the Specialist Prosecutor's Office  
2 that you signed in February 2020?

3 A. Of this year? Yes.

4 Q. No, the statement in 2020. The statement that you gave a few  
5 years ago that you looked at last week.

6 A. Yes.

7 Q. Thank you.

8 MR. FERDINANDUSSE: I'd ask the Court Officer to please bring up  
9 05522, English, side by side with 05522 Albanian, and then the first  
10 pages for both, please. Sorry, 075522, apologies, for both. And  
11 then also the Albanian. Yes, thank you.

12 Q. Do you recognise this document, Mr. Witness, the record of your  
13 interview with the SPO?

14 A. Yes, I do.

15 MR. FERDINANDUSSE: Can we please go to the last page of the  
16 English version.

17 Q. Is that your signature?

18 A. Yes, sir, it is.

19 Q. Did you have a chance to review this document before you signed  
20 it back then?

21 A. I did.

22 Q. And did you also have an opportunity to review this statement  
23 last week?

24 A. I did.

25 Q. Did you meet with me and my colleague last week?

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1 A. I did.

2 Q. And in that meeting, were you given the opportunity to provide  
3 clarifications and corrections in relation to this document?

4 A. Yes, I was.

5 Q. And did you, in fact, provide clarifications and corrections?

6 A. Yes, I did.

7 Q. Do you recall these clarifications and corrections being  
8 included in a note which you read?

9 A. Yes.

10 MR. FERDINANDUSSE: If we can please bring up preparation --  
11 sorry, we don't need to bring it up. I note for the record that  
12 Preparation Note 1 is 120244 to 120247.

13 Q. And subject to the corrections and clarifications that you gave  
14 last week and that we recorded in that note, is the information  
15 provided in your SPO statement accurate and truthful to the best of  
16 your knowledge and belief?

17 A. Yes, it is to the best of my knowledge.

18 Q. And subject to those corrections, does the information provided  
19 in your SPO statement accurately reflect what you would say if you  
20 were examined about the evidence recorded therein?

21 A. Yes, sir.

22 MR. FERDINANDUSSE: Your Honour, we move for admission of this  
23 witness SPO statement. That is ERN 075522 to 075551 along with the  
24 Albanian version and the associated exhibits, which were  
25 provisionally admitted by the Court in F01848 and enumerated in

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1 footnotes 155 to 159 of that filing.

2 I note that for three of these associated exhibits, lesser  
3 redacted or better legible versions have been disclosed, which are  
4 the versions that should now be admitted. We have set out the ERNs  
5 of both the original exhibits and their updated versions in e-mails  
6 on 14 and 22 March. And if you wish, I can repeat those for the  
7 record.

8 PRESIDING JUDGE SMITH: Not necessary.

9 MR. FERDINANDUSSE: And we also tender Preparation Note 1, ERN  
10 120244 to 120247 for admission.

11 PRESIDING JUDGE SMITH: Any objection by the Thaci Defence?

12 MR. MISETIC: Subject to the objections in our Rule 154  
13 response, we have no additional objections.

14 MR. EMMERSON: Nothing to add, Your Honour.

15 MR. ROBERTS: Nothing more, Your Honour.

16 MR. ELLIS: Nothing to add, Your Honour.

17 PRESIDING JUDGE SMITH: 075522 in both English and Albanian is  
18 admitted. The Preparation Note 120244 and 120247 is admitted. The  
19 associated exhibits listed at F01848 are admitted. As to the numbers  
20 to be assigned, it's quite voluminous, so the Court Officer will  
21 deliver to you each a list showing the exhibit -- the various numbers  
22 allocated to these exhibits and the -- well, all of the exhibits.

23 Madam Court Officer, when would that be able to be delivered to  
24 them?

25 THE COURT OFFICER: Your Honours, it will be delivered shortly,

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1 in next couple of minutes.

2 PRESIDING JUDGE SMITH: Okay. Thank you.

3 Go ahead, Mr. Ferdinandusse.

4 MR. FERDINANDUSSE: Thank you, Your Honour.

5 On 14 March the SPO submitted a proposed summary of this  
6 witness's now admitted Rule 154 statement to the Panel, Defence, and  
7 Victims' Counsel. We have not received any objection to the proposed  
8 summary, so with your leave I will read the summary now.

9 PRESIDING JUDGE SMITH: Yes, go ahead.

10 MR. FERDINANDUSSE: From August 1998 to July 1999, Shaun Byrnes  
11 was the head of the US Kosovo Diplomatic Observer Mission in Kosovo,  
12 US KDOM. In this role, he interacted with and received information  
13 from KLA leadership figures, including the General Staff, Serbian  
14 military and political leaders, members of the LDK, and other Kosovo  
15 Albanian political parties.

16 Mr. Byrnes participated in numerous communications, meetings,  
17 and negotiations with the KLA, including contacts with  
18 Jakup Krasniqi, Hashim Thaci, Rexhep Selimi, and other General Staff  
19 members. In these contacts, Byrnes multiple times raised abductions  
20 and detentions by KLA members. He observed that senior KLA leaders  
21 attempted to hide information about the KLA's command structure and  
22 operations.

23 Q. Mr. Witness, I will now ask you supplemental questions on  
24 different topics. I ask you to listen to my questions and answer  
25 only the question that I ask. Many of my questions will only need

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1 short answers.

2 I will start with asking you about your agenda for 1998, 1999.

3 MR. FERDINANDUSSE: Court Officer, if we can please pull up page  
4 120248 from Prep Note 2. And this is presentation queue item 78.

5 And then I would like to go to the last two pages, 120261 and 120262,  
6 and if we can put these side by side. And it may be best to have --  
7 to swap them so that they are in the right order. Thank you.

8 Q. Mr. Witness, did I ask you to read some entries in your agenda  
9 for us last week?

10 A. You did.

11 Q. Did you read a note that contained your answers about these  
12 agenda entries?

13 A. Did I? I'm sorry?

14 Q. Did you read a note that contained your answers about these  
15 agenda entries?

16 A. I did.

17 Q. Do you see those answers on the screen?

18 A. Yes.

19 Q. Mr. Witness, your agenda entry for 22 December 1998, which is on  
20 the left on the top, mentions Dragobilje and the names Krasniqi, Buja  
21 Bashota, and Larry Rossin. Does that reflect a meeting you attended  
22 on 22 December 1998?

23 A. Yes, it does.

24 Q. And if you look on the right page on the bottom, your agenda  
25 entry for 19 June 1998, it mentions:



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1 "1030, mtg wi UCK GHQs, Thaqi, Ceku ..."

2 Does that also reflect a meeting you attended?

3 A. Yes, it does.

4 MR. FERDINANDUSSE: Your Honour, the agenda is an admitted  
5 exhibit and includes all entries reproduced on these pages. For the  
6 record, the ERN of the agenda is 119771 to 119822\_2. I suggest we  
7 limit repetition of the reading of these entries in court by the  
8 witness to specific dates at your direction or at the request of  
9 counsel and that we otherwise admit these two pages into evidence.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 I thought you said it was admitted into evidence already?

12 MR. FERDINANDUSSE: The agenda itself is admitted into evidence.  
13 For clarity of the --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. FERDINANDUSSE: Just these two pages that reflect entries  
16 that are already in the agenda that is admitted.

17 PRESIDING JUDGE SMITH: Understood. Any objection?

18 MR. MISETIC: May I just have one minute, Mr. President. Sorry.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 [Specialist Counsel confer]

21 THE INTERPRETER: The interpreter's note, we kindly ask the  
22 speakers to make a pause between question and answer. Thank you.

23 MR. MISETIC: Mr. President, in principle I don't have an  
24 objection to this. It makes it easier. I do want to note that there  
25 are corrections to the agenda that are in this note which may be

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1 relevant on my cross-examination. But they're not -- at least in the  
2 respect of one item, it's not a clarification or a -- trying to make  
3 something that's less legible more clear. There's actually been a  
4 change in a spelling of a name that may be relevant later.

5 PRESIDING JUDGE SMITH: Fair game in your cross-examination.

6 MR. MISETIC: Okay.

7 PRESIDING JUDGE SMITH: No problem.

8 No other objection? Mr. Ellis? All right.

9 MR. ELLIS: No, Your Honour.

10 PRESIDING JUDGE SMITH: 119771 to 119822 is admitted and will be  
11 assigned an exhibit number.

12 [Trial Panel and Court Officer confers]

13 MR. FERDINANDUSSE: Sorry, Your Honour. Just to check the ERNs  
14 for these two pages are 120261 and 120262.

15 MR. MISETIC: Yes, Mr. President. Our objection is -- or our  
16 lack of objection is only to the annex and not to Prep Note 2 itself.  
17 Just so we're clear.

18 MR. FERDINANDUSSE: And I'm also tendering only these two pages.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 I'm sorry, that was my mistake on the number, but you may go  
21 ahead and add that. That summary is admitted, the two-page summary.

22 MR. FERDINANDUSSE: Thank you.

23 PRESIDING JUDGE SMITH: We still don't have a number yet.

24 MR. FERDINANDUSSE: Exactly.

25 THE COURT OFFICER: Your Honours, pages 120261 and 120262 from

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1 the Preparation Note 2 with ERN 120248 to 120262 will be assigned  
2 Exhibit P1089, and it's marked as confidential.

3 PRESIDING JUDGE SMITH: Thank you.

4 Go ahead, Mr. Ferdinandusse.

5 MR. FERDINANDUSSE: Thank you, Your Honour.

6 Q. Mr. Witness, I will now ask you some questions about that  
7 meeting you had on 22 December 1998 with Mr. Rossin and with  
8 Mr. Krasniqi and others. Was Larry Rossin a US diplomat?

9 A. Yes, he was.

10 Q. Thank you. I will now show you a short piece of video on the  
11 screen.

12 MR. FERDINANDUSSE: Court Officer, if we can please pull up  
13 video Prosecution Exhibit 842. The ERN is 06142705. And if we can  
14 show that next to its English transcript, which is Prosecution  
15 Exhibit 842-ET.

16 If you can wait with playing, please. If you can scroll down in  
17 the transcript, please.

18 Q. Mr. Witness, on the right-hand side in the transcript at the  
19 bottom, you will see a passage:

20 "Second diplomat: This is Rame Buja."

21 And then:

22 "First diplomat: Very nice to meet you. I met your brother in  
23 Geneva."

24 I will ask you to identify who is saying these two lines.

25 MR. FERDINANDUSSE: This is the time slot from 2:40 until 2:56.

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1 So we can stop at 2:56, and please start at 2:40.

2 Q. And before we start, do you recognise these two men on the  
3 screen?

4 A. I do. The man on the left is Larry Rossin who was the director  
5 of the Office of South-east European Affairs at the Department of  
6 State. The gentleman on the right is Jakup Krasniqi who was the  
7 spokesman of the UCK.

8 Q. Thank you, Mr. Witness.

9 MR. FERDINANDUSSE: If we can now play 16 seconds, please.

10 [Video-clip played]

11 "Second diplomat: This is Jakup Krasniqi.

12 "Third diplomat: Yes, we introduced ourselves.

13 "Second diplomat: And this is Rame Buja.

14 "First diplomat: Very nice to meet you. I met your brother in  
15 Geneva."

16 MR. FERDINANDUSSE: And we can stop here, please. Thank you.

17 Q. Mr. Witness, was it Mr. Rossin who said, "I met your brother in  
18 Geneva"?

19 A. I could not tell from the video. I'm sorry.

20 Q. Okay. Thank you. Did you see yourself in the video?

21 A. I did.

22 Q. Thank you.

23 MR. FERDINANDUSSE: And I forgot to mention that all exhibits  
24 I'm calling up can be broadcast to the public. I will indicate if it  
25 is otherwise.

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1 Q. Mr. Witness, did Larry Rossin tell you he had met KLA  
2 representatives before that meeting on 22 December 1998 in Kosovo?

3 A. I don't remember.

4 MR. FERDINANDUSSE: Then, Your Honour, I would like to refresh  
5 the memory of the witness by referring to Prep Note 2, paragraph 26.

6 PRESIDING JUDGE SMITH: You have leave. Go ahead.

7 MR. FERDINANDUSSE: Thank you.

8 Q. Last week you told us in response to such questions:

9 "I had heard about contacts in Geneva from Larry Rossin, who  
10 wanted to meet with KLA leaders. During a subsequent visit to  
11 Dragobilje, he told me about meeting the KLA in Geneva. He did not  
12 tell me about the specifics at the time. He told me he had contacts  
13 with Bardhyl Mahmuti."

14 Does that refresh your recollection?

15 A. It does.

16 Q. And is that correct?

17 A. Yes.

18 Q. Thank you, Mr. Witness. I would now like to show you a document  
19 which we seized from Jakup Krasniqi's house and which mentions a  
20 meeting with Mr. Rossin in Geneva in 1998.

21 MR. FERDINANDUSSE: Court Officer, if we can please pull up  
22 SPOE00221639, the English version.

23 Q. Mr. Witness, as you will see in this document, at the top  
24 underlined it says:

25 "Meeting with Mr. Lawrence Rossin, Director for Southeast Europe

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1 in US Department of State."

2 And the second paragraph reads, I quote:

3 "Initially Mr. Rossin thanked our delegation, including Bardhyl  
4 Mahmuti, Ramadan Avdiu, Bilall Sherifi, and Agush Buja, and voiced  
5 his appreciation at our readiness to meet him and exchange opinions  
6 about the political and security situation in Kosovo."

7 Had you seen this document before last week?

8 A. No, I saw it last week when we met.

9 Q. But does it align with Mr. Rossin telling you about meeting  
10 representatives in Geneva?

11 A. What I can tell you from my memory is that Mr. Rossin at some  
12 point told me he had met with UCK representatives in Geneva. But  
13 Larry and I talked quite often on the telephone when he was in  
14 Washington, and he may have -- I just don't have a specific memory of  
15 when specifically he told me that he had met with UCK representatives  
16 in Geneva, was it before or during the meeting on 22 December or  
17 earlier.

18 Q. I understand. Thank you, Mr. Witness.

19 MR. FERDINANDUSSE: Mr. President, I tender this item, that's  
20 SPOE00226139 to SPOE00226144, both the English and the Albanian  
21 versions. I note the document was seized from Mr. Jakup Krasniqi's  
22 home in Prishtine on November 4, 2020. I note that the first page  
23 lists the names of the persons attending, and the last page contains  
24 information who authored the document.

25 MR. ELLIS: Your Honour, we do object, as always, to the conduct

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1 of this search on Mr. Krasniqi's home, but also the only part of this  
2 document that's been shown to the witness is one paragraph  
3 identifying people at the meeting which the witness didn't confirm.  
4 It adds nothing to adduce it at this point.

5 PRESIDING JUDGE SMITH: Do you wish to respond?

6 MR. FERDINANDUSSE: Thank you, Your Honour. The witness has  
7 contextualised the document by confirming that Mr. Rossin told him  
8 about having such a meeting. We have asked him whether he remembered  
9 specifics, and he already indicated he did not. So I believe that is  
10 enough to tender the document.

11 PRESIDING JUDGE SMITH: SPOE00226139 in the English and  
12 SPOE00226144 is admitted as complete under section 138.

13 Go ahead.

14 THE COURT OFFICER: Your Honours, document with ERN SPOE00226139  
15 to SPOE00226144 and its English translation are admitted as P01090,  
16 and they are marked as confidential.

17 MR. FERDINANDUSSE: Sorry, I should have said earlier. All  
18 items I'm tendering now can be public.

19 PRESIDING JUDGE SMITH: It will be reclassified as public.

20 THE COURT OFFICER: Thank you.

21 PRESIDING JUDGE SMITH: Go ahead.

22 MR. FERDINANDUSSE: Thank you, Your Honour.

23 Q. Witness, I am now going to change topics, and I would like to  
24 ask you about arrest by the KLA of two LDK officials on 30 October  
25 and they were released on 27 November 1998.

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1           In your statement to us you said, and I quote from paragraph  
2 117:

3           "I recall that the two men were detained between Malisheve and  
4 Kieve, and that U.S. KDOM learned about their 'arrest' from the LDK.  
5 After this, we contacted the troika and asked them about the  
6 abduction. We were told by [Bardhyl] Mahmuti that they had been  
7 'arrested' because they had 'collaborated' with the Serbian police in  
8 encouraging locals to turn in their weapons. We were also told that  
9 they were being 'well treated' and that they would be permitted to  
10 choose their own lawyer to defend them at a 'trial.' We were  
11 skeptical about these assurances."

12           Do you recall to whom Mr. Mahmuti told these things?

13 A.    If I understand your question correctly, he told those things to  
14 me. Is that correct?

15 Q.    Well, my question is about who the person was that Bardhyl  
16 Mahmuti was saying these things to, whether that was you or somebody  
17 else is your answer that I can't tell for you.

18 A.    It was to me. And may I make just a slight correction.

19 Q.    Go ahead.

20 A.    Mr. Mahmuti was not a member of the troika. The troika  
21 consisted of Jakup Krasniqi, Sokol Bashota, and Rame Buja, who we had  
22 called when we'd heard from the LDK about the abduction of these two  
23 members of the LDK outside of Prishtine. Mr. Mahmuti was -- as I  
24 understand, was in Geneva, and he was always the go-to person when we  
25 wanted to make sure that troika and its superiors understood that we



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1 had a deep interest in resolving some things.

2 Q. Thank you. Did Mr. Mahmuti tell you these things in person or  
3 in a telephone call?

4 A. No, in a telephone call.

5 Q. Do you recall who took the initiative for the telephone call?

6 A. I did.

7 Q. Did you have contacts with other people called Mahmuti in late  
8 1998 or only with Bardhyl Mahmuti?

9 A. I'm sorry, did I -- could you repeat the question, please?

10 Q. Absolutely. Did you have contacts with other people called  
11 Mahmuti or did you only have contacts with Bardhyl Mahmuti?

12 A. Only with Bardhyl.

13 Q. Thank you. Mr. Witness, I will change topics again, and I will  
14 now ask you some questions about the detention of politicians in  
15 Qirez in September 1998.

16 In your statement, you state, and I quote from paragraph 108:

17 "When I talked to Dedaj after his release he said that members  
18 of the group were beaten by Sabit Geci. He said that Hashim Thaci  
19 was in charge, but had not personally beaten anyone. Dedaj was  
20 adamant that I should not disclose the KLA involvement so I did not  
21 speak about it publicly."

22 How long after his release did Mr. Dedaj tell you that members  
23 of the group had been beaten?

24 A. I don't remember the precise timing, but it was very, very soon  
25 after his release. Within a day or two.

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1 Q. Thank you. And how long after his release did Mr. Dedaj tell  
2 you that Hashim Thaci was in charge but had not personally beaten  
3 anyone?

4 A. At the same time that we had this conversation.

5 Q. Was it --

6 A. After -- after his release.

7 Q. Was it one conversation?

8 A. I recollect that it was.

9 Q. Okay. Thank you. Do you recall who took the initiative for  
10 that conversation?

11 A. I did.

12 Q. Do you recall why you took the initiative for that conversation?

13 A. Yes. I wanted, and the Department of State wanted, to learn  
14 about how the detainees were treated during the time they'd been  
15 abducted.

16 Q. Thank you. You said that:

17 "Dedaj was adamant that I should not disclose the KLA  
18 involvement ..."

19 Do you recall what he said about that?

20 A. Not -- he said that, but I don't recall his exact words.

21 Q. I will refer again to an answer you've given us last week. That  
22 is 120251, paragraph 16:

23 "Asked what the basis was for saying that Dedaj was adamant that  
24 I should not disclose the KLA's involvement: Dedaj told me that he  
25 was afraid of retribution, and that he wanted to publicly leave the

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1 KLA out of it."

2 Does that refresh your recollection?

3 A. It does.

4 Q. Is it correct?

5 A. It's correct in that that is my recapitulation of what he said.

6 I cannot say that it is an exact quote.

7 Q. I understand.

8 A. But that was the thrust of his comment.

9 Q. Thank you. Did you have contacts with Dedaj after September  
10 1998?

11 A. Yes, I did.

12 Q. And just for your information, I'm trying to slow down because  
13 I'm told that I'm going too fast for the interpreters, so that is  
14 maybe why I'm doing a bit more pauses.

15 Did Mr. Dedaj ever tell you a different account of what happened  
16 than what he said shortly after his release?

17 A. No.

18 Q. In paragraph 109 of your statement, you also said, I quote:

19 "I also spoke to Agim Krasniqi, another of the detainees. He  
20 told me that he was 'roughed up' and that Thaci interrogated him."

21 How long after his release did Agim Krasniqi tell you that he  
22 was roughed up and that Thaci interrogated him?

23 A. Quite soon after, within several days.

24 Q. Thank you. Do you recall who took the initiative for that  
25 conversation?

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1 A. I did.

2 Q. And why did you take the initiative for that conversation?

3 A. Because I was interested in learning about how the abductees  
4 were treated and the Department of State was as well.

5 Q. Thank you. I will now change topics again, and I will ask you  
6 some questions about meetings you have with Jakup Krasniqi and others  
7 in late 1998 and early January 1999. I will not ask you to repeat  
8 what you have already told us about those meetings, but I want to  
9 show you some documents and ask you questions about those.

10 MR. FERDINANDUSSE: The first is again a document that we seized  
11 from Jakup Krasniqi's house. I need to correct myself. It is a  
12 document that we seized from Jakup Krasniqi but not from his house.

13 Court Officer, if you can please pull up SPOE00231037, the  
14 English version. And then go to the first page to orient the  
15 witness.

16 Q. As you can see, it says at the top:

17 "Dr. Jakup Krasniqi."

18 And then:

19 "Book in course of preparation

20 "The KLA at the Rambouillet International Conference on Kosovo  
21 and the NATO bombings."

22 MR. FERDINANDUSSE: After this, we will focus on the page range  
23 from SPOE00231057 to SPOE00231066. And if we can go to 0157, please.

24 Q. On the top half of the page, I read, that's the first new  
25 paragraph:

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1           "The second scheduled meeting between representatives of the KLA  
2   General Staff and Christopher Hill will be held in the KDOM ...  
3   headquarters at Dragobil (Malisheva municipality). The Albanian  
4   delegation was led by Hashim Thaci, Jakup Krasniqi and Rame Buja.  
5   The main topic of the talks was the question of Kosovo as set out in  
6   the document produced by Ambassador Hill."

7           A few sentences down, I read:

8           "Particular emphasis was given to the LDK in the discussions."

9           And if we scroll down, a sentence on the bottom half of the page  
10   reads, I quote:

11           "The intermediary role on the American side was entrusted to  
12   Shaun Byrnes, the head of American KDOM, who was a good diplomat, and  
13   with whom we had managed to create good mutual relations."

14           You already described in your statement attending a meeting with  
15   Hill, Thaci, and Krasniqi in Dragobil. That's in paragraph 69 to 70  
16   of your statement. Was the document produced by Ambassador Hill a  
17   topic of discussion in that meeting?

18   A.   Yes, it was.

19   Q.   Do you recall talking about the LDK in late 1998 with  
20   Jakup Krasniqi?

21   A.   No, I don't.

22   Q.   Again, I will refresh your memory with an answer you gave last  
23   week. That is 120254, paragraph 30. I quote:

24           "Jakup Krasniqi and others in the KLA [General Staff] were very  
25   critical of the LDK, also in conversations with me."

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1 Does that refresh your memory?

2 A. Yes, it does.

3 Q. Is it correct?

4 A. Yes, it is. But may I add something?

5 Q. Go ahead.

6 A. I was -- the document in question was one that was going to  
7 be -- it was a draft of a document to be submitted at the Rambouillet  
8 conference on the status of Kosovo in the future, and I was not party  
9 to that. That was being worked on by the Department of State, by  
10 Mr. Rossin's office and by Ambassador Hill, who was US ambassador to  
11 Macedonia but also who had been appointed the Special Envoy for  
12 Kosovo by Secretary of State Madeleine Albright.

13 Q. Thank you.

14 MR. FERDINANDUSSE: If we can go to the next page, please,  
15 01058, and then scroll down.

16 Q. I will read the first lines of the last paragraph:

17 "The delegation, with some changes, had two meetings in a short  
18 period, one with Ambassador C. Hill, and the other with the US State  
19 Department Director for South-Eastern Europe Larry Rossin who is now  
20 (after the war) a representative of the American Office in  
21 Prishtina ..."

22 Mr. Witness, did Mr. Rossin indeed become a representative of  
23 the American office in Prishtine after the war in Kosovo?

24 A. Yes, he did. He became actually the director of the US office  
25 in Prishtine after KDOM closed.

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1 Q. Thank you.

2 MR. FERDINANDUSSE: If we can go to the next page, please.

3 Q. I will read the first two sentences. I quote:

4 "We gave Ambassador Hill our observations on his document, later  
5 in an abbreviated version which was published in the 'Koha Ditore'  
6 daily newspaper. The pacifist bosses never had the courage to draw  
7 up such a document."

8 Do you recall the General Staff giving Ambassador Hill their  
9 observations on the Hill documents in late 1998?

10 A. I do.

11 Q. Was that in written form?

12 A. I don't remember.

13 Q. Thank you. I will again remind you of an answer you gave us  
14 earlier. That's paragraph 29 of Prep Note 2. You said:

15 "I recall the General Staff giving a written position on the  
16 Hill document ..."

17 Does that refresh your memory?

18 A. I'll go -- I don't recall them handing it -- a written document  
19 to Chris Hill, but I do recall they discussed that document and their  
20 objections to it.

21 Q. Thank you.

22 PRESIDING JUDGE SMITH: Mr. Ferdinandusse, we need to take a  
23 ten-minute break approximately at this time. You can choose the time  
24 that is a good time to break.

25 MR. FERDINANDUSSE: We may as well do that now, Your Honour.

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1           PRESIDING JUDGE SMITH: Please escort the witness out.

2           Witness, we'll take a ten-minute break, and then we'll be back  
3 in the courtroom shortly.

4                           [The witness stands down]

5           PRESIDING JUDGE SMITH: We will stand adjourned for ten minutes.

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

7                           --- On resuming at 10.11 a.m.

8           PRESIDING JUDGE SMITH: You can bring the witness back in,  
9 please.

10                           [The witness takes the stand]

11           PRESIDING JUDGE SMITH: Okay, Witness. We will continue on with  
12 the questioning by the Prosecution.

13           Mr. Ferdinandusse.

14           MR. FERDINANDUSSE: Thank you, Your Honour.

15           PRESIDING JUDGE SMITH: [Microphone not activated].

16           THE WITNESS: Your Honour, may I make a clarification pursuant  
17 to our last conversation with the Prosecutor?

18           PRESIDING JUDGE SMITH: Yes, you may.

19           THE WITNESS: I'd just like to add some context.

20           Ambassador Hill was adamant that US KDOM not be involved in the  
21 substance of his negotiations with either the shadow president of  
22 Kosovo, Ibrahim Rugova, and the UCK. I was basically a messenger  
23 boy, and my purpose in working with him was to set up meetings for  
24 him and for other US officials like Larry Rossin. And we had two US  
25 senators come out at one point to meet with the UCK.



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1 My primary duty was to follow and report on security  
2 developments in Kosovo. Thank you.

3 PRESIDING JUDGE SMITH: Go ahead, Mr. Ferdinandusse.

4 MR. FERDINANDUSSE: Thank you.

5 If we can now go to page SPOE00231061, please. I will read a  
6 few sentences from the sixth line from above.

7 Q. I quote:

8 "On the very day when we arrived in Llapashtica (Llap Zone), we  
9 learnt, in the afternoon, of the capture of eight enemy soldiers.  
10 The Shala Operational Zone was under great pressure. In the evening  
11 we arrived at the headquarters of the 'Mehe UKA' Brigade in Bajgora:  
12 the Zone Commander, Rrahman Rama, was also there."

13 And six lines below that, I read:

14 "During the whole time that we were there, the international  
15 bodies were putting great pressure on us to release the captured  
16 soldiers. When they had not managed to succeed with the Zone  
17 Headquarters, they showed an interest in contacting us members of the  
18 General Staff. At that time we did not want to tell them our  
19 location, but told them that we would meet ... at 08:00 on 9 January  
20 1999 at Dragobil (Malisheva municipality)."

21 And if we then scroll to the bottom of the page, I read:

22 "On that day Sokol Bashota and I were representing the  
23 General Staff, and Shaun Byrnes, as usual, represented KDOM."

24 Mr. Witness, you have already told us there is an entry in your  
25 agenda on 9 January 1999 mentioning Krasniqi, Dragobil, and 8.00 a.m.

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1 Is that a meeting you participated in?

2 A. Yes.

3 Q. If we now go to page SPOE00231062, the next page, I will read  
4 the first sentence:

5 "... an English major, I think he was called David /possibly  
6 Davies/ was representing the OSCE."

7 Mr. Witness, was the 9 January 1999 meeting attended by OSCE  
8 representative David Meyer?

9 A. Yes.

10 Q. Did you have phone contacts with David Meyer in 1998 and 1999?

11 A. Regularly, yes.

12 Q. Thank you. If we now go to page 1064, I will first read from  
13 footnote 41 at the top:

14 "Jakup Krasniqi: From shorthand notes of the discussions for  
15 the release of the prisoners of war, on 11 January 1999 at  
16 Drenoc ..."

17 And I will then read a sentence from the first line onwards:

18 "After a long discussion we agreed that the next discussions, in  
19 which /William/ Walker would also take part, would be held at Likoc  
20 in the Drenica area, in the building of the Operational Zone  
21 Headquarters, on 13 January 1999."

22 Mr. Witness, you have already stated that your agenda contains  
23 entries for talks on 11 January in Drenoc and a meeting on 13 January  
24 in Likoc. Are these meetings that you attended?

25 A. They were.

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1 Q. Thank you. If we can now go to page 1066, I will read from the  
2 first line onwards:

3 "I am convinced that the talks about the exchange of prisoners  
4 would have failed without the leader of American KDOM Shaun Byrnes,  
5 who rescued the talks from the crisis. Now the discussions continue  
6 in separate rooms with the mediation of Shaun Byrnes. Finally  
7 William Walker will read a written statement in English, very close  
8 to that which we were seeking, in front of the media and in our  
9 presence; this after I had earlier given an order to the Commander of  
10 the Shala Operational Zone, Rahman Rama, to prepare the Serb  
11 soldiers for release and to put them into OSCE vehicles."

12 Mr. Witness, did William Walker read a statement to the media at  
13 the end of these negotiations in Likoc?

14 A. That's what I remember, yes.

15 Q. I would now like to show you a photo taken on 13 January 1999.

16 MR. FERDINANDUSSE: Court Officer, if we can please take this  
17 down and pull up SPOE00130704. If we can scroll a bit down, please.

18 Q. Mr. Witness, you will see in the right bottom corner the date of  
19 13 January 1999. Do you see William Walker and Jakup Krasniqi in  
20 this photo?

21 A. I do.

22 MR. FERDINANDUSSE: May we now scroll up again, please.

23 Q. Do you recognise where this photo was taken?

24 A. In Likoc, outside the old -- the old Serbian police station  
25 where the talks were held on that day.

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1 Q. Thank you. Mr. Witness, I would now like to ask you some  
2 questions about another document that we seized from  
3 Mr. Jakup Krasniqi.

4 MR. FERDINANDUSSE: Court Officer, if we can please take down  
5 the photo and pull up SPOE00230829, the English version, please. And  
6 if we can then go to the page ending with 0895. And that is part of  
7 chapter 7, which is page range 0894 to 0900 of this document.

8 Q. Mr. Witness, this document also describes meetings in late 1998  
9 and early 1999. On this page, I will read on the bottom half of the  
10 page.

11 "The first meeting after the summer offensive and the  
12 Holbrooke-Milosevic Agreement, announced through KLA General Staff  
13 Representatives and Christopher Hill, will be held at the  
14 headquarters of the US KDOM at Dragobil on 06 November 1998. The  
15 Albanian delegation was led by Hashim Thaci, Jakup Krasniqi and  
16 Rame Buja."

17 Did you attend that meeting on 6 November 1998 in Dragobil with  
18 Ambassador Hill, Hashim Thaci, Jakup Krasniqi, and others?  
19 Mr. Witness?

20 A. Yes.

21 MR. FERDINANDUSSE: If we can go to page 0897.

22 Q. I will read the first lines of the last paragraph:

23 "During the entire time while we were there, the international  
24 bodies were very keen to make contact with us. At that time we did  
25 not want to tell them our location but informed them that on

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1 9 January 1999 at 08:00 we would meet them at Dragobil ..."

2 And you just already confirmed that you attended that meeting;  
3 correct?

4 A. Yes.

5 MR. FERDINANDUSSE: If we can now go to page 0899 --

6 MR. ELLIS: Your Honour, I'm going to register an objection at  
7 this point to the way in which -- and I apologise for interrupting,  
8 but this has been conducted in an entirely leading fashion in that  
9 all of the questions are being put to the witness in the form of: Do  
10 you agree with that? And then it's simply leading the witness,  
11 calling for him to confirm points that the Prosecution is putting.

12 MR. FERDINANDUSSE: Your Honour, if I may respond. I have only  
13 asked it in a leading way if the witness has previously stated the  
14 information, which I believe is the correct balance between  
15 efficiency and the way direct examination should be led.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. FERDINANDUSSE: Thank you.

18 PRESIDING JUDGE SMITH: Yes, the objection is overruled.

19 MR. FERDINANDUSSE: Are we at page 0899, please?

20 Q. I will read from the 12th line from above:

21 "After many conversations (which lasted for over five hours) we  
22 agreed that the next talks, in which William Walker would also take  
23 part, should be held at Likoc in the Drenica on 13 January 1999."

24 And you have already just acknowledged that you attended a  
25 meeting on that day in Likoc; correct?

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1 A. Yes.

2 MR. FERDINANDUSSE: If we can now go to the next page, please,  
3 0900.

4 Q. I will read from the first paragraph:

5 "Now the talks continued in separate rooms with the mediation of  
6 Shaun Byrnes. In the end William Walker would read out a written  
7 statement in English, similar to that which we were asking for, in  
8 front of the media and in our presence. Before William Walker read  
9 the statement I had given orders to Rrahman Rama, Commander of the  
10 Shala Operational Zone, that the eight Serbian soldiers should be put  
11 into OSCE vehicles as had been agreed.

12 "After William Walker read the statement I tell this same  
13 commander, Rrahman Rama that the agreement has been reached and that  
14 only after I have informed him can he allow the vehicles containing  
15 the eight Serbian soldiers to leave. For the international bodies  
16 this is evidence that the KLA had a sound vertical organisation and  
17 was not 'composed of frustrated local patriots' but of people guided  
18 by a well-developed strategy."

19 Mr. Witness, were there talks in separate rooms during the  
20 negotiations in Likoc on 13 January 1999?

21 A. Yes.

22 Q. Did you hear that day that Jakup Krasniqi gave an order to  
23 Rrahman Rama about the release of the prisoners?

24 A. Yes.

25 Q. Did you hear the order itself or did somebody tell you about it?

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1 A. He told me about it.

2 Q. Who is "he"?

3 A. Jakup Krasniqi.

4 Q. Did he tell you about it that same day?

5 A. Yes.

6 Q. Thank you. Mr. Witness, I would now like to show you a next  
7 item seized from Mr. Krasniqi. It will relate again to meetings in  
8 January 1999.

9 MR. FERDINANDUSSE: Court Officer, if we can please take this  
10 down and pull up SPOE00229803 to 00229805-ET Revised 1.

11 Q. Mr. Witness, this is a translation of handwritten notes that  
12 were seized from Jakup Krasniqi's house. I will read from the end of  
13 the first paragraph:

14 "For as long as the prisoner of war problem lasted, every action  
15 of the /Shala Operational Zone/ Command was coordinated with the  
16 [General Staff], and I personally kept in contact with  
17 Commander Rrahman Rama.

18 "From the first day, we agreed in the KLA [General Staff], by  
19 satellite phone with a part of them, that the prisoners of war could  
20 be released, only in an exchange."

21 Mr. Witness, is this -- and I will refer to paragraph 131 from  
22 the SPO statement. Mr. Witness, is this consistent with your  
23 observation that Krasniqi was using a satellite phone during these  
24 January prisoner negotiations?

25 A. Yes.

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Examination by Mr. Ferdinandusse

1 Q. Did Krasniqi tell you who he was speaking to on the phone during  
2 these negotiations?

3 A. No.

4 Q. In your statement in paragraph 21, your earlier SPO statement,  
5 you said to us, and I quote:

6 "I believe that the General Staff were purposely circumspect  
7 about disclosing details about their command structure ..."

8 And in paragraph 18 of that statement, you said, and I quote:

9 "... senior leaders were often secretive about their roles and  
10 the KLA structure ..."

11 Is the fact that Mr. Krasniqi told you he would call HQ but did  
12 not tell you who HQ was an example of that?

13 A. Yes.

14 Q. Thank you.

15 MR. FERDINANDUSSE: Your Honour, I will now tender from these  
16 three documents the relevant page ranges. That is from SPOE00231037,  
17 the page range SPOE00231057 to SPOE00231066 in the Albanian and  
18 English versions, and that can be public. And I note the broader  
19 page range of this has been found to be relevant and *prima facie*  
20 authentic in F01596, paragraph 128 and 129.

21 I also tender from SPOE00230829 to SPOE00230900 the Albanian and  
22 the English Revised 1 versions, the page range that I want to tender  
23 is SPOE00230894 to SPOE00230900.

24 And, finally, I will tender the document that is now on the  
25 screen in the Albanian and English versions, please, and that's a



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1 short document, in its entirety.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. ELLIS: Yes, Your Honour. As again not only the standing  
4 objection to the search and seizure operation, but also what is being  
5 tendered, at least in the first two documents, are unpublished  
6 drafts. The first one is even headed on the first page that the  
7 Prosecution drew attention to "Book in the course of preparation."  
8 So as to probative value these are not finished books. These are  
9 drafts in the course of preparation.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 The objection is overruled. The matter will be admitted under  
12 138.

13 Any other objection? None having been heard, those documents  
14 tendered are all admitted and will be assigned --

15 MR. FERDINANDUSSE: Apologies, I should have mentioned that they  
16 can all be public.

17 PRESIDING JUDGE SMITH: Okay. Will all be admitted as public  
18 and will be assigned Prosecution exhibit numbers.

19 THE COURT OFFICER: Your Honours, ERN range containing pages  
20 starting with SPOE00231057 to SPOE00231066, from the larger document  
21 with ERN SPOE00231037 to SPOE00231128, will receive Exhibit number  
22 P01091, and it will be marked as public.

23 MR. FERDINANDUSSE: Thank you. And --

24 THE COURT OFFICER: There's more.

25 Second document, pages with ERN SPOE00230894 to SPOE00230900,

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1 from a larger document with ERN SPOE00230829 to SPOE002380900, will  
2 be admitted as P01092 and will be classified as public.

3 And for both Exhibits P01091 and 92, their corresponding  
4 translation as well will receive the same number.

5 And the last document, SPOE00229803 to SPOE00229805 will be  
6 admitted as P01093 together with its corresponding English  
7 translation and will be marked as public.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 THE COURT OFFICER: Thank you.

10 MR. FERDINANDUSSE: Thank you, Your Honour. I was just reminded  
11 to also tender the photo. That is SPOE00130704.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: No objection, Your Honour.

14 MR. MISETIC: No objection.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 No objection being heard, SPOE00130704 is admitted.

17 THE COURT OFFICER: Your Honour, this will be Exhibit P01094,  
18 and it's currently classified as confidential.

19 PRESIDING JUDGE SMITH: That should also be public?

20 MR. FERDINANDUSSE: Yes, that can also be public.

21 PRESIDING JUDGE SMITH: All right. Reclassified as public.

22 THE COURT OFFICER: Thank you.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 MR. FERDINANDUSSE: Thank you, Your Honour.

25 Q. Mr. Witness, I will now change topics again. I will now ask you

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1 about the release of five elderly Serbs who were detained in late  
2 January 1999 and released from Likoc. And you stated about this in  
3 your statement, that's paragraph 133:

4 "Although Lushtaku was not happy about it and initially  
5 resisted, Krasniqi ordered him to open the jail and release them."

6 How do you know that this happened?

7 A. I was there. But what was the date of this? You said late  
8 January.

9 Q. Yes, this was 23 January 1999.

10 A. Are you sure it wasn't 13 January?

11 Q. If you don't recall the date now, we will just focus on the  
12 event. Do you recall being in Likoc and seeing the release of five  
13 elderly Serbs in January 1999?

14 A. Yes. And my recollection is, and it's very clear, given my age  
15 and 25 years that elapsed, it's remarkable, but I remember very  
16 clearly that because it was -- for us, emotionally and politically,  
17 it was very important. It was after the conclusion of the 13 January  
18 discussions about the exchange of eight VJ soldiers captured in  
19 Bajgore for nine UCK soldiers captured as they tried to cross into  
20 Kosovo from Albania. After that agreement was reached, Ambassador  
21 Walker read the statement that we talked about earlier.

22 My recollection is Jakup Krasniqi told me that Sami Lushtaku,  
23 who was the Drenica zone commander, was holding five elderly Serbs  
24 who had been apparently abducted the previous day and asked if I  
25 wanted them released. And I said -- actually asked Walker, David

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1 Meyer, and me if we wanted them released, and we of course said yes.  
2 And then he gave the order to release them. Again, my recollection  
3 is that that event occurred on 13 January, not the 23rd. I don't  
4 have a calendar in front of me. I have no idea where I was on  
5 23 January.

6 I hope that adds some clarification, but I -- bottom line, and  
7 I'm sorry to go on so long, I recall being present for the release of  
8 these five elderly Serb peasants.

9 Q. Thank you. And, again, if we leave aside exactly what day it  
10 was so long ago, how did you know Lushtaku was unhappy about it?

11 A. Well, he -- well, I don't speak Albanian but it was quite  
12 obvious. There was some back and forth between Lushtaku and  
13 Mr. Krasniqi, body language, but it was clear that he did not want to  
14 do that.

15 Q. And this is what you saw yourself?

16 A. I saw that myself.

17 Q. Thank you. In your statement, you have mentioned meetings you  
18 had in Likoc also in August 1998 and October 1998. Had you seen  
19 prisoners in Likoc before January 1999?

20 A. I do not recall.

21 Q. Okay. I will refresh your memory with an answer that you gave  
22 last week. That is in paragraph 22 of Prep Note 2, I quote:

23 "I do recall checking the sheds outside the building. These  
24 looked like they were for animals, but during our visits we saw one  
25 or two Serb prisoners inside. I do not specifically recall who was

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1     there from the KLA, but I think the troika would have been there  
2     because we were usually going to Likovac for important meetings, not  
3     to engage with the local staff. We asked the KLA members what the  
4     sheds were used for, and they told us they were used to keep  
5     prisoners. I do not recall specifically when this was, but it was a  
6     different day than the prisoner release on 23 January 1999, when we  
7     received the released prisoners outside. I think it was in the Fall  
8     of 1998 and recall that we got the one or two prisoners we saw  
9     released that same day."

10           Does that refresh your memory?

11     A.    It does. And -- it does. And I assume my previous statement  
12     was incorrect, that I had not seen prisoners being held -- Serbian  
13     prisoners being held in Likoc, or Likovac in Serbian, in 1998.  
14     Clearly I did, based on what I told you earlier.

15     Q.    Thank you. I will now ask you some questions about June 1999.  
16     You told us you participated in a meeting on 19 June 1999, mentioning  
17     UCK GHQ, Thaci, and Ceku. Do you remember who else was in that  
18     meeting?

19     A.    May I ask a -- I'd like to -- was that the meeting at Divjake?

20     Q.    Excuse me?

21     A.    Was that the meeting at Divjake?

22     Q.    Why don't we look at --

23     A.    Because I don't have a calendar in front of me.

24     Q.    Of course.

25           MR. FERDINANDUSSE: If we can bring up the first item I

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1 admitted, the two pages from Prep Note 2. So that will be page  
2 120262, please. This is not for public broadcast. If we go to the  
3 bottom, please.

4 Q. That is the entry in your agenda.

5 A. It's 19 June --

6 Q. 1999.

7 A. -- at Divjake.

8 Q. At -- correct?

9 A. Yes.

10 Q. Or at least that -- that is mentioned?

11 A. Yes. What I remember was there was a rather large group, at  
12 least a dozen people present. I was not the only American. I recall  
13 Jamie Rubin from the Department of State was there. Thaci, Ceku, and  
14 other members of the UCK leadership was there, but I cannot remember  
15 precisely who was present also.

16 Q. Do you recall what was the topic of that meeting?

17 A. Only -- to be very honest, only vaguely. It had to do with the  
18 modalities of the implementation of the Kumanovo Agreement which, in  
19 effect, ended the war, and let me leave it at that. I -- I just  
20 don't remember the details.

21 The discussions were -- as I -- the discussions were between  
22 Thaci and his colleagues and Jamie Rubin, and I think Walker was  
23 there. And I was not really involved in that.

24 Q. Thank you. Do you recall who spoke for the KLA in that meeting?

25 A. Hashim Thaci spoke for the KLA, UCK.

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1 Q. Do you recall what his role was in the delegation?

2 A. He was clearly the leader of the UCK delegation.

3 Q. Was an agreement reached in the meeting?

4 A. I don't remember.

5 Q. Do you remember whether Mr. Thaci left the meeting at any point?

6 A. At one point, Jamie Rubin, who was the -- who was Madeleine  
7 Albright's press spokesman, asked Hashim Thaci to join him for a walk  
8 in the woods, so to speak, and they -- they were away talking away  
9 from the meeting for some time.

10 Q. And do you remember what they said when they came back?

11 A. No.

12 Q. I will refer to your earlier answer, that's paragraph 55 of Prep  
13 Note 2:

14 "Thaci was the KLA's point man in that meeting, which was  
15 contentious. At one point, Jamie Rubin took Thaci and they went for  
16 a walk together, probably with an interpreter. After 30 minutes they  
17 came back and said they had worked everything out. Thaci was the  
18 point person for the KLA in that meeting and he took the decisions."

19 Does that refresh your recollection?

20 A. Yes.

21 Q. Is that what you observed?

22 A. Yes.

23 Q. Thank you.

24 MR. FERDINANDUSSE: Your Honour, I now request to briefly go to  
25 private session in order to discuss a few materials with provider

Witness: Shaun Byrnes (Private Session)

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Examination by Mr. Ferdinandusse

1 restrictions.

2 PRESIDING JUDGE SMITH: Into private session, please,

3 Madam Court Officer.

4 [Private session]

5 [Private session text removed]

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Witness: Shaun Byrnes (Private Session)

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Examination by Mr. Ferdinandusse

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Witness: Shaun Byrnes (Private Session)  
Examination by Mr. Ferdinandusse

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1 [Private session text removed]

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3 [Open session]

4 THE COURT OFFICER: Your Honours, we are now back in public  
5 session.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 MR. FERDINANDUSSE: Thank you, Your Honour.

8 Q. Mr. Witness, I am changing the topic again, and my last few  
9 questions will be about photos that you have given to the SPO.

10 MR. FERDINANDUSSE: Court Officer, we can please pull up 074396  
11 and then go to pages 074426 and 074427, side by side.

12 THE COURT OFFICER: Can counsel please repeat the page numbers?

13 MR. FERDINANDUSSE: Absolutely. They will be at the end 426 and  
14 427, please. If for the left we can scroll down a little, please,  
15 for the photo itself. Thank you.

16 Q. Mr. Witness, this is a photo you gave to my office a few years  
17 ago. Can you tell us how you obtained this photo?

18 A. This is a photo of Hashim Thaci. I obtained it -- I would say  
19 my team obtained it by the following means. At one of our meetings  
20 with UCK officers, one of them gave one of -- one of them gave to one  
21 of our interpreters a roll of film and asked her or him to take -- to  
22 get it -- take it to a photo shop in Prishtine after we returned to  
23 Prishtine and then at one of our next meetings return the developed  
24 photos to UCK officials.

25 Being of sneaky mind, I asked that we make two copies of the

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1 photos, one for the UCK and one copy for us, and that's how I came  
2 into possession -- KDOM came into possession of these photos.

3 Q. Do you recall when you came into possession of these photos back  
4 then?

5 A. Not exactly.

6 Q. But a period?

7 A. Sometime in the fall of 1998.

8 Q. And did you hear any information about when this photo would  
9 have been taken?

10 A. I recall our interpreter saying after looking at the developed  
11 photos that they were probably taken in the summer of 1998.

12 Q. And do you know whether that was an interpretation from the  
13 interpreter or whether the interpreter had heard that information  
14 from --

15 A. No --

16 Q. -- anybody?

17 A. -- I don't.

18 Q. Thank you. If we now can go to -- sorry, one final question.  
19 Do you recall the name of the person in the KLA who gave the roll of  
20 film?

21 A. No, I don't.

22 Q. Thank you.

23 MR. FERDINANDUSSE: If we can then go to pages of the same  
24 document 422 and 423, please.

25 Q. Mr. Witness, do you recall how you obtained this photo?

Witness: Shaun Byrnes (Open Session)

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Examination by Mr. Ferdinandusse

1 A. The same way.

2 Q. Thank you.

3 MR. FERDINANDUSSE: Your Honour, at this point I will tender  
4 these four pages, these two photos and their descriptions. That's  
5 pages 074426, 074427, 074422, and 074423.

6 PRESIDING JUDGE SMITH: Any objection?

7 MR. MISETIC: No.

8 MR. EMMERSON: No objection.

9 PRESIDING JUDGE SMITH: No objection shown, those documents will  
10 be admitted, 074396 at pages 074426 and 074427, also page 074422 and  
11 074423.

12 MR. FERDINANDUSSE: And these can also be public.

13 PRESIDING JUDGE SMITH: And they will be reclassified as public.

14 Madam Court Officer, please assign a number, please.

15 THE COURT OFFICER: Your Honours, the pages just read by you  
16 will receive Exhibit P01095 and will be classified as public.

17 PRESIDING JUDGE SMITH: Go ahead.

18 MR. FERDINANDUSSE: Thank you.

19 Your Honour, that concludes the direct examination.

20 Q. Thank you, Mr. Witness.

21 PRESIDING JUDGE SMITH: All right. We will take a morning break  
22 now at this time.

23 We have a half-hour break, Mr. Witness. Please, you will be  
24 escorted from the courtroom with the Court Officer. We will see you  
25 back here at 11.30.

1 THE WITNESS: Yes, Your Honour.

2 [The witness stands down]

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

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

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

6 PRESIDING JUDGE SMITH: Yes, Mr. Emmerson.

7 MR. EMMERSON: Your Honour, with the Panel's leave and --

8 PRESIDING JUDGE SMITH: Just a sec. Go ahead.

9 MR. EMMERSON: With the Panel's permission, and after consulting  
10 with my colleagues, we will, if we may, cross-examine out of order at  
11 the end of this witness, and I can reduce the estimate further from  
12 two hours to one hour.

13 PRESIDING JUDGE SMITH: Okay. Who is going -- what's the order?  
14 You're going to be --

15 MR. EMMERSON: The order will be Mr. Misetic first, and then  
16 we'll move to the Selimi team, and then the Krasniqi team, and the  
17 then the Veseli team at the end.

18 PRESIDING JUDGE SMITH: Fine. Thank you very much.

19 MR. FERDINANDUSSE: Your Honour, one point of order if I may. I  
20 noticed that there are materials from protected witnesses in the  
21 presentation queue, so I would like to recall the oral order on  
22 12 May 2023 at transcript page 3653. And since such materials cannot  
23 be put on the screens, the SPO would request that counsel first reads  
24 on the record the relevant ERNs and pays references so everybody can  
25 follow, and then quote from such materials.

1 PRESIDING JUDGE SMITH: Any problem with that?

2 MR. MISETIC: No, that's fine.

3 PRESIDING JUDGE SMITH: All right.

4 Before we bring the witness in, I recall that the  
5 Victims' Counsel notified his wish to cross-examine W04147 and  
6 W03780. The Thaci Defence provided notice that it will object to  
7 Victims' Counsel questioning these two witnesses.

8 We have reviewed your respective written submissions, including  
9 Victims' Counsel's response and Thaci Defence's reply. We will only  
10 deal with 4147 at this stage.

11 First, Mr. Laws, now that the SPO direct examination is  
12 complete, do you still wish to question W04147?

13 MR. LAWS: Your Honour, yes, I do.

14 PRESIDING JUDGE SMITH: You do?

15 MR. LAWS: Yes.

16 PRESIDING JUDGE SMITH: Okay.

17 And, Mr. Misetic, do you still maintain your objection?

18 MR. MISETIC: Yes, Mr. President.

19 PRESIDING JUDGE SMITH: All right.

20 The Panel will now issue an oral order on this matter.

21 First, the Panel observes that Victims' Counsel standing to  
22 question witnesses is not limited to dual status witnesses.

23 Second, the Panel recalls that, according to Article 22(3) of  
24 the Law:

25 "A victim's personal interest and rights in the criminal

1 proceedings before the Specialist Chambers are notification,  
2 acknowledgement and reparation."

3 The Panel considers that evidence relating to the alleged crimes  
4 is relevant to the parties -- to the interests of the victims  
5 participating in these proceedings in that it contributes to the  
6 acknowledgement of the alleged crimes, the harm or injury done to  
7 victims and the circumstances in which this occurred, and the  
8 consequences of those acts on the victim, close relatives, or the  
9 community to which he or she belongs, and the appropriate relief to  
10 remedy the harm done.

11 Turning to the argument that is part of the Defence's right to  
12 have sufficient time to prepare for cross-examination,  
13 Victims' Counsel should provide adequate notice to the Defence of the  
14 potential areas of questioning as well as the identity of the victims  
15 concerned.

16 The Panel considers that, through its notification in F01845,  
17 Victims' Counsel complied with paragraph 33 of the Order on the  
18 Conduct of Proceedings by informing the Panel and the parties of the  
19 potential areas of his intended questioning. The Panel is satisfied  
20 that this provides adequate notice of the narrow issues on which  
21 Victims' Counsel intends to question the witness; namely,  
22 circumstances and harm associated with the process of detention and  
23 release of alleged victims in KLA custody.

24 The Thaci Defence's objection is overruled.

25 This concludes the Panel's order.

Witness: Shaun Byrnes (Private Session)  
Questioned by Victims' Counsel

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1 Madam Court Officer, please bring the witness in.

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 We will continue now with cross-examination, Mr. Witness,  
5 beginning with the Thaci Defence -- oh, I'm sorry. We just went  
6 through this.

7 Mr. Laws, you have the floor.

8 MR. LAWS: Your Honour --

9 PRESIDING JUDGE SMITH: Victims' Counsel has some questions,  
10 Witness.

11 MR. LAWS: And, Your Honour, I'm going to ask that we move into  
12 private session, please, for the protection of the identity of the  
13 person concerned.

14 PRESIDING JUDGE SMITH: Please, into private session,  
15 Madam Court Officer.

16 [Private session]

17 [Private session text removed]

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Witness: Shaun Byrnes (Private Session)  
Questioned by Victims' Counsel

Page 13575

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Questioned by Victims' Counsel

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Witness: Shaun Byrnes (Private Session)  
Questioned by Victims' Counsel

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

Page 13584

Cross-examination by Mr. Misetić

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25 [Open session]

Witness: Shaun Byrnes (Open Session)

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Cross-examination by Mr. Misetić

1 THE COURT OFFICER: Your Honours, we are now back in public  
2 session.

3 PRESIDING JUDGE SMITH: All right.

4 Go ahead.

5 MR. MISETIĆ: Thank you.

6 Q. Let me ask it again. Did you review notes of -- prepared by the  
7 ICTY of interviews you had given to the ICTY in 2001?

8 A. No, I -- I just re-read the transcripts of my testimony.

9 Q. Okay. Did you review the cables that you had drafted back in  
10 1998 and 1999 prior to signing your SPO statement?

11 A. Yes.

12 Q. Do you have access to cables -- let me rephrase. Are you aware  
13 if you have access to cables that have not been disclosed to the SPO?

14 A. I don't know.

15 Q. Okay. Where did you get the cables from that you reviewed?

16 A. They were provided by the Prosecutor.

17 Q. Okay. So other than what was provided to you by the Prosecutor,  
18 you didn't review any other cables?

19 A. That's right.

20 Q. Speaking of the cables, you authored or reviewed most of the  
21 cables that were classified and sent from Belgrade or Skopje; is that  
22 correct?

23 A. Yes.

24 Q. And I believe you told the SPO you were mostly impressed with  
25 their level of accuracy, but there were some bad judgments as well?

Witness: Shaun Byrnes (Open Session)

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Cross-examination by Mr. Misetić

1 A. Yes.

2 Q. Let me turn to something you said in your SPO statement at  
3 P01066, page 5, paragraph 21. You said that Mr. Thaci had a  
4 "preeminent role based on the fact that other commanders deferred to  
5 him at meetings and he did the majority of the talking when he was  
6 present with other KLA commanders ... [but] no one told us he was in  
7 charge." Is that correct?

8 A. That's -- that's right. Let me make a slight correction.  
9 Rather than "commanders" -- "commanders" would refer in my -- in our  
10 usage to the -- the zone commanders, the military commanders of the  
11 seven zones. I think what we were talking about when I made that  
12 statement was were other members of the UCK political leadership.

13 Q. Okay. That's clear then. And so I did want to ask you then  
14 something that you had written in a cable on 18 December 1998.

15 MR. MISETIĆ: And it's P01069. If we could have that on the  
16 screen, please.

17 MR. FERDINANDUSSE: Your Honour, can we have the reference for  
18 that that was written by the witness?

19 MR. MISETIĆ: Well, I -- I believe I started with saying that he  
20 had either authored or reviewed.

21 Q. So is this one that you authored or reviewed? The one on the  
22 screen?

23 MR. MISETIĆ: If we could scroll down or go to the next page,  
24 please.

25 THE WITNESS: I authored that, yes.

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1 MR. MISETIĆ:

2 Q. Okay. So you're the author of this document. And let me draw  
3 your attention to page 075317. Okay? And if we start in the first  
4 paragraph towards the middle, it says:

5 "While we attempt to be comprehensive, this report is still  
6 impressionistic; we still know very little about the KLA whose  
7 leaders are very secretive about the KLA's structure and leadership."

8 Do you see?

9 A. Yes, I -- yeah.

10 Q. Is it correct that as of 18 December 1998 you knew very little  
11 about the KLA structure and leadership?

12 A. That's right.

13 Q. And you would have prepared this report approximately six weeks  
14 after your last in-person contact with Mr. Thaci; is that correct?

15 A. That's -- yes.

16 MR. MISETIĆ: And if we then go down -- sorry, right where we  
17 were. I apologise.

18 Q. You say:

19 "... we believe that the KLA is in fact a two-headed  
20 organisation that is struggling to become a coherent, disciplined and  
21 effective military force while simultaneously experiencing conflict  
22 over control and influence among its Kosovo leadership and between  
23 the latter and the KLA leadership (and sources of funding) in Europe.  
24 No clear leader of the KLA has emerged though General Staff political  
25 director Hashim Thaqi's profile has become ... prominent. In our

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1 meetings, KLA military leaders have clearly deferred to Thaqi."

2 Is that correct?

3 A. Yes.

4 Q. The point was that you did not know who the leader of the KLA  
5 was, but you observed some military leaders in your meetings  
6 deferring to Mr. Thaci; is that correct?

7 A. I would say it's -- it's half correct. I go back to my earlier  
8 comment. I don't ever recall seeing Mr. Thaci dealing directly with  
9 zone commanders who were the military leaders in the field. We saw  
10 him, when we saw him, with other members of the political  
11 directorate, not -- not by definition or role military leaders.

12 Q. Okay. Now, I want to discuss some of the meetings that you had  
13 with Mr. Thaci in 1998. So to do that, I'm going to try to use as  
14 much as I can your agenda.

15 A. Sure.

16 Q. Your agenda reflects -- or I should say, that annex that we saw  
17 this morning and your agenda -- let me rephrase.

18 Your agenda reflects several meetings that you had with  
19 Mr. Thaci at the end of October and the beginning of November 1998;  
20 is that correct?

21 A. Yes.

22 Q. Now, I do to want ask you about something you say in paragraph  
23 69 of your statement. You say that that journal entry also records a  
24 meeting with Mr. Thaci, but that entry --

25 MR. MISETIĆ: And if we can pull that up, it's P01085 at page

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1 119782, please. And if we could show that on the 26th.

2 Q. All it says is "Meeting in Dragobilje" with a question mark and  
3 arrows pointing down. Do you see that?

4 A. I do.

5 Q. It doesn't mention anything about Mr. Thaci, does it?

6 A. No.

7 Q. Okay. The first mention of Mr. Thaci, and we'll get to that in  
8 a second, is on 28 October.

9 MR. MISETIĆ: If we could show the 28th, please.

10 Q. And you see there, it says:

11 "Depart for Likovac

12 "Demaci

13 "Meetings.

14 "Graves

15 "Massacre site

16 "Thaqi," and "Sultan."

17 Do you see that?

18 A. I do.

19 Q. Mr. Thaci's position is that was the first time you and he had  
20 ever met. Would you have any reason to dispute that?

21 A. Yes.

22 Q. Okay.

23 A. That was not -- in my recollection, that was not the first time  
24 we met.

25 Q. Okay. When was the first time?

1 A. I don't have my -- my calendar here, but we first met either  
2 late August or early September in Drenovac and Likovac. Mr. Thaci  
3 did not identify himself. Adem Demaci took me out to meet members of  
4 the UCK, but they did not identify themselves by name and nor did  
5 Mr. Demaci, and we had a long discussion. Later on, after I met  
6 Mr. Thaci, I realised that I'd seen him before.

7 Q. Well, your agenda reflects this as the first mention of Thaci.  
8 So we can look at the earlier times --

9 A. Yeah.

10 Q. -- but I will represent to you that this is the first mention.

11 Now, on Demaci, if we could just -- your agenda reflects -- and  
12 let me just -- while we have this on the screen, it is correct that  
13 Mr. Demaci introduced you to Mr. Thaci. But if you note on what you  
14 have on 28 October, you do have "Demaci," arrow, "Thaqi, Sultan."

15 A. That's correct. Yeah.

16 Q. So there is a suggestion here that Mr. Demaci is taking you to  
17 see Sultan and Mr. Thaci on the 28th?

18 A. That's correct. But may I add something? Mr. Demaci on several  
19 occasions took me to introduce me to other UCK leaders, for example,  
20 to Commander Remi, the Llap zone commander. He took me out to  
21 Jabllanice at one point to meet with Ramush Haradinaj, the Dukagjini  
22 zone commander, who, by the way, wasn't there for the meeting so we  
23 met with his deputy. So --

24 Q. Okay.

25 A. -- that was a -- that was not an unusual circumstance.



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1 Q. Okay.

2 MR. MISETIĆ: If we could go scroll back to September, please.

3 Q. Prior to 28 October, you only have two entries in your agenda  
4 for meetings with Adem Demaci: One on 2 September, and one on  
5 21 September.

6 A. Okay.

7 Q. With no other information or any other participants.

8 A. Let's see.

9 MR. MISETIĆ: If we can show, for example, 2 September. Sorry,  
10 that's -- it should be page 119774. Yes.

11 Q. So at noon on September 2nd, you just have your first entry for  
12 Demaci with no one else. When you entered Kosovo in August, you were  
13 aware of who Adem Demaci was, weren't --

14 A. Yes.

15 Q. -- you? Okay. So Adem Demaci would not have been someone you  
16 were unfamiliar with until 2 September?

17 A. Yes.

18 Q. So is there a reason that you wouldn't have noted meeting with  
19 Adem Demaci in August?

20 A. Not -- I don't know. I -- I'm a little confused on that.

21 Q. Okay. That's fair. And I can show you the second entry --

22 A. Sure.

23 Q. -- if you wish, which was 21 September, and that's page 119777.  
24 And that's the 21st. You can see again at noon, it just says  
25 "Adem Demaci."

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1 A. Yeah.

2 Q. Above that, at 11 a.m., "LDK Agim Krasniqi," but at noon,  
3 "Adem Demaci." Do you see that?

4 A. Yes.

5 Q. There's no other reference to anybody else.

6 A. That was most likely an office call. I made a number of office  
7 calls on Demaci to talk about the situation.

8 Q. Okay. The only explicit references you make to Fatmir Limaj are  
9 on 31 October and 6 November. When did you first find out who  
10 Fatmir Limaj was?

11 A. Probably at that time.

12 Q. Okay.

13 A. What I recall is I had an early meeting set up by Demaci, and my  
14 recollection was back in late August or early September, at which  
15 Fatmir Limaj was present and Shukri Buja, who was zone commander --  
16 he was commander of the Nerodime zone. I didn't know -- I had no  
17 idea who any one of those three were, just that they were senior  
18 officers in UCK.

19 Q. Okay.

20 A. Later on, of course, the UCK officers we dealt with as they got  
21 to know us better were more open about identifying themselves. And  
22 if I -- may I add a -- may I add another comment?

23 Q. Sure.

24 A. I'd served in the military and had some appreciation for UCK  
25 security concerns. We had interpreters from both nationalities. We

1 had mostly Albanians, but we had a few Serbs. My assumption was that  
2 both of these national groups were probably reporting on us. The  
3 Albanians -- and most of our Albanian interpreters were young  
4 students who spoke excellent English. They were in some cases still  
5 students at the University of Prishtine. They were very sympathetic  
6 to the UCK. And our assumption, which I think was fair, was that  
7 they would be -- they would -- if asked by UCK representatives, who  
8 were present inside Prishtine, they would talk about the attitudes  
9 and postures but particularly the attitudes of the members of the US  
10 and EU KDOM towards the UCK. That was, I thought, a very fair  
11 assumption. I had -- to use an American expression, I had been  
12 around the block.

13 Secondly, and this would be of most concern to UCK, we had  
14 Serbian interpreters who spoke Albanian. And given the nature of the  
15 oppressive Serbian regime, I had no doubt that the Serbian police  
16 were pushing these people, at least periodically, for information  
17 about us and our attitudes towards the Serbs, towards the UCK, that  
18 sort of thing.

19 And I assume, if I were an officer in UCK knowing that there  
20 were Serb interpreters working for us, I would have been awfully  
21 careful about what I discussed with me or my deputies regarding UCK  
22 personalities and UCK structure and UCK casualties and UCK locations.  
23 They may have trusted us, but if we had a Serbian interpreter  
24 present ...

25 Q. How long did this procedure work where you would use Serbian

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1 interpreters in meetings with the KLA?

2 A. For the entire period that KDOM was operational.

3 Q. Okay. So when you were asked before about the KLA being  
4 secretive about its leaders and structure by the Prosecutor, do you  
5 think one of the reasons that might have been is because you were  
6 bringing Serbian interpreters with you?

7 A. Yes.

8 Q. Okay.

9 A. It just -- it was common sense.

10 Q. Okay. You said you recall learning who Mr. Limaj was in October  
11 I believe you said; is that right?

12 A. I think --

13 MR. FERDINANDUSSE: Objection, Your Honour. Can we have a bit  
14 more precision about the expression finding out who somebody is,  
15 because it has multiple interpretations, I believe.

16 PRESIDING JUDGE SMITH: You could be a little more precise in  
17 your question.

18 MR. MISETIĆ: That's the exact question I asked earlier in the  
19 transcript without objection, page 73, lines 7 to 8, and the answer  
20 was:

21 "Probably at that time."

22 So it's already on the record.

23 PRESIDING JUDGE SMITH: You don't need to ask the question  
24 again.

25 MR. MISETIĆ: Well, I was just refreshing his recollection as to

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1 what he said. He said, "Probably around that time," which was  
2 31 October to 6 November.

3 MR. FERDINANDUSSE: Your Honour, I readily admit that I was  
4 maybe not fast enough, but clearly the expression finding out who  
5 somebody is has multiple meanings, so there's no reason to  
6 [Overlapping speakers] ...

7 PRESIDING JUDGE SMITH: Your objection is overruled.  
8 Go ahead.

9 MR. MISETIĆ: Thank you, Mr. President.

10 Q. Is it fair to say, then, that you learned his identity sometime  
11 in late October or early November?

12 A. I think so. I just have no direct memory of a specific date.  
13 But I just know I did not learn of his identity the very first time I  
14 met him, and that's my recollection. I'm sorry to be --

15 Q. No, no, that's fair. It's 25 years later. When did you first  
16 learn Mr. Thaci's identity?

17 A. I -- frankly, I could only guess. And Mr. Thaci is -- let me  
18 add, Mr. Thaci -- my understanding was that Mr. Thaci left Kosovo for  
19 work in western Europe sometime in maybe mid-November.

20 Q. Yes. But obviously you knew him before because you met with  
21 him --

22 A. Yeah, I -- before his departure, I knew at that point who he  
23 was, and I recognised him.

24 Q. Okay. But you don't recall whether you knew his identity, for  
25 example, in early October?

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1 A. I don't.

2 Q. Let me just go quickly through some of your other meetings with  
3 him. And if you need me to take you to the planner or to a cable,  
4 please let me know. Otherwise, to save time --

5 A. Roger.

6 Q. You met with Mr. Thaci on 31 October with Fatmir Limaj for the  
7 purpose of talking about internally displaced persons; is that  
8 correct?

9 A. Yes.

10 Q. You met with him again on 6 November to discuss preparations of  
11 his scheduled meeting with Christopher Hill the next day; is that  
12 correct?

13 A. Yes.

14 Q. You -- I believe this was discussed by the Prosecutor. You met  
15 with him again on 6 November in Dragobil with Christopher Hill,  
16 Jakup Krasniqi, and Rame Buja; correct?

17 A. Yes.

18 Q. And you confirmed that you met with Mr. Thaci on 12 November  
19 1998, and the purpose of the meeting was to introduce him to  
20 Ambassador William Walker; is that correct?

21 A. Yes.

22 Q. And in your SPO interview at page 16 - and, for the record, your  
23 SPO interview is now P01066 - at page 16, paragraph 71, you say:

24 "I estimate that U.S. KDOM officials met with Thaci on fewer  
25 than five occasions."

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1 Is that correct?

2 MR. FERDINANDUSSE: Objection, Your Honour. That passage has  
3 been corrected in Prep Note 1.

4 MR. MISETIĆ: Can I have a cite?

5 PRESIDING JUDGE SMITH: Are you reading from that note?

6 MR. MISETIĆ: Not from the note, from the statement.

7 MR. FERDINANDUSSE: I'm referring to 120247, paragraph 50. I'm  
8 happy to read it if you prefer.

9 MR. MISETIĆ: No, I have it.

10 MR. FERDINANDUSSE: Okay.

11 MR. MISETIĆ:

12 Q. Okay. Then what's recorded in your agenda by name is that you  
13 met with him five times.

14 A. You went -- you're -- the volume went south. Can you repeat?  
15 Sorry.

16 Q. Your agenda reflects -- is it too loud now?

17 A. I -- I don't know if it's ... let's try again. I just not -- I  
18 wasn't hearing. Suddenly I was not hearing you very loudly.

19 Q. Okay. Sometimes it can drop depending on how many microphones  
20 turn on.

21 A. Oh, I see.

22 Q. So just give it a second. Do you disagree with me that your  
23 agenda reflects five meetings with Mr. Thaci by name?

24 A. I --

25 Q. You don't know?

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1 A. I'd have to have it in front of me --

2 Q. Okay.

3 A. -- just to give you a hard, firm answer.

4 Q. I took you through all the meetings as reflected in your agenda.  
5 I believe it's five by name.

6 A. You -- I didn't count, but --

7 Q. Okay. So your impressions of Mr. Thaci's role in the KLA is  
8 formed on the basis of your meetings with him in late October and  
9 early November. Would that be fair?

10 A. First impressions, yes.

11 Q. Yes, right. Pre -- let's say in 1998.

12 A. Yes.

13 Q. Post Rambouillet is a different impression.

14 A. Yes.

15 Q. Okay. *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

16 *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

17 *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

18 *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

19 *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

20 *[REDACTED] Pursuant to In-Court Redaction Order F2200RED.*

21 Is that correct?

22 A. Yes, sir.

23 Q. You added emphasis there, "Yes, sir." Is there --

24 A. That's very true.

25 Q. Okay. So I just wanted to ask you if these people who were with



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1 Mr. Thaci in their meetings with you were deferring to him, that does  
2 not necessarily mean that they were deferring to him in military  
3 matters. Would you agree with that?

4 A. We were -- yes, because the discussions -- those discussions  
5 were not about generally -- this, as I would describe, were not --  
6 excuse me, were not generally about military matters. They were  
7 about truces, releasing hostages, setting up meetings for  
8 Ambassador Hill and that sort of thing.

9 Q. Would you like some water?

10 A. No, I'm fine. Thank you.

11 Q. All right. You used an interesting phrase in your meetings with  
12 the Prosecutor last week. I believe you said that the General Staff  
13 was like the foreign ministry of the KLA; is that correct?

14 A. That was -- that was very much our impression.

15 Q. Okay. And that would be because they were dealing with the  
16 internationals on behalf of the KLA?

17 A. Yes. May I amplify?

18 Q. Absolutely.

19 A. And this -- this is -- I apologise. It's a very brief lecture  
20 on what we understood, and I still understand, to be the origins of  
21 UCK.

22 Our understanding was, and it did not change materially over  
23 time, the UCK was really two-headed. And the original UCK was a  
24 collection of, if you will, I would describe them as  
25 Territorial Defence forces. We actually used the term in our

1 reporting to Washington, we called them minutemen, a reference to the  
2 groups of civilians -- American civilians who fought against British  
3 troops in our own revolutionary war. They were defending their homes  
4 and their families.

5 And that was -- that was our impression, that these groups had  
6 begun to form in the early 1990s as the repressive apparatus of  
7 Slobodan Milosevic's security forces began to tighten on Kosovo. And  
8 some of the horrors visited on the Albanians began: Burning of  
9 villages, taking of property, this sort of thing. That -- over time  
10 it would appear to be a full-blown insurgency began, but it was led  
11 by individual leaders who became eventually the zone commanders.

12 In Switzerland, the Albanian diaspora, which was quite  
13 ideological, saw the insurgency as a means to realise their goals.  
14 And there were two groups in the diaspora as we understood. One  
15 group favoured liberating Kosovo and transforming it into an  
16 independent state, a state independent of Serbia, outside of Serbia,  
17 outside of Yugoslavia; and another group which was option one plus  
18 Liberation of Kosovo from Serbia and reunification with Hoxha's  
19 Albania.

20 Q. Okay. Well --

21 A. And they saw in the mid-1990s, probably 1993 on, the  
22 insurgency -- they saw the development of the insurgency providing  
23 them with a platform. And then in 1997, 1998, some of the diaspora  
24 returned. And that diaspora, people like Xhavit Haliti, people like  
25 Hashim Thaci, returned to Kosovo from Switzerland and, in effect,

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1 provided interface with the international community because they  
2 understood, sir, that after Dayton, the Dayton Agreement in 1995,  
3 Kosovo had very little prospect of becoming independent without the  
4 intervention of internationals, and particularly the United States of  
5 America.

6 But the mélange, if you will, of Territorial Defence forces or  
7 local minutemen couldn't do that on their own. They needed a foreign  
8 ministry. They needed people to interface with the international  
9 community, and so these gentlemen returned to provide that. And  
10 that's quick and dirty.

11 Q. Thank you very much for that. I'm grateful. Is it fair to say  
12 that, for example, the meeting with Christopher Hill was a discussion  
13 about the future of Kosovo and diplomatic and political issues rather  
14 than military matters?

15 A. On that -- on what day?

16 Q. 6 November.

17 A. Yes.

18 Q. Okay. Your primary contacts with the KLA prior to your arrival,  
19 you say in your SPO interview, was Sylejman Selimi and Rexhep Selimi;  
20 is that correct?

21 A. Yes. They were actually the first UCK officials that I met.

22 Q. And then after your arrival, you dealt with the troika. Is  
23 that --

24 A. Some --

25 Q. What you refer to as the troika?

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1 A. Yes, after -- sometime later we began meeting with the troika of  
2 Mr. Krasniqi, Mr. Buja and Mr. Bashota.

3 Q. And then for this roughly two-week period, end of October to  
4 mid-November, you meet with Mr. Thaci?

5 A. According to my calendar, yes.

6 Q. Okay. And then you say that Mr. Thaci left Kosovo in  
7 mid-November as far as you knew?

8 A. As far as I knew, yes.

9 Q. After Mr. Thaci left in mid-November 1998, is it correct that  
10 the next time you saw him was around the time of Rambouillet in  
11 February 1999?

12 A. Yes. But can we go back just a bit to the early November  
13 meeting?

14 Q. Sure.

15 A. And late October meetings?

16 Q. Sure.

17 A. I should have been more precise, but it's been a long week.  
18 Those meetings were -- particularly early November meetings were  
19 driven by the -- what we called the October agreement, the  
20 Milosevic-Holbrooke agreement, which was reached in Belgrade on  
21 30 October, and which led -- led to the establishment of the OSCE  
22 mission or what later became known as KVM. And what -- I remember we  
23 were tasked by Secretary of State to reach out to the UCK, which was  
24 not a party to that agreement. We were tasked to reach out and meet  
25 with the officers of the -- the senior officers of the UCK to explain

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1 the agreement and urge them to accept it and, ideally, in effect, to  
2 sign on, but at least to accept it and to implement it.

3 That was the main priority of those meetings.

4 Q. Yes, and I'm going to get to that --

5 A. Okay.

6 Q. -- because I believe you say in your statements that you  
7 understand that those agreements are what gave the General Staff  
8 legitimacy in the eyes of the KLA on the ground; is that correct?

9 MR. FERDINANDUSSE: Your Honour, can we have a reference for  
10 that?

11 MR. MISETIĆ: It's in his -- Mr. President, this is in his  
12 statements [REDACTED] Pursuant to In-Court Redaction Order F2200RED.  
13 [REDACTED] Pursuant to In-Court Redaction Order F2200RED.

14 [REDACTED] Pursuant to In-Court Redaction Order F2200RED.

15 MR. FERDINANDUSSE: Your Honour, if I may --

16 MR. MISETIĆ: I'd like to finish now that he's asked me to read  
17 it out.

18 MR. FERDINANDUSSE: There's a 107 problem with open session, as  
19 I think counsel knows. If he's going to cite from --

20 MR. MISETIĆ: Actually, I didn't.

21 MR. FERDINANDUSSE: -- a 107 protected document.

22 MR. MISETIĆ: He's asked me for the citation but ...

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 He's giving you the citation.

25 MR. FERDINANDUSSE: I'm trying to warn that this can't be in

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1 open session because it is a 107 protected document. If it is an  
2 ICTY statement. I asked for a reference because counsel referred to  
3 statements without telling us which statements these were.

4 PRESIDING JUDGE SMITH: You want to go into private session?

5 MR. FERDINANDUSSE: I do not want to go to private session. I'm  
6 just telling if he wants to cite from a statement to from the ICTY,  
7 as we all know, these are confidential. There are 107 issues with  
8 those.

9 PRESIDING JUDGE SMITH: That is your intention?

10 MR. MISETIĆ: Yes.

11 PRESIDING JUDGE SMITH: All right. We'll go into private  
12 session.

13 MR. FERDINANDUSSE: And I will just remark that we can avoid  
14 this if we have a bit clearer reference to what the gentleman is  
15 referring to.

16 PRESIDING JUDGE SMITH: Go ahead. When she's ready.

17 [Private session]

18 [Private session text removed]

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1 [Private session text removed]

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14 [Open session]

15 THE COURT OFFICER: Your Honours, we are now back in public  
16 session.

17 MR. MISETIĆ: Thank you.

18 Q. So just for the benefit of the public record, if we could just  
19 confirm again, it is correct that you understood the signing of those  
20 international agreements in mid-October gave the General Staff an air  
21 of legitimacy; correct?

22 A. Yes.

23 Q. Okay. And then the question I had asked you is the next time  
24 you saw Mr. Thaci after he left in mid-November was in February 1999,  
25 around the time of Rambouillet; is that correct?

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1 A. Yes.

2 Q. And was that in France?

3 A. Yes.

4 Q. You say at your SPO interview P01066 at page 17, paragraph 74,  
5 that he had gone to -- it was your understanding he had gone to  
6 Europe to raise money from the diaspora and to meet with American and  
7 European officials to drum up support; is that correct?

8 A. Yes.

9 Q. And I too am trying to pause between questions for the benefit  
10 of the interpreters, just so you're --

11 A. Sure.

12 Q. Okay. You add that meetings with Mr. Thaci and senior  
13 government officials suggested to you that Mr. Thaci had an  
14 understanding of who needed to be influenced. And that it was your  
15 understanding that Mr. Thaci's role was to meet people who counted;  
16 is that correct?

17 A. Yes, sir.

18 Q. Okay. Would you agree with me that it would have been  
19 counterproductive to Mr. Thaci's efforts to meet European and  
20 American officials to drum up support to also be supporting  
21 commission of war crimes on the ground?

22 A. Yes.

23 Q. I'd like to turn to a different topic.

24 MR. MISETIĆ: And this is P1074. This is another cable from  
25 4 February 1999. And it's at page 075341.



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1           So this is yours -- first of all, do you know who prepared this  
2           cable or whether you prepared it or reviewed it?

3           A.    I think I -- I think I prepared it. I was usually the author of  
4           this kind of cable, but I drew on the reports of our folks in the  
5           field.

6           Q.    Okay.

7           MR. MISETIĆ: Then if we could scroll to the bottom of the page.

8           THE COURT OFFICER: Apologies, if counsel can please repeat the  
9           page number.

10          MR. MISETIĆ: Sorry.

11          THE COURT OFFICER: Sorry.

12          MR. MISETIĆ: 075341.

13          Q.    And right there. It says right after the word "difficult," it  
14          says:

15                "At a time when the new General Staff was trying to weld  
16                disparate KLA elements into some semblance of a coherent military  
17                organisation, and in particular to assert its authority over  
18                virtually independent regional military leaders, it was probably  
19                politically impossible to demand that some zone commanders turn over  
20                their troops to others. More likely, the [general headquarters]  
21                decided to accept the existing zone structure in return for a higher  
22                degree of control over the zone commanders."

23                And I'm sorry about -- I should have started at the previous  
24                page. If we could go back, just to give you some context. This is a  
25                discussion in the cable about attempts by the General Staff to reduce

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1 the existing KLA zones from seven into three, and you report that  
2 your KLA sources claimed -- and this is at paragraph 6 at the bottom.  
3 If you could read that. It says:

4 "Our KLA sources claimed that the [general headquarters]  
5 concluded that consolidation would reduce KLA effectiveness over the  
6 near term. We suspect that zone consolidation proved to be too  
7 difficult."

8 MR. MISETIĆ: If we could go to the next page, please.

9 Q. And then this is the rest of what I read out earlier. You say  
10 it was too difficult to consolidate the zones because the -- because  
11 of the virtually independent regional military leaders; is that  
12 correct?

13 A. Yeah, yes.

14 Q. Can you hear?

15 A. Yeah, that's correct. Do you want me to amplify?

16 Q. Okay. Yes, please.

17 A. Sorry.

18 Q. Go ahead and amplify.

19 A. Just let me blow my nose. What was the date of this cable?

20 Q. 4 February 1999.

21 A. Yeah, okay. I'm not hearing you well again. 4 February, I  
22 heard that, but it's not loud -- not really loud. Yeah. And I'll  
23 try to speak more slowly than I did the last time for the sake of the  
24 interpreters.

25 This is a little bit of history. After the 30 October

1 Milosevic-Holbrooke agreement, a truce of some sort was established  
2 in Kosovo, but it was -- it was broken from time to time. There was  
3 sporadic outbursts of fighting. Both sides used it to consolidate  
4 positions and strengthen positions, and we were very much aware of  
5 that. And KVM, which was being stood up and had, over time,  
6 increasingly large resources, was also observing a build up of the  
7 UCK but also the Serbian side. And a number of our UCK senior  
8 sources told us very explicitly that the UCK was reorganising in  
9 anticipation that in the spring the Serbs would attack again, and so  
10 they were recruiting, re-arming, and training.

11 And here, I'm offering your -- what -- what was analysis at the  
12 time, and what may be considered speculation here, and if so, cut me  
13 off. But we knew, just from our contacts in the field, we had --  
14 KDOM had outstations which were taken over by KVM. We had an  
15 outstation in Pec, Peje. We had an outstation in Drenoc, Glogovac.  
16 We had an outstation in Podujeve, Suhareke, Ferizaj, so forth and so  
17 on. And our outstations were in touch with the zone commanders.

18 We knew that there was resistance to the reorganisation of KLA,  
19 UCK zones from seven into three. And as some of the zone commanders,  
20 and in particular Remi, the Llap zone commander, and Ramush  
21 Haradinaj, the Dukagjini commander, told us explicitly they resisted  
22 this and they resisted being fully subordinated to this new UCK  
23 General Staff, which had basically emerged at the end of the summer.  
24 They did so because -- they were able to resist because they had  
25 their own resources. They had their own funding, and they had their

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1 own means of obtaining arms.

2 And here's an anecdote. I mean, Remi, the Llap commander,  
3 actually told us that he was buying weapons from a Yugoslav Army  
4 colonel in the headquarters of the Prishtine corps, which was located  
5 actually in Nis, Serbia. And the colonel would send a truck full of  
6 weapons down to Podujeve, the Llap zone, periodically to be given to  
7 the UCK and would be paid in Deutschmarks, probably. I don't know. But  
8 they would be paid for that.

9 And our understanding was that Rrahman Rama, the Shala zone  
10 commander, was doing the same sort of thing. Ramush told me he was  
11 doing that as well. So they -- from an analytic standpoint, UCK  
12 didn't have any resource leverage over these fellows, and that  
13 enhanced their own feelings of independence and their own desire to,  
14 in military terms, do what they felt served them best.

15 Q. Okay.

16 A. I'll stop with that.

17 Q. I understand.

18 A. I hope that's helpful.

19 Q. No, it is. Thank you. Thank you for that answer.

20 MR. MISETIĆ: Let me show you another cable, P01080 at page  
21 075396. And this is from a cable of 10 March from the Belgrade  
22 embassy. And if we start at paragraph 4.

23 Q. If you could read that section there. But it starts with  
24 something that's similar to what you just said.

25 "The zone commanders are largely KLA founding members.

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1 Individuals such as Podujevo zone commander Rustem Mustafa (Remi),  
2 Drenica zone commander Sami Lushtaku and KLA supreme commander  
3 Sylejman Selimi feel intense pride in having taken up arms against  
4 the Serbs and risked their lives for Kosovo independence while Rugova  
5 and the Albanian political and intellectual establishment dithered."

6 Do you see that?

7 MR. MISETIĆ: And if we could scroll down -- sorry, the  
8 second-to-last sentence.

9 Q. "Indeed, one of the major issues within the KLA over the past  
10 several months has been the struggle for influence within the  
11 General Staff between the political and military wings. The  
12 replacement of ..."

13 MR. MISETIĆ: And if we can go to the next page. In the middle  
14 of the page, please.

15 Q. "The replacement of Azem Syla as KLA commander by  
16 Sulejman Selimi is one manifestation of that internal struggle."

17 So you were aware at the time of what had happened in February  
18 with Sylejman Selimi coming to the position of commander of the KLA?

19 A. Yes.

20 Q. And is it correct that this cable attributes that to a struggle  
21 between the political and military wings of the KLA?

22 A. Yes. And may I amplify?

23 Q. Please.

24 A. A little bit of history first. The cable -- I wrote this cable.  
25 The UCK did not -- did not trust President Rugova, who they saw as

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1 being willing to accept -- under pressure from the international  
2 community, they -- accept an agreement that left Kosovo as part of  
3 Serbia even though it was -- as it was in the 1974 constitution, it  
4 was largely self-governing. They didn't trust Rugova. The UCK was  
5 fighting for independence.

6 Now to the friction between the political and military wings of  
7 the UCK. In my understanding at the time, and it grew out of  
8 discussions with UCK leaders and with people -- with Albanians --  
9 Kosovars who were close to the UCK but not members, people like the  
10 journalist -- the respected journalist Veton Surroi, respected  
11 journalist and the publisher of *Zeri*, Blerim Shala, the publisher of  
12 *Koha Ditore*, Baton Haxhiu, people like that.

13 The military wing, the zone commanders, wanted to continue the  
14 fight all the way to independence, and they were concerned that the  
15 political directorate, which was now in negotiations with the  
16 internationals, particularly after the opening of the Rambouillet  
17 talks, would agree to something less. And they knew, the UCK  
18 leadership and the zone commanders knew the document that  
19 Ambassador Hill was going to offer at Rambouillet envisioned a Kosovo  
20 which remained inside Serbia but with self-governing powers.

21 How did they know that? They knew that because Hashim Thaci  
22 convened a meeting at UCK headquarters at Lladrovci before the  
23 Rambouillet talks began, convened the zone commanders, and went over  
24 Hill's document, explained it to them. That triggered  
25 Adem Demaci's -- after Hashim Thaci and his delegation left for

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1 Rambouillet, it triggered towards the end of the first phase of --  
2 towards the end of Rambouillet process. The second part of the  
3 process was actually the Paris meeting later. But it triggered  
4 Demaci's call to walk away from that document and led Sultan Selimi  
5 to take control of the UCK General Staff while Thaci and the other  
6 members of the delegation were at Rambouillet.

7 Q. Okay.

8 A. That's a brief, quick and dirty history.

9 Q. And you knew that Adem Demaci had influence --

10 A. Get closer to the microphone.

11 Q. Sorry.

12 A. Sorry.

13 Q. You knew that Adem Demaci had influence with the zone  
14 commanders?

15 A. Yes.

16 MR. FERDINANDUSSE: Objection, Your Honour. Foundation.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. MISETIĆ: Okay.

19 Q. The answer is "yes"?

20 A. Yes. He had particularly strong influence with Mustafa, Remi.  
21 They were both from the Llap zone, and they knew each other well.

22 Q. Okay. And --

23 A. And Remi was very much opposed to that -- to the agreement.

24 Q. And, in fact, isn't it correct that you've told the SPO, in  
25 P01066, at paragraph 43, that after the October agreement, it was

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1 documents signed by Adem Demaci that granted you freedom of movement  
2 in certain KLA zones; correct?

3 A. That's right.

4 Q. So you would have a signed document by Adem Demaci and that  
5 would be recognised on the ground by KLA forces?

6 A. Sometimes.

7 Q. Okay. All right. Sylejman Selimi, he was the commander of the  
8 Drenica zone, the zone commander, before he became the overall  
9 commander of the KLA. Did you know that?

10 A. Yeah, yes.

11 Q. Okay. Obviously, he was part of this, if we can call it, split  
12 or revolt - I believe in Kosovo you might be familiar with the fact  
13 that it's sometimes referred to as a coup - in February 1999 that  
14 toppled Azem Syla and installed Sylejman Selimi as the commander?

15 A. That's right.

16 Q. I don't think the transcript picked up your answer.

17 A. That's right.

18 Q. Okay. Thank you.

19 MR. MISETIC: Mr. President, this would be a good time for a  
20 break.

21 PRESIDING JUDGE SMITH: It's time for the lunch break. We will  
22 break now from 1.00 until 2.30. Come back at 2.30. We will then  
23 proceed.

24 Mr. Laws.

25 MR. LAWS: Your Honour, I neglected to tender the two exhibits



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1 that I used with this witness. May I do that now?

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. LAWS: Thank you. They were V0070028, the *New York Times*  
4 article, and 061427-10, the video.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Any objection by the Prosecution? Any objection, Thaci Defence?

7 MR. MISETIC: No objection.

8 PRESIDING JUDGE SMITH: All right. V0070028 and 061427-10 are  
9 both admitted and will be assigned exhibit numbers.

10 THE COURT OFFICER: Yes, Your Honour. Just for clarity, video  
11 with ERN 061427-10 was already admitted this morning as a part of an  
12 associated exhibit batch with the Exhibit number P01087.

13 And the second document, V0070028 to V0070028 will be assigned  
14 Exhibit V00007, and the classification is confidential.

15 PRESIDING JUDGE SMITH: All right. Thank you.

16 You may escort the witness from the room.

17 [The witness stands down]

18 PRESIDING JUDGE SMITH: How much time do you imagine is left on  
19 your cross-examination?

20 MR. MISETIC: I will certainly take the rest of the day,  
21 Mr. President.

22 PRESIDING JUDGE SMITH: We are adjourned until 2.30.

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

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

25 PRESIDING JUDGE SMITH: Before we take up the witness again, I

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1 just want to mention that this morning the comings and goings of  
2 people in the courtroom was getting to the point of being  
3 distractive, and I know it was distracting the witness on several  
4 occasions.

5 So when you have to leave the courtroom for some reason -- or, I  
6 mean, an assistant has to, please do it when it's absolutely  
7 necessary and in as unobtrusive way as possible, especially when a  
8 witness is testifying.

9 We are ready to begin. If you can bring the witness in.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Good afternoon, Witness.

12 THE WITNESS: Good afternoon.

13 PRESIDING JUDGE SMITH: We will continue now with questions from  
14 Mr. Misetic. Please give him your attention.

15 Go ahead, Mr. Misetic.

16 THE WITNESS: Thank you.

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

18 Q. Good afternoon, Mr. Byrnes.

19 A. Yeah.

20 Q. Can you hear me? Great. Okay. Gjergj Dedaj, what political  
21 party did he belong to?

22 A. If I recall, the Liberal Democratic Party.

23 Q. Okay. And that would have been different from the LDK?

24 A. Yes.

25 Q. Okay.

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1 A. They were partners, but they were different.

2 Q. And what about Agim Krasniqi?

3 A. He was a senior officer of the LDK.

4 Q. So they were in different political parties?

5 A. Different, yes.

6 Q. You have in your planner notations that you received a phone  
7 call from Mr. Dedaj on 23 September. Do you know that --

8 A. Yes.

9 Q. -- or would you like to see it?

10 A. Yes.

11 Q. Okay. And then there is another notation for him the next day,  
12 but it doesn't say whether it was a meeting or a phone call. Do you  
13 recall?

14 A. I'd have to -- I -- I recall he stayed in touch with me. I  
15 don't remember whether it was a phone call or a meeting.

16 Q. Would you have remembered seeing Mr. Dedaj if he was in poor  
17 physical condition?

18 A. He was not -- when I saw him after he was released, he was not  
19 in poor physical condition.

20 Q. Did you shake hands?

21 A. I -- I don't remember. Probably did.

22 Q. Would you remember if there was a reason you couldn't shake  
23 hands?

24 A. Of course.

25 MR. FERDINANDUSSE: Objection, Your Honour. Calls for

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1 speculation.

2 PRESIDING JUDGE SMITH: Overruled. Go ahead.

3 MR. MISETIĆ: Thank you.

4 Q. You have no notes of anything that you discussed with Mr. Dedaj  
5 in September 1998; is that correct?

6 A. That's correct.

7 Q. You have not been shown any diplomatic cables that reference --

8 A. That's --

9 Q. -- any events in Qirez; correct?

10 A. I -- I don't know.

11 Q. But do you recall the Prosecutor showing you any cable that  
12 makes a reference to the events in Qirez in --

13 A. Yeah.

14 Q. -- mid to late September --

15 MR. FERDINANDUSSE: Your Honour, can we have a timeframe for  
16 that question?

17 MR. MISETIĆ: I was just about to say that.

18 PRESIDING JUDGE SMITH: Go ahead.

19 MR. MISETIĆ: I was speaking.

20 PRESIDING JUDGE SMITH: Go ahead.

21 THE WITNESS: Yes, I recall.

22 MR. MISETIĆ:

23 Q. Let me rephrase the question.

24 A. Okay.

25 Q. Did the Prosecutor show you a cable that references the events

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1 in Qirez in mid to late September 1998?

2 A. Yes.

3 MR. FERDINANDUSSE: Your Honour, the question, the Prosecutor  
4 when. The timeframe is not for the offence in Qirez but when the  
5 Prosecutor was asked to have shown or not.

6 MR. MISETIĆ: At any time.

7 PRESIDING JUDGE SMITH: Go ahead. State your question again.

8 MR. MISETIĆ:

9 Q. Has the SPO, to your recollection, at any time shown you a cable  
10 that references what happened in Qirez in mid to late September 1998?

11 A. Yes.

12 Q. And what do you recall about that cable?

13 A. It recounted what we learned from the people who -- the members  
14 of that group who were released. It recounted what their -- it  
15 recounted the way they'd been treated.

16 Q. Let me show you something and see if that might be what you're  
17 talking about, so, unfortunately, I have to go into private session  
18 for a few minutes.

19 MR. MISETIĆ: If we can go into private session, please.

20 PRESIDING JUDGE SMITH: Into private session, please,  
21 Madam Court Officer.

22 [Private session]

23 [Private session text removed]

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Miletic

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Miletic

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Miletic

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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Witness: Shaun Byrnes (Private Session)

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Cross-examination by Mr. Misetić

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12 [Open session]

13 THE COURT OFFICER: Your Honours, we are now back in public  
14 session.

15 MR. MISETIĆ: Thank you.

16 Q. Mr. Byrnes, Gjergj Dedaj told this Trial Panel when he testified  
17 here, and this is at transcript page 9325, line 10, to 9326, line 2,  
18 and page 9049, line 4, that he was told by Ibrahim Rugova that you  
19 had agreed, in a discussion with Rugova, that it was a good idea to  
20 send delegations into these areas, like in the Drenica zone.

21 Do you recall having such discussions with Rugova?

22 A. No, and I dispute that because I was under strict instructions  
23 from Washington and from Ambassador Hill not to see Rugova, and I  
24 followed those instructions.

25 Q. And he says -- he told the Trial Panel that whenever they went

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1 on these missions, they always contacted you to keep you informed.

2 Is that --

3 A. Who's "they"?

4 Q. This parliamentary delegation.

5 A. This -- this is -- this is the only parliamentary visit to the  
6 countryside that I -- at this point in time I'm aware of. I don't  
7 know that they went on other expeditions.

8 Q. Okay. Let me ask you. You've stated in the past, and we've  
9 looked at it now, that the incident was in Polac/Poljanac on 12  
10 September. And then fast-forward many years later, many years later,  
11 you give a statement to the SPO where you now have the place right,  
12 that it's Qirez, and you have the dates right.

13 And so my question to you is what did you review between then  
14 and now to help you put the place correctly, put the dates correctly?

15 A. My testimony -- my testimony in front of ICTY for the  
16 Milutinovic and Djordjevic trials, plus the cables that they showed  
17 me that I had written or other members of our group had written.

18 Q. I will put to you that in the Milutinovic trial and the other  
19 trials, there is no reference to the events in Qirez in --

20 A. Okay.

21 Q. -- your trial testimony. And as I asked you earlier, we've seen  
22 no cables with any reference to this. So do you have an explanation  
23 for -- if there are no cables and there is no subsequent testimony,  
24 what refreshed your recollection in 17 years?

25 A. I can't explain it.

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1 Q. We'll turn to a different topic. And I recognise you're  
2 probably tired. So let's talk about the knowledge of the Serbian  
3 authorities of the KLA and its activities.

4 MR. MISETIĆ: And at P01066, that's your SPO interview -- or,  
5 sorry, your SPO statement, at page 7, paragraph 29.

6 Q. You state, and I'll quote it:

7 "I believe Serbian authorities had very good knowledge of KLA  
8 personnel and activities; I believe they were capable of intercepting  
9 communications signals and developing human intelligence."

10 And "human intelligence" would be what? What's that a reference  
11 to?

12 A. Spies, collaborators.

13 Q. Okay. All right. So you believe that they had developed  
14 collaborators within the KLA?

15 A. Let's put it this way: I knew from various conversations with  
16 UCK officials that the UCK officials were concerned about  
17 collaborators in their own ranks. The Serbs had a very effective  
18 intelligence system, and they -- that was a genuine concern on their  
19 part, and we were aware of it.

20 Q. Let me show you what you said to the SPO.

21 MR. MISETIĆ: So if we could please put on the screen P01066,  
22 page 7, paragraph 29, please. Page 7, paragraph 29.

23 Q. So if you could read that. So part of your -- I see you  
24 chuckling. Is there a reason?

25 A. Just go ahead.



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1 Q. Okay. I'm saying you that say one of your sources is meetings  
2 you had with Sreten Lukic; is that correct?

3 A. Sreten Lukic, yes.

4 Q. And you were able to see that he could pinpoint Remi to a  
5 particular house?

6 A. That's what I was chuckling about, yes.

7 Q. Okay. All right. And if I could show you something else.

8 MR. MISETIĆ: And we'll have to go back into private session for  
9 just a few minutes again, Mr. President.

10 PRESIDING JUDGE SMITH: Into private session, please.

11 [Private session]

12 [Private session text removed]

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Witness: Shaun Byrnes (Private Session)

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22 [Open session]

23 THE COURT OFFICER: Your Honours, we are back in public session.

24 MR. MISETIĆ: Thank you, Madam Court Officer.

25 Madam Court Officer, if we could please now put on the screen

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1 075316 to 0 -- sorry, it's now P01069 at page 075332.

2 Q. And, Mr. Byrnes, this is a cable from 18 December 1998.

3 MR. MISETIĆ: And if we could go to paragraph 17, please.

4 Q. Is this a document you would have prepared or reviewed, the  
5 cable of 18 December 1998?

6 A. Yes. Yes.

7 Q. And the paragraph says:

8 "While the KLA has flowed back into areas it once controlled and  
9 many KLA officials are increasingly confident, the KLA has many  
10 weaknesses. Its primary weaknesses include a lack of funds, a dearth  
11 of modern heavy weapons, ammunition shortages, conflict between its  
12 'fighters' and former JNA officers, communications and information  
13 gaps, and informers."

14 Now, "informers," is this a reference to collaborators?

15 A. Yes.

16 Q. Whose assessment was it that the KLA had been penetrated by --  
17 one of its weaknesses, I should say, is that it had been penetrated  
18 by informers?

19 A. A number of UCK officers expressed concern to me and other  
20 members of my team -- because remember we had -- at this point, we  
21 had outlying stations, and the KVM did as well, so we were in -- in  
22 those stations, as I mentioned earlier, Pec, now in Kline, Podujeve,  
23 so forth and so on, we were often in daily contact with the local UCK  
24 commanders, and they were picking this sort of thing up and reporting  
25 back. But I heard myself from senior UCK officers that they were

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1 concerned about informers.

2 MR. MISETIĆ: And if we could go to page 075335, please.

3 Q. And here in paragraph 21, the first sentence is:

4 "Finally, the KLA is penetrated by the Serbian intelligence  
5 service (ROB)."

6 Can you tell us what "ROB" means?

7 A. No, I can't. I don't know what it means. That just -- that may  
8 be a typo.

9 MR. EMMERSON: I think we see there's a number of Os throughout  
10 this document where there should be Ds. It's RDB.

11 MR. MISETIĆ: Ah, okay.

12 THE WITNESS: What is it?

13 MR. MISETIĆ:

14 Q. RDB.

15 A. Oh, yeah, it's the -- well, that's -- that was the Serbian  
16 intelligence service.

17 Q. Okay.

18 A. And it had a reputation, if I can go on, among thoughtful people  
19 in Prishtine as being very, very effective. And ...

20 Q. But this is a classified cable --

21 A. Yeah.

22 Q. -- that's being sent; right?

23 A. Yes.

24 Q. And am I correct that there's no qualification here that this is  
25 information or something that's being told to you, but it seems to be

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1 a conclusion that you've reached to --

2 A. Yeah, this is --

3 Q. -- inform Washington?

4 A. I was asked by Washington to periodically write what amounted to  
5 updates on the UCK, personalities, structure, problems, that sort  
6 of -- policy, that sort of thing. And this is one of those.

7 Q. Okay. But is it fair to say that this is what you believed at  
8 the time you wrote this cable?

9 A. Yes.

10 MR. MISETIĆ: If we could have on the screen, please, DHT03866  
11 to DHT03868, please.

12 Q. I'm just going to show you a news article. Do you know who a  
13 person named Zoran Stijović is? He was --

14 A. Not off --

15 Q. This is his --

16 A. No. Not off the top of my head, no.

17 MR. MISETIĆ: If we could scroll down in the document, please.

18 Q. This is a report on evidence he gave - sorry, the next page,  
19 please - as a Prosecution witness at the ICTY. And his evidence was,  
20 and this is the second paragraph:

21 "At the trial of Ramush Haradinaj, Lahi Brahimaj and Idriz  
22 Balaj, Stijović said that the Security Service had had about 200  
23 'live sources' in the Kosovo Liberation Army (KLA), including the top  
24 echelons of the organisation."

25 Would that be consistent with your conclusions and impressions

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1 at the time?

2 A. I mean, I would say -- I mean, I'm astonished at reading that.  
3 I'd not seen that before. That goes above and beyond what our, I  
4 guess, impressions were. Because we -- what I wrote was based on  
5 basically -- was based on discussions among my team and with Nick  
6 Turnbull of the EU KDOM and with some, you know, senior Kosovar  
7 journalists who were following the UCK and shared their impressions  
8 with us. But I had -- if this is true, I had -- we had no idea it  
9 was this bad.

10 Q. Well, did you think it was bad?

11 A. What?

12 Q. So I guess I'm trying to --

13 A. Yeah.

14 Q. -- find that -- that grade that -- you said "this bad." Was it  
15 bad but not --

16 A. We didn't know. We just -- we were just aware that they were  
17 concerned about informers.

18 And may I say one other thing which is on the topic but not  
19 directly on the topic?

20 Q. Sure.

21 A. What we observed in the field was the UCK generally had very  
22 poor communications security practices. [REDACTED] Pursuant to Post  
Session Redaction Order F2211.

23 [REDACTED] Pursuant to Post Session Redaction Order F2211.

24 [REDACTED] Pursuant to Post Session Redaction Order F2211.

25 [REDACTED] Pursuant to Post Session Redaction Order F2211.

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1 [REDACTED] Pursuant to Post Session Redaction Order F2211.

2 [REDACTED] Pursuant to Post Session Redaction Order F2211.

3 [REDACTED] Pursuant to Post Session Redaction Order F2211.

4 But it stood to reason that they would be making an enormous  
5 effort to listen to UCK. So what I've seen -- what I've seen since  
6 I've been here makes that clear, that they did so with great  
7 effectiveness.

8 PRESIDING JUDGE SMITH: Mr. Misetić, we need to give the witness  
9 a break.

10 MR. MISETIĆ: Sure, no problem.

11 PRESIDING JUDGE SMITH: We'll take --

12 MR. MISETIĆ: I could maybe use one myself.

13 PRESIDING JUDGE SMITH: -- about a 15-minute break, and then  
14 we'll come back and we can finish up this afternoon's testimony.

15 THE WITNESS: Thank you, sir.

16 MR. MISETIĆ: I could use a break myself, Mr. President.

17 PRESIDING JUDGE SMITH: We all do.

18 [The witness stands down]

19 PRESIDING JUDGE SMITH: We'll be adjourned for 15 minutes.

20 --- Break taken at 3.31 p.m.

21 --- On resuming at 3.44 p.m.

22 PRESIDING JUDGE SMITH: Madam Usher, you may bring in the  
23 witness.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: All right. Mr. Misetić, you may



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1 continue your cross-examination.

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

3 Q. Mr. Byrnes, I'd like to show you another cable that we've  
4 already seen but to discuss it some more.

5 MR. MISETIĆ: It is P01069, cable of 18 December 1998, at page  
6 075322.

7 Q. So if we look at paragraph 6, first sentence says:

8 "The KLA is taking advantage of the uneasy truce in Kosovo to  
9 try to gain control [of] its units."

10 Would it be fair to say then that as of 18 December 1998, you  
11 believed that the KLA General Staff -- well, let me ask a first  
12 question. When you say "KLA" in that sentence, is that a reference  
13 to the KLA General Staff?

14 A. Yes.

15 Q. And is it fair to say that what you mean in that sentence is  
16 that the KLA General Staff, as of 18 December 1998, did not have  
17 control over its units?

18 A. We did not think at that time that the KLA/UCK General Staff  
19 exercised control, complete control at least, over their zone  
20 commanders.

21 Q. Okay. And what was the basis for that conclusion?

22 A. Resistance of zone commanders to following instructions or  
23 directions from the UCK General Staff.

24 Q. Would one example of that be the so-called Podujeve line  
25 incident with Commander Remi?

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1 A. Yes, sir.

2 Q. And that was -- if you could explain just a little bit. That  
3 was where the General Staff was trying to get Commander Remi to pull  
4 his forces off the Podujeve line in his zone and he refused? Is that  
5 accurate?

6 A. That's right. Can I amplify a little bit just for the benefit  
7 of the Panel?

8 Q. Absolutely.

9 A. The Llap commander, the Llap zone commander had positioned his  
10 forces in a range of hills that paralleled the strategic road  
11 connecting Prishtine with Serbia, and in particular Nis, which was  
12 about an hour-and-a-half drive or so from Prishtine and was the  
13 headquarters of the location of the Prishtine Corps and a major VJ  
14 supply base. So it was important to keep that line open. It was  
15 also -- it was also the highway by which civilians who wished to  
16 travel from Prishtine to Nis or on to Belgrade, or vice versa, it was  
17 the road they would have to use. And there was bus traffic, civilian  
18 car traffic, that sort of thing. So it was a very important road.

19 And Remi was moving -- over time he began moving his troops down  
20 from the hills that were probably a quarter of a mile or so back  
21 closer to the road. And we began encouraging, pushing Remi and his  
22 commanders to pull back because we were worried that growing  
23 proximity of UCK Llap troops to the road would eventually lead to  
24 conflict, and we were -- we were trying to keep the truce going. And  
25 Remi was very resistant to doing so.

1 I sent up my deputy, United States Marine Corps  
2 Lieutenant Colonel Mike Dean up there. They had great respect for  
3 him because he was a US Marine. I was not a US Marine. And they  
4 listened to him. And he walked them through. I still remember Mike  
5 coming back, saying, "You know, if you leave your troops where they  
6 are now and the Serbs decide to attack them, they'll be overrun  
7 before you can say lickety-split," or something like that. I mean,  
8 they were a hundred yards off the road. Serb armour would be there  
9 in no time. But that -- that didn't move Remi.

10 So we went to the General Staff, and they sent a delegation up  
11 to Remi one night in an effort to get him to move back. And I think  
12 that succeeded, but I'm not sure. But it -- I'm not sure. And I  
13 remember Jakup Krasniqi, who was in that group, told me it was very  
14 difficult conversations.

15 Sorry for the length.

16 MR. MISETIĆ: If we can scroll up in the document.

17 Q. So there, at this paragraph, you say:

18 "The KLA structure ... remained very incoherent until the  
19 summer, when Washington decided it was time to meet the KLA."

20 Do you know who you're referring to there in Washington?

21 A. Not exactly.

22 Q. Okay.

23 A. It would have been the Department of State and the Department of  
24 Defence and, basically, the broad community, the intelligence  
25 community that were following the developments in Kosovo, which were

1       deteriorating.

2       Q.     "At that point, the KLA hastened to set up a more formal  
3       structure, identify a general staff inside Kosovo and move away from  
4       its horizontal military structure which gave zone commanders vast  
5       independence of action. The KLA has made great progress in  
6       establishing a more coherent organisation with a hierarchy but this  
7       very much remains a work in progress."

8             So am I correct that what this means is that you understand that  
9       it was the contact with Washington that then set off this effort to  
10       create a more vertical KLA structure?

11       A.    I -- I talked to this topic earlier when I made the comment in  
12       response to your question about the General Staff serving as the  
13       UCK's foreign ministry. My understanding was that they -- as I'd  
14       said earlier, that they had decided in Switzerland to send people  
15       back to Kosovo, including people like Hashim Thaci, Kadri Veseli, and  
16       others, to set up an UCK headquarters, a General Staff if you will,  
17       and try to organise the UCK, which was at that time just a collection  
18       of regional militias, if you will, and to serve as the UCK's  
19       leadership's diplomatic element, to serve as that element of the UCK  
20       leadership to interface with the international community in Kosovo.

21       Q.     Okay.

22             MR. MISETIĆ: If I can just have one minute, Mr. President.

23                     [Specialist Counsel confer]

24             MR. MISETIĆ: If we could go into private session just for a  
25       minute again, Mr. President.



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1 THE COURT OFFICER: Your Honours, we are now back in public  
2 session.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. MISETIĆ: Thank you.

5 PRESIDING JUDGE SMITH: Go ahead.

6 MR. MISETIĆ:

7 Q. Mr. Byrnes, earlier we discussed the Geremek-Jovanovic  
8 agreement, which was on 16 October 1998, and I just wanted to ask you  
9 a few questions about that agreement.

10 After that agreement, is it fair to say that -- and I can show  
11 you the agreement if you need to see it. But is it fair to say that  
12 one of the things that the agreement required was the parties  
13 granting access to the ICRC to detained persons? I don't know if you  
14 heard me.

15 Was it your job to go around after the agreement was signed and  
16 speak to the KLA about the agreement?

17 A. Yes.

18 Q. That would include, when I say "agreement," both the  
19 Holbrooke-Milosevic agreement and the Geremek-Jovanovic agreement?

20 A. Yes, but would you refresh my memory about the Geremek-Jovanovic  
21 agreement?

22 Q. Sure.

23 MR. MISETIĆ: We can put it on the screen. It is  
24 1D0027-IT-05-87.1 P00835.

25 Q. Do you recall seeing the document before?

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1 A. Yes.

2 Q. You must have seen it while you were in the field; correct?

3 A. Yes, I did.

4 Q. And we can flip through the pages if you wish, just to refresh  
5 your recollection. We can go to the next page.

6 A. Can we go back to the first page?

7 Q. Sure, sure. Absolutely. Just tell us when to change the page.

8 A. Yeah. Okay. You can move forward. Okay. I've seen enough.

9 Q. Okay. Well --

10 A. It's the agreement to establish KVM, OSCE mission.

11 Q. Yes. And I wanted to show you --

12 MR. MISETIĆ: If we can go to page 4 of this document, please.

13 Q. So if you look at paragraph 8 and 9. Do you see that?

14 A. Yes.

15 Q. So did you, to the best of your recollection, after this was  
16 signed, go to meet with KLA officials to discuss the terms of this  
17 agreement even though the KLA was not a party?

18 A. Yes. Secretary of State Albright directed us to do that because  
19 at the time this agreement was signed, there was no OSCE mission in  
20 Kosovo. So we and the EU KDOM team were directed to explain this  
21 agreement to the UCK and urge that they accept it and implement it.

22 Q. Do you recall whether you discussed granting access to the ICRC  
23 to detained persons?

24 A. I don't.

25 Q. Let me then show you a meeting or at least a book which purports

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1 to discuss a meeting that you, among others, had with Commander Remi  
2 at the end of October.

3 MR. MISETIĆ: And if we could please put on the screen P00187  
4 and P00187-ET at pages 13. And we'll switch to 14.

5 If we can scroll to the bottom in English, please.

6 Q. This is a book written by an author named Skender Zhitia, and he  
7 writes:

8 "After the agreement was reached between the international  
9 community and Serbia known as the Holbrooke - Milosevic agreement,  
10 NZOLL," and that is Remi's zone, "were visited by the Head of KDOM  
11 Sean Burns accompanied by Adam Demaci and Albin Kurti."

12 Now, I'll stop there. Do you recall travelling to Remi's zone  
13 with Adem Demaci and Albin Kurti, who I'm sure you know is now the  
14 prime minister?

15 A. Yes.

16 Q. Do you remember travelling with them?

17 A. Yes.

18 Q. Do you remember meeting with Commander Remi with them?

19 A. Vaguely, yes.

20 Q. It goes on to say:

21 "... Commander Remi was accompanied by" - if we could turn the  
22 page, please - "Nuredin Ibishi, Latif Gashi, Fatmir Humolli and other  
23 military officers of NZOLL HQ. The meeting had an informative  
24 character about the reached agreement and the obligations that came  
25 out of it. Also, in the meeting the organisation of the future



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1 police structures of Kosovo in the first stage after liberation was  
2 discussed about."

3 Do you see that? Do you see that?

4 A. Yes. Yes.

5 Q. Okay. Now, it says -- I've asked you now do you recall whether  
6 you had any discussion with Commander Remi at this meeting about the  
7 obligation to provide access to detainees to the ICRC?

8 A. I don't.

9 Q. And it says that you discussed future police structures in  
10 Kosovo. Do you recall any conversation about that?

11 A. 25 years later, I don't.

12 Q. Do you have a general idea, though, of what it may refer to?

13 A. Yes.

14 Q. And what would it refer to?

15 A. The police -- as I recall, the police structures were to be  
16 inclusive, representing the demographic elements of the Kosovo  
17 population. In other words, not all Serbs, not all Albanians, and  
18 not all UCK police.

19 Q. Let me show you a cable on this police issue.

20 MR. MISETIĆ: P01068 at page 116697. At the top of the page.

21 Q. If you could just read that to yourself. So let me ask you,  
22 does that refresh your recollection about Ambassador Hill being  
23 involved in discussions about a future police structure?

24 A. Yes, sir.

25 Q. And it took a while for the KLA's position to evolve on the

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1 issue; is that correct?

2 A. Yes, yes.

3 Q. Would you agree with me that because the General Staff was  
4 deriving some level of legitimacy inside the KLA because of its  
5 ability to meet with you and other senior American and European  
6 diplomats, it would have been in the interests of the General Staff  
7 to cooperate with requests put forward by diplomats such as yourself  
8 to grant access to the ICRC?

9 A. Yes.

10 MR. MISETIĆ: If we could go into private session again for a  
11 moment, Mr. President.

12 PRESIDING JUDGE SMITH: Private session, please,  
13 Madam Court Officer.

14 [Private session]

15 [Private session text removed]

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5 [Open session]

6 THE COURT OFFICER: Your Honours, we are back in public session.

7 MR. MISETIĆ: Thank you.

8 Q. Mr. Byrnes, you've stated in your statements that the US KDOM  
9 was located in a motel owned by Serbs in Kosovo Polje, or  
10 Fushe Kosove; correct?

11 A. That's correct.

12 Q. And who was in control of Fushe Kosove, or Kosovo Polje, in  
13 February 1999?

14 A. The Serbian security forces.

15 Q. Did you ever see people in KLA uniforms in Fushe Kosove in  
16 February 1999 or earlier?

17 A. No.

18 Q. Again, I -- for the record, I have to note you're chuckling.  
19 Explain why you're chuckling.

20 A. I can't imagine given their -- their -- their presence.  
21 Fushe Kosove was located perhaps a kilometre from a major -- from, I  
22 think, the Marshal Tito barracks of the Serbian army.

23 Q. Okay. I'm sorry. I'm quickly going through my --

24 A. It's all right.

25 Q. -- questions for you. Let me just ask you a few questions about

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1 the LPK, if I may.

2 MR. MISETIĆ: If we could go to P01069 again, please. And this  
3 is again the 18 December 1998 cable. And this is at page 075331.  
4 And if we can go to the bottom of the page, please.

5 Q. So there, third sentence in, it says:

6 "In short" -- or, sorry, let me start again.

7 Second sentence:

8 "The KLA in Kosovo is concerned that the LPK abroad will also  
9 seek to use its money to insist on key positions in any independent  
10 Kosovo government that eventually emerges. In short, the  
11 constitution of a more coherent KLA leadership late this summer, and  
12 the opportunity for it to tighten its structure, reorganise its  
13 leadership and review and refine its political and military agendas,  
14 has apparently created tension with the LPK leadership in Europe. In  
15 an effort to outflank the LPK, the KLA [general headquarters] has  
16 been quietly trying to make up with Bukoshi, in particular to obtain  
17 financial support from him, and is also working discretely to build  
18 bridges with the LDK, even with Rugova, and the other Kosovar  
19 Albanian political forces. In the countryside, U.S. KDOM has  
20 frequently found that the KLA and LDK share" - if we could turn the  
21 page, please - "the same office and often are one and the same."

22 And then it's illegible, and it says:

23 "... observations that LDK officials in the villages are often  
24 KLA officers is consistent with reporting by embassy political  
25 officers ... that is the case, for example, in [terms of] Likovac (in

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1 the Drenica area) and Pagarusa (near Malisevo). Furthermore, there  
2 are quiet contacts between the KLA and the LDK, including Rugova's  
3 close advisers, in Pristina."

4 Now, you've seen that passage recently?

5 A. Yes.

6 Q. And is it accurate?

7 A. Yes.

8 Q. Okay. First questions on LPK. Where you wrote that the LPK was  
9 out in Europe trying to -- sorry, where you wrote that the  
10 General Staff was out in Europe trying to outflank the LPK, was that  
11 a reference to Mr. Thaci's efforts?

12 A. I honestly don't remember.

13 Q. Well, I think I read an earlier cable to you where you had  
14 written that you believed that Mr. Thaci was out in Europe trying to  
15 raise money in the diaspora.

16 A. That's right.

17 Q. Do you recall that? Okay. And so would that be consistent with  
18 this report that they were trying to outflank the LPK in the  
19 diaspora?

20 A. Outflank the LDK or the LPK?

21 Q. LPK. I'm sorry.

22 A. I don't remember.

23 Q. Okay.

24 A. But they were -- again, they were factions. We talked about  
25 this earlier.

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1 Q. Yes. And then the second part of that passage, your reporting  
2 on the ground was that the KLA and the LDK in the countryside were  
3 often one and the same?

4 A. Yes.

5 Q. And they were working together?

6 A. Yes.

7 Q. Okay.

8 A. That's accurate.

9 Q. Okay.

10 MR. FERDINANDUSSE: Your Honour, could we ask for some more  
11 precision on the foundation of that?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. FERDINANDUSSE: A bit more precision on the foundation of  
14 that, how the witness learnt this or knows this?

15 MR. MISETIĆ: He can --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 This is cross-examination. They have no obligation to lay a  
18 foundation for their questions.

19 Go ahead.

20 MR. MISETIĆ: Thank you, Mr. President.

21 Madam Court Officer, could we call up SPOE00305252 to 00305254,  
22 please.

23 Q. And this is a report by the EU Attaché Group on 3 March.

24 MR. MISETIĆ: And if we could scroll to the middle under  
25 "Comment."



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1 Q. It says:

2 "Following Adem Demaçi's announced resignation on 2 March,  
3 support for Thaçi from the Malisevo area UCK appears to be a further  
4 indication of the growing split between the hard-line Demaçi and the  
5 more moderate UCK factions grouped around Thaçi."

6 Do you agree with that assessment?

7 A. Yes.

8 Q. And do you agree with the assessment at the time that Mr. Thaçi  
9 represented the more moderate group in the UCK?

10 A. Yes.

11 MR. MISETIĆ: If we could look at DHT03864, please. Yes.

12 THE WITNESS: May I --

13 MR. MISETIĆ: Yes?

14 THE WITNESS: -- say something in addition to what I just said  
15 but on the same topic?

16 MR. MISETIĆ: Sure.

17 THE WITNESS: It is just a further clarification that I hope  
18 will be useful to the Panel, and that is the -- the deeper  
19 disagreement between Thaçi and the moderates and Demaçi and his  
20 group, and he had supporters within the UCK leadership, the --

21 MR. MISETIĆ:

22 Q. Who is "he"? You mean Demaçi?

23 A. Demaçi, yes.

24 Q. Okay.

25 A. The deeper issue was fundamentally Demaçi believed that Kosovo's

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1 freedom, its liberation from Serbia needed to be done by force of  
2 arms. Whereas Thaci and the moderates, who had -- by that point had  
3 had extensive conversations with internationals -- and I'm not  
4 talking about me because I was not a decision maker. I'm talking  
5 about people like Ambassador Hill and others that they were -- other  
6 officials of the US Government that they were meeting and western  
7 Europe. They had in those conversations, I think, concluded that  
8 they could free Kosovo from Serbia by -- through political means, by  
9 negotiations. They did not want to sacrifice more Albanian lives in  
10 continuing conflict.

11 Q. Understood. Thank you for that.

12 We have just a few minutes left, so let me take you to this  
13 document and ask if you've seen it before or heard about it. It's a  
14 statement issued by the LPK abroad on 6 March 1999. Do you recall  
15 the statement? It's a declaration that the LPK abroad opposes the  
16 signing of Rambouillet.

17 A. I never saw this statement, but I certainly knew about it.

18 Q. Okay. How did you know about it?

19 A. Everybody in Prishtine knew about it. It was the talk of the  
20 town. And Demaci's resignation because he opposed the signing of an  
21 agreement at Rambouillet was everywhere.

22 Q. Okay. And this would have meant that the LPK was taking a  
23 position directly opposed to Mr. Thaci's position?

24 A. Directly contrary to Mr. Thaci's position, yes.

25 Q. Thank you.

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1 MR. MISETIĆ: Mr. President, I tender this document into  
2 evidence.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 Any objection?

5 MR. FERDINANDUSSE: No objection.

6 PRESIDING JUDGE SMITH: DHT03864 is admitted and will be  
7 assigned an exhibit number.

8 THE COURT OFFICER: Your Honours, DHT03864 to DHT03864 and its  
9 English translation will be admitted as 1D00117. Classification is  
10 public.

11 MR. MISETIĆ: Yes. Thank you.

12 Mr. President, I believe that concludes for the day my  
13 cross-examination, and I'll continue in the morning.

14 PRESIDING JUDGE SMITH: Just one moment.

15 All right. Witness, that will be the end of your testimony for  
16 today. Tomorrow we will start again at 9.00. It will be a day  
17 similar to this one. You may join the court attendant to take you  
18 out of the courtroom.

19 THE WITNESS: Thank you, Your Honour.

20 MR. MISETIĆ: Mr. President, I also am reminded I forgot to  
21 tender the EU attaché document, which I will also tender, as  
22 SPOE00305252 to 00305254.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: Yes, SPOE00305252 to 00305254 is  
25 admitted.

1 THE COURT OFFICER: Your Honours, this document will be assigned  
2 Exhibit 1D00118. Current classification is confidential.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. MISETIC: I don't have a need to make it public. I don't  
5 know if there are any restrictions on it, but ...

6 MR. FERDINANDUSSE: [Microphone not activated].

7 PRESIDING JUDGE SMITH: You can both take a look and let me know  
8 in the morning as to whether or not it remains classified.

9 MR. MISETIC: Sorry, I -- just to clarify the record, I meant I  
10 don't have any need to keep it confidential, but I'll wait for the  
11 Prosecution to say otherwise.

12 PRESIDING JUDGE SMITH: Yes, we'll let him take a look at it.  
13 Anything further by anybody? No? All right.

14 We are adjourned until 9.00 tomorrow.

15 --- Whereupon the hearing adjourned at 4.31 p.m.

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