

1 Tuesday, 26 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: Good morning, everyone. We are ready to
11 continue with the evidence of 4147.

12 Madam Court Usher, please bring the witness and the
13 representative from the US in.

14 Mr. Misetic, are you coming to the end of your cross?

15 MR. MISETIC: If by "the end of your cross" you mean that I'll
16 finish in this session, yes.

17 PRESIDING JUDGE SMITH: In this session?

18 MR. MISETIC: Yes.

19 PRESIDING JUDGE SMITH: Okay. All right.

20 MR. MISETIC: Mr. President, I assume we're taking a 10.00
21 break, yes?

22 PRESIDING JUDGE SMITH: Yeah.

23 MR. MISETIC: Okay. Thank you.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: Good morning, Witness.

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

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1 THE WITNESS: Good morning, Your Honour.

2 PRESIDING JUDGE SMITH: Thank you for being with us again today.
3 We will continue with cross-examination phase, and Mr. Misetić still
4 has the floor. Please give him your attention.

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

6 WITNESS: SHAUN BYRNES [Resumed]

7 Cross-examination by Mr. Misetić: [Continued]

8 Q. Good morning, Mr. Byrnes.

9 A. *Dobro jutro, gospodine Misetiću.*

10 Q. Thank you very much. *Dobro jutro.* I hope you were able to get
11 some rest?

12 A. What?

13 Q. I said I hope you were able to get some rest?

14 A. Yeah, now I'm hearing you better. I did, thank you.

15 Q. Yes. I wanted to start off by saying that I'm grateful for your
16 answers yesterday, and to let you know that I have limited time left
17 in my cross-examination. So if there's an opportunity for you to
18 amplify or you wish to amplify, please feel free to ask me. But if I
19 ask you not to amplify, there is no disrespect intended. I'm just
20 trying to stick within my time limits.

21 A. Thanks. I didn't realise that you had that limitation, but I
22 understand.

23 Q. Okay. Thank you very much. So let me begin by taking you to a
24 cable from 4 February 1999.

25 MR. MISETIĆ: And this is P01074 at page 075344. And if we

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1 could scroll to the bottom of the page, please.

2 Q. First, this is a cable that you drafted or reviewed?

3 A. Yes.

4 Q. Okay. If we could go to -- yeah, there it is. I'm interested
5 if you could help us understand this language. So it says:

6 "The KLA continues to grow and to increase in military
7 effectiveness. Senior officers claim that its ranks now include
8 35,000 soldiers. Serbian intelligence sources believe that there are
9 30-35,000 KLA troops, of whom 8,000 are 'regulars'. The same sources
10 anticipate that the number of KLA regulars will reach 15,000 by the
11 end of March."

12 First, let's discuss the concepts of regular and irregular
13 forces. So is it correct that regular forces are generally
14 understood to be forces operating within a country's or
15 organisation's chain of command, while irregular forces are generally
16 understood to be forces that could be considered part of a country's
17 or organisation's forces but are operating outside of an established
18 chain of command?

19 A. Yes.

20 Q. Okay. So is it correct that your information from Serbian
21 sources was that there were approximately 35,000 KLA troops, of whom
22 27,000 were irregular forces?

23 I'm trying to do math --

24 A. Yeah.

25 Q. -- which I try to avoid as much as possible. But 35,000 total

1 troops, 8.000 are regular, doesn't that imply that 27.000 are
2 irregular?

3 A. Yes, sir.

4 Q. Okay. So what does it mean or what was your observation on the
5 ground to have 27.000 or 80 per cent -- almost 80 per cent of the
6 KLA's forces to be irregular forces? What did that mean to you?

7 A. They were the -- they were the local, if you will, the local
8 militias just defending their specific villages and perhaps a village
9 next door, but they didn't -- they weren't organised into uniformed
10 units that would move around more -- Kosovo more widely.

11 Q. Okay.

12 A. But they stayed close to home.

13 Q. But would that use of the term "regular," "irregular," would
14 that mean that those local forces were not within a chain of command,
15 if you will?

16 A. My understanding is that those -- those local forces were in the
17 chain of command of the local zone commander, but --

18 Q. Okay.

19 A. Is that -- is that clear?

20 Q. Yes. What would be the difference then between regular forces
21 of the zone commander and irregular forces of the zone commander?

22 A. I would have to speculate. I don't know, other than the local
23 forces were just -- would just defend their own -- their farms and
24 villages. I assume regular forces would be subordinate to the
25 General Staff and the military operations part of the General Staff,

1 which was General Ceku, and the chief of operations, Mr. Zyrapi, but
2 that's -- they -- it was never clear to us on that, and I need to
3 make that point very strongly.

4 Q. Okay. All right. Then let's -- let me take you back to
5 something we briefly discussed yesterday.

6 MR. MISETIĆ: If we could go -- sorry, we need to go into
7 private session again, Mr. President.

8 PRESIDING JUDGE SMITH: Into private session, please,
9 Madam Court Officer.

10 [Private session]

11 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Miletic (Continued)

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Cross-examination by Mr. Miletic (Continued)

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24 [Open session]

25 THE COURT OFFICER: Your Honours, we are now back in public

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1 session.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. MISETIĆ: Thank you.

4 Madam Court Officer, could we please have Exhibit P01076 on the
5 screen, please.

6 Q. Mr. Byrnes, this is a cable from 10 March 1999 sent from the
7 Skopje embassy.

8 A. The one I'm looking at is from 25 February from embassy
9 Belgrade.

10 Q. Oh, we might have the wrong document on the screen. Sorry.

11 MR. MISETIĆ: The ERNs should be 075388 to 075391. Oh, sorry,
12 it's P01079. My mistake. I apologise.

13 Q. This is the cable from 10 March 1999 sent from Skopje. And if
14 we could scroll to the bottom. And just let me ask you again, is
15 this a cable that you either wrote or reviewed?

16 A. Yes.

17 Q. Which one is it?

18 A. I wrote it.

19 Q. Okay. I'm interested in the second paragraph. And now, this is
20 after Rambouillet, after the "coup," and it says:

21 "A senior General Staff officer confirmed that most zone
22 commanders oppose Rambouillet and advised that one of the two who
23 supports it - Commander Drini of the Pashtrik zone - will be removed
24 from his command within the next few days. The General Staff officer
25 indicated that most of the KLA rank and file support the agreement,

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1 however."

2 Now, is it correct that you had heard information that
3 Commander Drini was going to be replaced?

4 A. Yes.

5 Q. And was it your understanding that he was going to be replaced
6 because of his support for Rambouillet?

7 A. Yes.

8 Q. Okay. I'd like to take you next to a cable at P01080, please.

9 And this is also a cable from 10 March 1999 sent from the
10 Belgrade embassy.

11 And if we could scroll down just to see whether you either wrote
12 or reviewed this cable before it went out.

13 A. I recall writing this.

14 Q. Okay.

15 MR. MISETIĆ: If we could then turn to page 075396, please.

16 Q. And in paragraph 3, you talk about a meeting with General Staff
17 members Jakup Krasniqi and Rame Buja at Lladrovc. Were you the one
18 present for that meeting?

19 A. Yes.

20 Q. And it says:

21 "Later, U.S. KDOM met with regular political directorate contact
22 Sokol Bashota near Kijevo. Krasniqi and Bashota made clear that the
23 future of the KLA is the principal concern of those military
24 commanders and General Staff members who oppose agreeing to the
25 Rambouillet accords."

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1 And then if we scroll down into paragraph 4, it says:

2 "Personal history may also cause friction in the General Staff.
3 The zone commanders are largely founding members. Individuals such
4 as Podujevo zone commander Rrustem Mustafa (Remi), Drenica zone
5 commander Sami Lushtaku and KLA Supreme Commander Sylejman Selimi
6 feel intense pride in having taken up arms against the Serbs ..."

7 I read that to you yesterday. And then if you go further down
8 in the paragraph, it says:

9 "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."

12 MR. MISETIĆ: And if we turn the page, please, sorry. If we go
13 to paragraph 5.

14 Q. In the middle of the paragraph -- sorry, at the beginning:

15 "Krasniqi, Buja, Bashota and military operations directorate
16 chief Zupari," it should be Zyrapci, "have clearly indicated that the
17 key problem in gaining the General Staff's endorsement of the
18 Rambouillet accords is the question of the KLA's future. The
19 opposition to Rambouillet of zone commanders like Remi and Lushtaku
20 probably flows from their fear that demobilisation will cost them
21 their hard-won power and influence. While political wing members
22 like Thaci, Krasniqi and Buja can count on good jobs and power and
23 influence as senior members of the Kosovo provisional government, the
24 zone commanders stand to lose power once their troops put down their
25 weapons. They therefore appear to be insisting that a formula be

1 found which permits the retention of organised and armed KLA units.
2 While they may not completely share these concerns, political wing
3 members and KLA 'moderates' like Krasniqi and Buja seek to find a
4 compromise that will preserve the KLA's unity, especially after the
5 palace coup which occurred during Rambouillet."

6 Now, ultimately a compromise was reached between these two wings
7 of the KLA; is that correct?

8 A. Yes.

9 Q. And part of the compromise was that in exchange for their
10 agreement to Rambouillet, the military zone commanders were going to
11 continue to exert control over forces after the provisional
12 government was established. Is that what happened?

13 A. I honestly don't know. I don't remember.

14 Q. Okay.

15 A. But I -- but the issue of the friction was there, and it
16 remained during the follow-up negotiations effectively over the
17 structure and numbers of police forces in Kosovo.

18 Q. Okay. Are you aware of what kind of deal Mr. Thaci, for
19 example, had to cut with the zone commanders to get their agreement
20 to Rambouillet?

21 A. No, I am not.

22 Q. Would it be consistent with your understanding of what
23 transpired after if I were to tell you that Mr. Thaci had to concede
24 to the zone commanders that they would retain some influence in
25 post-war Kosovo in exchange for their agreement to agree to

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1 Rambouillet?

2 MR. FERDINANDUSSE: Objection, calls for speculation. The
3 witness has just said he doesn't know.

4 PRESIDING JUDGE SMITH: Sustained.

5 MR. MISETIĆ:

6 Q. If we go to your SPO witness statement, P01066 at paragraph 87,
7 please.

8 MR. MISETIĆ: It's page 19.

9 Q. In the middle of the paragraph, you state:

10 "Now I understand that Thaci had to go to the various zone
11 commanders (e.g., Remi and Haradinaj) and convince them to assent to
12 the agreement. This again highlights the tenuous control the KLA
13 General Staff had over the zone commanders."

14 Is that correct?

15 A. Yes, sir.

16 Q. And when you say "convince them to assent to the agreement," do
17 you know how he convinced them?

18 A. No, I don't.

19 MR. MISETIĆ: If I could turn now to an exhibit,
20 Madam Court Officer, if we could call up, please, DHT01465 to
21 DHT01467.

22 Q. Mr. Byrnes, if you could take a look at this document. And if
23 we could -- it's an official letter from the Department of State by
24 the Assistant Secretary For Legislative Affairs written to Mitch
25 McConnell who was at that time the chairman of the Senate Foreign

1 Relations -- or Foreign Operations Committee, excuse me. And I'll
2 just let you read the document for a second. It's relatively brief.

3 Have you read it?

4 A. Yes, sir.

5 Q. Okay. First would you agree with me that, as a general matter,
6 when the State Department writes to the Senate, it has an obligation
7 to be as accurate as possible in the information it conveys?

8 A. Absolutely.

9 Q. Okay. And would you agree with me that when the State
10 Department writes to the Senate and makes assertions, it tries to
11 give the best possible assessment that it can?

12 A. Yes, sir.

13 Q. I'm sure it caught your attention, the third paragraph from the
14 bottom. And let me put this letter in context. This is now in the
15 middle of the NATO bombing campaign; is that correct?

16 A. Yes, sir.

17 Q. Okay. And --

18 A. It is.

19 Q. -- there is discussion in the Senate about violating the arms
20 embargo and having the United States send weapons directly to the
21 KLA; is that correct?

22 A. Yes.

23 Q. And this letter is drafted in response to that movement in the
24 Senate, if I can call it that?

25 A. Yeah, I -- I've not seen this letter before, but I agree with

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1 your assessment.

2 Q. Okay. So that third paragraph from the bottom, the State
3 Department is telling the United States Senate is that its assessment
4 is that "there is no political structure in Kosovo or effective
5 command and control of the KLA"; is that correct?

6 A. Yes, sir. And that would be based on not just reporting -- our
7 reporting earlier from the field [REDACTED] Pursuant to Post Session
Redaction Order F2219.

8 [REDACTED] Pursuant to Post Session Redaction Order F2219.

9 Q. Okay. But your understanding would be that at least in part it
10 would be based on your reporting as well?

11 A. Yes.

12 MR. MISETIĆ: Mr. President, I tender this document into
13 evidence.

14 PRESIDING JUDGE SMITH: Any objection?

15 MR. FERDINANDUSSE: No objection.

16 PRESIDING JUDGE SMITH: DHT01465 to DHT01467 is admitted and
17 will be assigned an exhibit number.

18 THE COURT OFFICER: Your Honours, this document will receive
19 Exhibit 1D00120. It's classified as public.

20 MR. MISETIĆ: That's fine.

21 PRESIDING JUDGE SMITH: Thank you.

22 Go ahead.

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

24 Q. I just had a couple of questions about these two LDK officials
25 that were detained by the KLA. You recall that discussion yesterday

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Cross-examination by Mr. Misetić (Continued)

1 with the Prosecutor?

2 A. Yes.

3 Q. Okay.

4 MR. MISETIĆ: If we could go into private session for a minute,

5 Mr. President.

6 PRESIDING JUDGE SMITH: Into private session, please,

7 Madam Court Officer.

8 [Private session]

9 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Misetić (Continued)

1 [Open session]

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

4 PRESIDING JUDGE SMITH: Thank you.

5 MR. MISETIĆ: Thank you.

6 Q. And is it correct, as you state in your statement, P01066, at
7 paragraph 117, that Mahmuti told you that they were arrested as
8 collaborators because they were telling people to surrender their
9 arms?

10 A. Yes.

11 Q. The case of --

12 MR. MISETIĆ: Oh, actually I think I need to go back into
13 private session for this as well. I apologise.

14 PRESIDING JUDGE SMITH: Into private session, please,
15 Madam Court Officer.

16 [Private session]

17 [Private session text removed]

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Cross-examination by Mr. Miletic (Continued)

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Cross-examination by Mr. Miletic (Continued)

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Cross-examination by Mr. Misetić (Continued)

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7 [Open session]

8 THE COURT OFFICER: Your Honours, we are now back in public
9 session.

10 PRESIDING JUDGE SMITH: Thank you.

11 MR. MISETIĆ: I'm -- sorry. Well, I guess I can ask this
12 question in public.

13 Q. How sure are you that Zoran Mijatović was not part of the
14 Serbian security services?

15 A. I'm not sure.

16 Q. Okay.

17 A. And he wore a Serbian police uniform.

18 Q. Okay.

19 A. And he was identified by Lukić as his deputy.

20 Q. Okay. All right. You discuss and you were asked some questions
21 about meeting with Mr. Thaci in the post-conflict period. And before
22 we get to that, I wanted to show you a video of the spokesperson of
23 the Pentagon, a man named Ken Bacon. I don't know if you're familiar
24 with him.

25 A. I'm not.

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1 Q. Okay. This is a video of a Pentagon press conference about two
2 days -- approximately two days before NATO forces entered Kosovo.
3 And I just wanted to have you watch it and see if you could help us
4 with some of the assessments that are made in the video.

5 MR. MISETIĆ: So this is, Madam Court Officer, 1D00076, ERN
6 DHT01468.

7 [Video-clip played]

8 "The fact of the matter is that I don't think that Kosovo is
9 going to be a very happy place for Serbs when NATO comes in, and
10 the -- and the -- I don't think Serbs will want to stay there. I
11 think they'll want to return to Serbia. We don't know how big the
12 Serb minority is there. It -- it could -- probably around 100.000,
13 could be a little more than that. But as Kosovar Albanians flow back
14 in, our assumption is that many Serbs will probably return to Serbia.

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

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

19 MR. MISETIĆ:

20 Q. Now, that was the assessment of the Pentagon on 5 June 1998, and
21 I wanted to explore with you the basis of the Pentagon's belief that
22 Kosovo would not be a happy place for Serbs once NATO comes in. And
23 I believe -- and I want to see if that's connected to something you
24 say in your statement, which is paragraph 101 of your statement.

25 MR. MISETIĆ: I believe again it's P01080. If we could put that

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Cross-examination by Mr. Miletic (Continued)

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1 on the screen, please. Just -- I correct myself. I said 5 June
2 1998. It should be 5 June 1999, for the purposes of the record.

3 Q. So at paragraph 101, you make reference -- I'll read the
4 sentence. You say:

5 "Before I left at the end of July ..., we started to hear the
6 reports of revenge-fuelled violence."

7 Do you see that?

8 A. I do.

9 Q. And you also discuss the same issue of how much in -- in
10 paragraph 103:

11 "... how much of it was revenge and how much was coordinated I
12 cannot say."

13 But is it fair to say that -- or let me rephrase. Did you also
14 anticipate that there would be issues for the Serb minority in Kosovo
15 even before NATO entered?

16 A. Sadly, I did.

17 Q. And why did you anticipate that?

18 A. Primarily because the Serbian police forces and Serbian
19 paramilitaries for years under Milosevic's direct command had carried
20 out brutal, brutal policies against the Albanian population, burning
21 their villages, looting their homes, and even murdering people. The
22 object appeared to be, and this was later confirmed when the plans
23 for operation -- the name eludes me, Operation Horseshoe, were
24 revealed, picked up by Austrian intelligence. Milosevic's objective
25 was to drive out a very large number of Albanians to restore a more

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1 favourable demographic balance that, in fact, would favour the Serbs
2 in Kosovo.

3 But this, again, let me emphasise Serbian policy towards the
4 Albanians, certainly since 1989, was absolutely brutal. And we
5 anticipated that when NATO came in, that Albanians would exact
6 retribution, at least some of them, against the Serbs who had been --
7 behaved so brutally towards them.

8 Q. When you say "Albanians," you mean all Albanian -- or, like,
9 generally Albanians, or are you talking any specific group?

10 A. Albanians who lived in Kosovo.

11 Q. All right. Okay.

12 A. Sorry.

13 Q. You mentioned Operation Horseshoe. Could you tell us how you
14 came to learn about Operation Horseshoe and what it was?

15 A. On one of my visits to embassy Skopje, [REDACTED] Pursuant to
16 *Post Session Redaction Order F2219*.

17 [REDACTED] Pursuant to *Post Session Redaction Order F2219*.

18 [REDACTED] Pursuant to *Post Session Redaction Order F2219*.

19 [REDACTED] Pursuant to *Post Session Redaction Order F2219*. And it

20 outlined a plan, Belgrade's plan, signed off
21 by Milosevic, to use Serbian security forces, including the army, to
22 drive out a very significant proportion of the Albanian population of
23 Kosovo and to drive them out into -- primarily into Albania.

24 Q. You were asked some questions about a meeting that you attended
25 in mid-June 1999 by the Prosecutor where you were present,
26 Jamie Rubin was present, Mr. Thaci was present, and then this

1 discussion about going for a walk with Mr. Rubin.

2 Were you present or were you able to observe them as they went
3 on this walk?

4 A. I observed them leaving on the walk and coming back, but nothing
5 more.

6 Q. Okay. Do you know if they spoke to additional people, either in
7 person or by telephone, when they went on the walk?

8 A. I do not.

9 Q. Was the discussion about demobilisation of KLA forces?

10 A. That was one of the key points of discussion at that meeting.

11 Q. Just to be clear here, though. There was also discussion or a
12 need for FARK forces to demobilise as well; is that correct?

13 A. Yes.

14 Q. It wasn't just KLA. It was all Kosovo Albanian forces needed to
15 demobilise?

16 A. I actually -- I don't recall discussion of FARK at that meeting,
17 but that makes sense.

18 Q. Well, let me also state, wasn't part of the KLA's agreement at
19 Rambouillet an agreement to demobilise?

20 A. Yes.

21 Q. And we now know that that agreement needed the sign off of the
22 zone commanders; correct?

23 A. Yes.

24 Q. And so what the discussion is about is implementation of an
25 agreement that had already been agreed by the KLA, including the zone

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1 commanders?

2 A. Yes.

3 Q. It's not a new agreement that's being reached with Mr. Thaci?

4 A. That's my understanding.

5 Q. Let me just show you one document and see if you know anything
6 about it.

7 MR. MISETIĆ: It is SPOE00215000 to 00215116 at pages 14 to 17.

8 Sorry, just to correct. It's not an agreement. [REDACTED] Pursuant
to In-Court Redaction Order F2203RED.

9 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

10 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

11 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

12 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

13 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

14 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

15 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

16 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

17 [REDACTED] Pursuant to In-Court Redaction Order F2203RED.

18 Q. Thank you. In the few minutes before our break at 10.00,
19 Mr. Byrnes, let me take you to a different issue, which is the case
20 of the two Serbian journalists.

21 Now, first, you were aware that Serb paramilitaries were
22 operating in Kosovo?

23 A. I was indeed.

24 Q. And how were you made aware of that?

25 A. We -- our patrol -- our teams on patrol would often encounter

1 them and we'd see them.

2 Q. And this would include Franko Simatović's unit; is that correct?

3 A. Can you -- yes. I can't recall whether that was the Grey Wolves
4 or the other unit.

5 Q. Well, Seselj's White Eagles?

6 A. Yes.

7 Q. The Black Hand?

8 A. I don't recall that unit, but --

9 Q. Okay. Let me try to refresh your --

10 A. -- we knew that Arkan and Seselj had units there.

11 MR. MISETIĆ: If we could -- sorry, if we could go back into
12 private session, Mr. President.

13 PRESIDING JUDGE SMITH: Private session, please,
14 Madam Court Officer.

15 [Private session]

16 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13694

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13695

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13696

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13697

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)
Cross-examination by Mr. Misetić (Continued)

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8 [Open session]

9 THE COURT OFFICER: Your Honours, we are now back in public
10 session.

11 PRESIDING JUDGE SMITH: All right. Now we're adjourned.

12 [The witness stands down]

13 --- Break taken at 10.04 a.m.

14 --- On resuming at 10.16 a.m.

15 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
16 in.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 We will continue now with the cross-examination, Witness.

20 Go ahead, Mr. Misetić.

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

22 Q. Mr. Byrnes, we're getting close to the end of my cross, so just
23 bear with me for a few more minutes. I want to pick up where we left
24 off with the KDOM daily report from 18 October, and we had discussed
25 or read out from that report about Yugoslav forces building up in the

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

Page 13699

1 area between Malisheve and Komorane on 18 October 1998.

2 And I want to put a map on the screen to show you the distance
3 between that area of military build-up and where the two
4 "journalists" were picked up.

5 MR. MISETIC: So if we can have on the screen DHT03790, please.

6 Q. And so you see on the screen now Komorane and the village of
7 Magure on the bottom, and according to Google Maps it's about a
8 17-minute drive. Do you see that? It's not too great a distance.

9 Now, as you sit here today, can you recall whether
10 paramilitaries were also headed to that area on 18 October 1998?

11 A. I do not recall.

12 MR. MISETIC: Mr. President, I'd like to tender the two Google
13 Maps that I've used with this witness. That would be -- the first
14 map was DHT03789 and the second map was DHT03790.

15 PRESIDING JUDGE SMITH: Yes, DHT03789 is admitted and will be
16 granted a number. And DHT03790 is admitted and will be given an
17 exhibit number.

18 THE COURT OFFICER: Your Honours, the first map with ERN
19 DHT03780 to DHT03780 will receive Exhibit 1D00122. And the second
20 map with ERN DHT03790 to DHT03790 will receive Exhibit 1D00123. Both
21 maps are classified as public.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. MISETIC: I think the numbers are wrong.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 THE COURT OFFICER: The first document was DHT03789 --

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

Page 13700

1 MR. MISETIĆ: Yes.

2 PRESIDING JUDGE SMITH: Okay.

3 THE COURT OFFICER: -- to DHT03789, and that was
4 Exhibit 1D00122. And the second one is DHT03790 to DHT03790, and it
5 received Exhibit 1D00123. And both are classified as public.

6 MR. MISETIĆ: Yes.

7 PRESIDING JUDGE SMITH: You got it now. Thank you.

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

9 PRESIDING JUDGE SMITH: Go ahead.

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

11 Q. Mr. Byrnes, just quickly, in your Milutinović testimony, you
12 stated that in September 1998, you personally saw a village --

13 MR. MISETIĆ: And just for the benefit of the parties it's
14 IT-05-87_1 P01214 at page 12148 and 12208.

15 Q. You stated that in September 1998 you personally saw a village
16 near Malisheve being burned and looted. PJP officers, those are
17 Yugoslav forces, were all around. All the Albanian villagers were
18 gone. No one was fighting the flames. Do you recall that?

19 A. Yes, sir.

20 Q. Do you recall the event?

21 A. Yes, I do.

22 Q. Do you recall when in September that was?

23 A. I cannot recall the date.

24 Q. You say in the same testimony, at page 12149 to 50, KDOM teams
25 regularly saw similar scenes in September, burning villages, dead

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13701

Cross-examination by Mr. Misetić (Continued)

1 animals, crops being torched, looting; is that correct?

2 A. Yes, sir.

3 Q. Page 12153: We saw on regular a basis Albanians being driven
4 from their villages.

5 Is that correct?

6 A. Yes, sir.

7 Q. And when would that have been?

8 A. During the fall, leading up to the Holbrooke-Milosevic
9 agreement.

10 Q. Then on page 12154, you say Serb police drove out Albanian
11 civilians from their villages in the Pec region. Thousands fled to
12 the woods. Media reports embarrassed Belgrade. MUP then herded the
13 civilians back to their villages. KDOM teams saw excessive force
14 being used by MUP against civilians. The civilians were terrified.

15 Is that accurate?

16 A. Yes, sir.

17 Q. Did you personally witness that?

18 A. No, I didn't.

19 Q. These are reports you received from KDOM teams?

20 A. They were -- we had several teams in the area and that's what
21 they reported. They were eyewitnesses.

22 Q. Okay. Are you familiar with -- going back to the post-conflict
23 period. Do you recall hearing any statements by Mr. Thaci condemning
24 violence or calling for a end to violence?

25 A. I did.

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

Page 13702

1 Q. Let me see. You were there until the end of July; correct?

2 A. Yes, sir.

3 Q. Did you see -- let me see if you saw this statement by Mr. Thaci
4 from 17 July 1999.

5 MR. MISETIĆ: And this is DHT01287, please. It's a little bit
6 longer video, but -- and it is in Albanian but has English subtitles.

7 [Video-clip played]

8 MR. MISETIĆ:

9 Q. Mr. Byrnes, first let me ask you, had you ever -- were you
10 present or had you heard that speech before?

11 A. No.

12 Q. Is it consistent with -- you said you had heard Mr. Thaci making
13 calls to stop violence. Is that speech consistent with the types of
14 public statements you heard Mr. Thaci giving in the summer of 1999?

15 A. Yes.

16 MR. MISETIĆ: Mr. President, I tender this video into evidence.

17 PRESIDING JUDGE SMITH: Any objection?

18 MR. FERDINANDUSSE: No objection.

19 PRESIDING JUDGE SMITH: DHT01287 is admitted in evidence and
20 will be given an exhibit number.

21 THE COURT OFFICER: Your Honours, the video with ERN DHT01287 to
22 DHT01287 will receive Exhibit 1D00124. It's classified as public.

23 PRESIDING JUDGE SMITH: Thank you.

24 MR. MISETIĆ: Thank you.

25 Mr. President, at the request of a provider, if we can move into

Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13703

Cross-examination by Mr. Misetić (Continued)

1 private session, please.

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 (Resumed) (Private Session)

Page 13704

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13705

Cross-examination by Mr. Miletic (Continued)

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13706

Cross-examination by Mr. Miletic (Continued)

1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13707

Cross-examination by Mr. Miletic (Continued)

1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13708

Cross-examination by Mr. Miletic (Continued)

1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13709

Cross-examination by Mr. Misetić (Continued)

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19 [Open session]

20 THE COURT OFFICER: We are back in public session now,

21 Your Honour.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. MISETIĆ: Thank you.

24 Q. My last topic for you, Mr. Byrnes, you'll be happy to hear, is
25 something you discuss at your SPO interview, which is at P01066. At

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Miletic (Continued)

Page 13710

1 paragraph 18, you say that senior leaders of the KLA provided false
2 or misleading information about the KLA responsibility for certain
3 actions against civilians.

4 And then in Proofing Note 1 at paragraph 38, you say that this
5 conclusion was the product of a "judgment call, based on experience
6 and common sense." And you go on to say that you "did not have hard
7 information that we received false information from senior KLA
8 leaders about actions against civilians."

9 Correct?

10 A. Correct.

11 Q. Okay. Now, I want to talk to you about one incident that is
12 prominent in your cables, and that is the incident of the so-called
13 Panda bar. Do you recall that incident? I'll show you a cable.
14 It's an incident regarding the killing of five or six Serbian youth,
15 younger people at a bar in Peje/Pec --

16 A. Pec.

17 Q. -- called the Panda bar.

18 A. That's right.

19 Q. And if you'll recall, Mr. Holbrooke and Mr. Hill were very
20 interested in getting you to get condemnations from the senior KLA
21 officials about those killings. Do you recall this now?

22 A. Yes.

23 Q. And let me show you -- let me see. This is in your statement.
24 And let me just pull the statement for you to refresh your
25 recollection.

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

Page 13711

1 MR. MISETIĆ: P01066, page 14, paragraph 62.

2 Q. Does that refresh your recollection?

3 A. Yes.

4 Q. Let me take you to a cable, which is P01071 at page 075309,
5 which is the first page, I believe. If you could just read
6 paragraph 1, and when you're finished, we'll turn the page.

7 A. Turn the page.

8 Q. And then if we can turn to 075312 where there's more detail
9 about the denial.

10 So it's correct that the United States believed that, or at
11 least initially, that the KLA was responsible for this incident and
12 needed to send out a strong statement rejecting this type of
13 violence?

14 A. Yes. Washington believed most likely the UCK was responsible
15 for this.

16 Q. Okay.

17 A. And they wanted a strong condemnation.

18 Q. And that was despite KLA denials to the --

19 A. Yes.

20 Q. -- contrary? Yes, okay. Let me show you something now that has
21 come to light in recent years.

22 MR. MISETIĆ: DHT03865, please.

23 Q. It is a video of Serbia's President Vucić.

24 A. Of?

25 Q. Serbia's President Vucić on this incident.

Witness: Shaun Byrnes (Resumed) (Open Session)
Cross-examination by Mr. Misetić (Continued)

Page 13712

1 [Video-clip played]

2 THE INTERPRETER: [Voiceover] "May I ask you how far did we
3 progress when the investigation -- have we generally established who
4 actually murdered our children or will we be surprised in the future?"

5 "Are you trying to say that the Albanian terrorists are not
6 behind this?"

7 "I would like to say that we don't have proof of that. On the
8 contrary ..."

9 MR. MISETIĆ:

10 Q. Have you seen in the recent years the stories that have come out
11 that it may, in fact, have been Serbian operatives who set up a false
12 flag operation in this incident?

13 A. Yes.

14 MR. MISETIĆ: Mr. President, I tender the Vucic video into
15 evidence.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 No objection being shown, DHT03865 is admitted and will be
18 granted a number.

19 THE COURT OFFICER: Your Honour, this video will receive
20 Exhibit 1D00125, and it's classified as public.

21 PRESIDING JUDGE SMITH: Thank you.

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

23 As a housekeeping matter, I also used Mr. Byrnes's -- well, I
24 shouldn't say it in public. Let me just say I would like to tender
25 CR00-0337 to CR00-0346.

Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13713

Cross-examination by Mr. Misetić (Continued)

1 MR. FERDINANDUSSE: Your Honour, I do have an objection to that.

2 MR. MISETIĆ: Then I think we need to go into private session to
3 discuss it.

4 PRESIDING JUDGE SMITH: Into private session, please.

5 [Private session]

6 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13714

Cross-examination by Mr. Miletic (Continued)

1 [Private session text removed]

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25 [Open session]

Witness: Shaun Byrnes (Resumed) (Open Session)
Procedural Matters

Page 13715

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

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. MISETIC: Thank you very much.

4 Q. Mr. Byrnes, I want to thank you for your patience with me and
5 for answering my questions.

6 MR. MISETIC: And that concludes my cross-examination,
7 Mr. President.

8 PRESIDING JUDGE SMITH: Thank you.

9 Mr. Roberts, we will come to you after the break so that you
10 don't have to start up and stop immediately.

11 Mr. Byrnes, we will have a half-hour morning break, and you may
12 join the Court Officer to leave the room.

13 THE WITNESS: Thank you, Your Honour.

14 PRESIDING JUDGE SMITH: And we will reconvene at 11.30.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 --- Recess taken at 10.54 a.m.

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

19 PRESIDING JUDGE SMITH: Yesterday, I asked that you each
20 re-examine your proposed cross-examination times, and I failed to ask
21 about that this morning when we started.

22 Can I have a response now from that about tomorrow's -- or the
23 next witness, I should say?

24 MR. MISETIC: Yes, Mr. President. I can reduce our time from
25 four hours to two and a half hours.

Witness: Shaun Byrnes (Resumed) (Open Session)
Procedural Matters

Page 13716

1 MR. EMMERSON: And, Your Honour, because I'm taking the lead
2 with that witness, our estimate of four hours remains the same.

3 MR. ROBERTS: Our estimate of three and a half hours remains the
4 same at present as well, Your Honour.

5 MS. ALAGENDRA: Our estimates also remain the same, Your Honour.

6 PRESIDING JUDGE SMITH: What was your estimate? I can't -- I
7 don't remember.

8 MS. ALAGENDRA: Two hours.

9 PRESIDING JUDGE SMITH: How much?

10 MS. ALAGENDRA: Two hours.

11 PRESIDING JUDGE SMITH: Thank you.

12 All right. Madam Court Usher, you may bring the witness in.

13 MR. FERDINANDUSSE: Your Honour, while we wait, may I just point
14 everyone's attention to an e-mail I've sent over the break about a
15 housekeeping matter. Not to discuss now but so that everyone can
16 prepare for the time when it's appropriate to raise it.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: All right. Witness, we are ready to
19 continue. Mr. Roberts, who is standing, represents the Selimi
20 Defence, and he will be cross-examining.

21 Go ahead, Mr. Roberts.

22 MR. ROBERTS: Thank you, Your Honour.

23 Cross-examination by Mr. Roberts:

24 Q. And good morning, Mr. Byrnes.

25 A. Good morning.

1 Q. Hopefully my cross-examination should be relatively brief. And,
2 obviously, if you have any clarification to any of my questions,
3 please don't hesitate to ask. Can you hear me well enough, actually?
4 I know there's been some issues with microphones.

5 A. I hear you well. Thank you.

6 Q. And also just on that note, if you wouldn't mind just waiting
7 until I've finished the question before starting to respond, even
8 though we're speaking the same language, just to assist the
9 stenographer as much as possible.

10 So, first of all, just to clarify about your entry into Kosovo,
11 I'm right that you entered Prishtine on 12 August 1998 as head of
12 US KDOM?

13 A. Yes, sir.

14 Q. And as you said in your SPO statement, you'd served in Belgrade
15 as a political officer from 1980 to 1984 and briefly in 1992. Was
16 that the last time that you had been working on Kosovo before 1998?

17 A. Yes.

18 Q. So between 1992 and 1998, you didn't have any involvement in
19 Serbia or Kosovo at all?

20 A. No. Most of the time I -- that period I spent in Ukraine or
21 Washington.

22 Q. So it's fair to say that when you entered Kosovo in early
23 August, on 12 August, you were heavily reliant on the information
24 that you received from your predecessors?

25 A. Yes.

1 Q. And who was in Kosovo before you arrived? Was KDOM already
2 established?

3 A. Yes, it was. It was established, I think, towards the end of
4 July, and the acting head of -- or the head of KDOM, US KDOM at the
5 time was a lieutenant, an army -- a US army lieutenant-colonel. I
6 think his last name was Williams. He was from General Wes Clark's
7 staff.

8 Q. And did you have much interaction with him before you deployed
9 into Kosovo?

10 A. No, I had no interaction with him until I arrived in Prishtine.

11 Q. And how long did he remain there once you arrived?

12 A. I recall less than a week.

13 Q. And did you have or did KDOM have much more than a skeleton
14 staff before you arrived?

15 A. We were pretty small. I think we had, like, five vehicles and
16 15 American foreign service and military officers.

17 Q. And there was also -- I think you mentioned in your SPO
18 statement the only other official presence of the US Government in
19 Kosovo was the US Information Agency under Richard Huckaby who worked
20 along with some local staff in Kosovo; is that right?

21 A. Yes.

22 Q. And was he the only US officer in that place or --

23 A. No.

24 Q. -- was there more staff?

25 A. He was the only US officer. He was a USIA officer.

Witness: Shaun Byrnes (Resumed) (Open Session)

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Cross-examination by Mr. Roberts

1 Q. And so when you arrived in August, and I think I'll just take
2 you to paragraph 19 of your statement.

3 MR. ROBERTS: So this is P01066.

4 Q. It states that US -- it's not necessary to put it on the screen:
5 "U.S. KDOM had already established contact with members of the
6 KLA before I arrived."

7 And then you say:

8 "The primary contacts at this stage were with the 'Drenica
9 Group,' which I understood to include Sylejman Selimi and
10 Rexhep Selimi, among others."

11 Do you recall that from your statement?

12 A. Yes.

13 Q. When you say you understood this, what does that mean to
14 include? Sorry, when you understood this to include Sylejman Selimi
15 and Rexhep Selimi.

16 A. That's what the Lieutenant-Colonel Williams, if that's -- if I
17 remembered his surname correctly --

18 Q. Right.

19 A. -- told me.

20 Q. Okay. So that was on the basis of his knowledge. Do you know
21 if he had met Rexhep Selimi or Sylejman Selimi before your arrival?

22 A. I don't know specifically, but I know that members of US KDOM
23 had, and I assume he was among those who had because he was the
24 officer in charge.

25 Q. Do you remember when or where they met them, or do you have any

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13720

Cross-examination by Mr. Roberts

1 information in that regard?

2 A. I don't recall.

3 Q. So the impression that you state in this statement -- sorry, the
4 understanding in this statement, that's based purely on those
5 contacts or those members of KDOM who were there before?

6 A. Yes.

7 Q. And Mr. Huckaby didn't meet them, to your knowledge, either, did
8 he?

9 A. No, he did not.

10 Q. And just to be clear - I may have asked this already, I
11 apologise - but there's no notes of any of those meetings, are there,
12 that you recall being shown? This was just information that you were
13 provided verbally --

14 A. Yes.

15 Q. -- I presume, by those individuals. Now, later on in your
16 statement at paragraph 46, you also talk about this Drenica group.
17 And I think because it's a slightly longer paragraph, I'll have it on
18 the screen if that's possible.

19 MR. ROBERTS: So that's P01066, ERN 075522, at 075531,
20 paragraph 46. So if we could just see that displayed on the screen.
21 And if you just move -- yes.

22 Q. I'll just read it out for the record. It said:

23 "We had the sense that there was a group, sometimes referred to
24 as the 'Drenica Group,' which was smart and clever. We heard
25 sophisticated people talking about the country-urban divide and the

1 Drenica-Pristina divide. The leadership of the Drenica group was
2 highly nationalistic and ideological. Prishtine/Pristina was
3 sophisticated and urbane, and these people feared those from Drenica
4 would take over Prishtine/Pristina. We worked effectively out of
5 Prishtine/Pristina and hung out with young, educated and respectful
6 people."

7 Do you recall telling the SPO that?

8 A. I'm sorry?

9 Q. Do you recall telling the SPO that in your interview --

10 A. Yes.

11 Q. -- or in your statement? Now, when you say at the beginning of
12 this paragraph "we had the sense that," what exactly does that mean?
13 Is that again not something that's based on your personal knowledge
14 but based on information told to you, or is there some other
15 interpretation?

16 A. We were at that point trying to cobble together a picture of the
17 UCK, and the only picture, if you will, that we had at the time was
18 that there was a group in Drenica that was UCK. We didn't have
19 contact with any of the other, what turned out to be, zones at that
20 time.

21 Q. And this was based on what you were told by other people in
22 Prishtine, as I think you mentioned later on in that paragraph. Is
23 that your source of information?

24 A. The source of information was largely from the members of US
25 KDOM.

1 Q. Okay. And the divide that's referred to in that paragraph
2 between Prishtine and Drenica, is that something that you heard from
3 KDOM as well or is that, as I think you mentioned, it's sophisticated
4 people that you talked to?

5 A. That comes from the latter group which comprised mostly young,
6 well-educated Kosovar Albanian journalists. People like Blerim Shala
7 of *Zeri*, Veton Surroi of *Koha Ditore*, Albin Kurti who was working for
8 Demaci at the time. They were people like that.

9 And if I can, one of them -- one of them said that at one
10 point -- I'll never forget this, that they talked about a traditional
11 cultural divide between Drenica and Prishtine. Prishtine was a
12 commercial and governing centre. It was where the university was.
13 It was a centre of, if you will, high culture. Drenica was very -- a
14 very backward area at the time and dominated, in their view, by
15 peasants. And later on in the conflict, one of -- one of these
16 people said that the UCK represented a peasant rebellion against the
17 LDK and the high urban culture represented by the LDK and by
18 President Rugova.

19 Q. Who was that, sorry, who mentioned that? Who told you that?

20 A. I -- I don't recall the specific individual, but it was one of
21 the people -- one of these -- the young intellectuals that we got to
22 know in the city.

23 Q. But that perception wasn't from your interactions --

24 A. No.

25 Q. -- with those --

1 A. No.

2 Q. -- in Drenica?

3 A. It was not.

4 Q. And when people talk about the Drenica group, they're talking
5 about -- how shall I put this? It's not accurate to say they're
6 talking about specific individuals?

7 A. That's right.

8 Q. So they're just making a general assessment about the country or
9 the split, if you like, between the country and the city?

10 A. Yeah, that's right. Yeah.

11 Q. And just to be clear -- actually, let's move on to the next
12 topic. Thank you.

13 So I just want to talk about your interaction with
14 Rexhep Selimi. And I think in your SPO statement, you confirmed
15 having met him, according your recollection, on 18 August 1998 in
16 Likoc. Do you recall telling the SPO that?

17 A. I do.

18 Q. And do you remember the meeting?

19 A. I do.

20 Q. And that was your first meeting with the KLA, with anyone from
21 the KLA, wasn't it, since your arrival in Prishtine?

22 A. Yes, sir.

23 Q. And so that was only six days -- obviously six days before that
24 you'd arrived?

25 A. That's right.

1 Q. Do you know how this meeting was set up or established,
2 organised, sorry?

3 A. As I recall, Adem Demaci set it up and took us out to -- I
4 recall we met at or near Likovac.

5 Q. And was this -- and I think in your statement at paragraph 50,
6 you state that you just wanted to meet as many members of the KLA as
7 possible to understand features of its command structure, logistical
8 operations, and political aims. Do you recall telling the SPO that?

9 A. Yes.

10 Q. So this meeting that you had with Mr. Selimi was just one of
11 those meetings. You were trying to meet as many people as possible
12 and this was one of those meetings.

13 A. That's right. And let me add that Washington was -- Washington
14 was eager to know as much as possible about the UCK because the
15 insurgency was spreading, and the situation and political and
16 military situation in Kosovo was deteriorating. And there was
17 concern that -- in the Clinton administration that if things -- if
18 the situation got out of hand, the United States and NATO would face
19 another Bosnia.

20 Q. Understood. And during that meeting, Mr. Selimi didn't
21 introduce -- and when I say "Mr. Selimi," I'm talking obviously about
22 Rexhep --

23 A. [Overlapping speakers] ...

24 Q. -- Selimi. He didn't address himself or introduce himself as
25 the overall commander or leader of the KLA in any way, did he?

1 A. Yeah, that's correct.

2 Q. And you didn't refer to him as such, so he wouldn't have been
3 able to correct you had you had that interpretation?

4 A. No, we -- I remember the meeting. The two Selimis, Sultan
5 Selimi was present with Rexhep. And as far as we were concerned,
6 they were just senior officers of the UCK, nothing more.

7 Q. And do you remember what he talked about, Mr. Selimi,
8 Rexhep Selimi, at that meeting?

9 A. The only thing I remember him talking about was that the UCK
10 welcomed the contact with the US KDOM and welcomed us to Kosovo and
11 this -- that sort of thing.

12 Q. But you said he talked a lot and was quite talkative during the
13 meeting, and that's -- on that basis, that's why you believed he was
14 higher up or the leader?

15 A. Yes.

16 Q. But there was nothing else within that meeting that gave you
17 that interpretation?

18 A. No.

19 Q. And he was talking in Albanian, I presume, and it was being
20 translated for you because he didn't speak English at the time,
21 particularly?

22 A. Yes.

23 Q. And was this one of the meetings that also was kind of geared
24 towards public relations, about showing to you that the KLA was a
25 partner that you could deal with? I think you mentioned public

1 relations as an aspect of your meetings in your statement.

2 A. I don't recall that. But he -- what I do recall is he expressed
3 an interest -- a strong interest in developing a partnership with the
4 United States.

5 Q. And if we just go on now to what you believed his role to be
6 within the KLA, because there's a few different interpretations in
7 the cables. And if I can just go through some of them.

8 Now, first of all, in relation to the cables, you stated in your
9 SPO statement that they were based on information that we received
10 from various sources, much of it not verified.

11 A. Yes.

12 Q. Do you recall -- and so you would receive information about the
13 role, for example, of certain individuals, like Mr. Selimi, and you
14 wouldn't be able to verify whether it was accurate or not before it
15 entered into the cables?

16 A. Yes. And we always tried to -- excuse me. We always tried to
17 indicate that we could not confirm specific information.

18 Q. So, first of all, if I can just take a cable from 3 November
19 1998.

20 MR. ROBERTS: And he is P01067 with ERN 075300, at ERN 075303.
21 That's at paragraph 9(C) in the middle of that page. There we go.

22 Q. So on the fourth line of that -- of paragraph 9(C) on your
23 screen --

24 A. Paragraph 9?

25 Q. Yes, 9. It says:

1 "In Drenica" -- and we're at the end of the fourth line there.

2 "In Drenica, the military commander is Rexhep Sultan Sulimi and
3 his political counterpart is Hashim Thaqi."

4 Do you see that reference there to Mr. Rexhep Sultan Selimi?

5 A. I do.

6 Q. And you've mentioned various times in court, I believe, that
7 Sultan Selimi was actually Sylejman Selimi?

8 A. Yes.

9 Q. And so that appears to be a misunderstanding either of his
10 nickname or could it be possible that that's referring to
11 Sylejman Selimi?

12 A. The latter, I think.

13 Q. You think it's more likely that that refers to
14 Sylejman Selimi --

15 A. Yes.

16 Q. -- because it's -- and is that because it's referring to him
17 being the military commander in Drenica as well?

18 A. Yes, that's right.

19 Q. And that was obviously an error that was in the cable that
20 wasn't picked up before it was sent out?

21 A. Well, I would -- just let me add --

22 Q. Of course.

23 A. -- that we were very much -- we were very much in the dark,
24 particularly in the early days, about the organisation and
25 personalities, particularly the senior personalities of the UCK. And

1 in particular with Rexhep, there -- we heard all sorts of things
2 about what he was in charge of over the course of our service there.
3 And I -- I don't recall seeing him frequently after that first
4 meeting. I'm sure I -- I'm sure I saw him in larger gatherings, but
5 he was not our point of contact.

6 Q. Yes. My understanding from your agenda is that there is a
7 meeting, I think, which you listed in your -- your annex to the
8 preparation note where you translated parts of -- or clarified parts
9 of your agenda to say there was a meeting on 5 February where his
10 name was mentioned, but we didn't see his name mentioned at all in
11 other parts of the agenda.

12 Would that be consistent with your recollection?

13 A. Yes.

14 Q. And when you say -- sorry, I'll just use your words, I'll scroll
15 up:

16 "... we heard all sorts of things about what he was in charge of
17 over the course of [the] service there," in relation to Mr. Selimi --

18 A. Yeah.

19 Q. -- where did you hear this from?

20 A. We didn't hear it from our team members who were patrolling.
21 That was the sort of thing that we heard from our contacts in
22 Prishtine, people like Surroi and Shala and Baton Haxhiu with
23 *Koha Ditore* and a host of young journalists who were working in the
24 field for those two newspapers or for some of the international news
25 networks that were covering the war. They would -- we had good

1 contact with them because they were often good sources of
2 information. They're not always reliable, but at least they had more
3 contact with -- often with UCK in the field than we did. They were
4 Albanian speakers, they were sympathetic to the UCK, and they would
5 pass on rumours, what they'd -- what they'd heard.

6 Q. But I think that's -- those rumours are what I'm interested in.
7 And I think you mention in your statement at paragraph 59 a couple of
8 other rumours that you'd heard about Mr. Selimi as well, possibly
9 again from these same sources, but which also you accept in your
10 statement were not accurate.

11 I think, first of all, there is a rumour that Rexhep Selimi was
12 in charge of the military police or special police unit. That's
13 paragraph 59 of your statement. Do you remember telling the SPO
14 about that rumour --

15 A. Yes.

16 Q. -- don't you? But you also accept that you knew now that he was
17 the KLA's inspector general?

18 A. That was also -- that was also said. And we -- what I recall is
19 we put more stock -- or felt that that rumour was more credible,
20 because I recall that in later discussions as the General Staff --
21 particularly Sokol Bashota and Jakup Krasniqi and Rame Buja, who we
22 saw with increasing frequency and had long conversations with, they
23 were, over time, more willing to share information about
24 personalities. And I recall that they told us at one or another
25 point that Rexhep was the UCK inspector general.

1 Q. And in the same paragraph of your SPO statement, you also make
2 some reference to hearing from an interlocutor about Mr. Selimi
3 being -- I believe you're suggesting that he was in charge of the
4 Black Tigers in that statement, which --

5 A. Yeah.

6 Q. -- again you appear to accept was again incorrect; is that
7 right?

8 A. That was a rumour.

9 Q. So what I'm saying is -- I'm trying to get to is the fact that
10 there were lots and lots of rumours being heard and repeated by
11 people who appeared to be credible and have the access that you're
12 talking about --

13 A. Yeah.

14 Q. -- but which were, in fact, actually completely incorrect?

15 A. That's right. Rexhep was, along with Mr. Thaci, particularly in
16 the beginning, was a very mysterious figure to us.

17 Q. And obviously with that mystery, and I believe we -- this was
18 raised or discussed yesterday, was quite legitimately based on
19 security concerns about information about who he was or falling into
20 the wrong hands, by that I mean Serb intelligence hands, and what
21 that could mean potentially for him or his family members.

22 A. Yeah, just to repeat. I thought, and Nick Turnbull, EU KDOM had
23 thought, that the cautiousness of the UCK in sharing information with
24 us about their structure and their personalities and their leadership
25 under the circumstances was -- even though we didn't like it, we

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1 wanted to know as much as possible, we thought their caution was
2 entirely legitimate.

3 Q. Thank you. And just one other cable to discuss as well.

4 MR. ROBERTS: So that's P1069 with a couple of other pieces of
5 information about Mr. Selimi, which I think illustrate the same point
6 but just, for the record, want to get your comment on them. So
7 that's ERN, sorry, for the record, 075316. Oh, you've already got
8 it. At page 075323.

9 Q. And at paragraph 7 there, just -- do you see that in front of
10 you on your screen?

11 A. I do.

12 Q. So five lines from the bottom. When you're talking about
13 identification of GHQ members, so General Staff members, talking
14 about Hashim Thaci. And then it talks about:

15 "Rexhep Selimi, Drenica zone political director and probable
16 chief of the GHQ information (intelligence) directorate."

17 Do you see that there as well?

18 A. I do.

19 Q. So, again, that's two other roles that he's been ascribed which
20 appear not to match with reality. Is that consistent with your
21 understanding?

22 A. Yeah. And I -- I think that was one judgment that we got wrong
23 based on what I --

24 Q. I think you mentioned in your statement --

25 A. Yeah.

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1 Q. -- and you accept in your statement --

2 A. Yeah.

3 Q. -- that there are certain --

4 A. Yeah.

5 Q. -- judgments you get wrong, and that's understandable, and
6 that's one of them.

7 MR. ROBERTS: And just finally on page 330, so ERN 075330 of the
8 same cable. And then we're at paragraph 14, if we just scroll down.

9 Q. And again it talks about:

10 "Thaqi has been in western Europe, along with Rexhep Selimi and
11 several other GHQ members ..."

12 Do you see that line in the middle of your cable?

13 A. I do.

14 Q. Were you aware that Mr. Selimi never left Kosovo at that time?

15 A. At that time, no, I was not aware.

16 Q. Okay. Thank you. That was all my questions, unless you had
17 anything else to follow up on that.

18 MR. ROBERTS: Thank you, Your Honour. That was all.

19 PRESIDING JUDGE SMITH: Thank you.

20 Mr. Ellis.

21 MR. ELLIS: Thank you, Your Honour. Just a moment.

22 PRESIDING JUDGE SMITH: Take your time.

23 Cross-examination by Mr. Ellis:

24 Q. And I can now say good afternoon, Mr. Byrnes. My name is

25 Aidan Ellis, and I represent Jakup Krasniqi. Do you hear me well? I

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1 can see you leaning in a little.

2 A. Your name is?

3 Q. Aidan Ellis.

4 A. Okay. Glad --

5 Q. I'm representing Mr. Jakup Krasniqi.

6 A. Glad to meet you.

7 Q. I'll be asking you questions certainly into the afternoon
8 session.

9 A. Yes.

10 Q. Now, you've just confirmed, I think, in answer to Mr. Roberts,
11 that Jakup Krasniqi was one of the KLA who you met with increasing
12 frequency as the conflict went along. That's right, isn't it?

13 A. That's right.

14 MR. ELLIS: And could I have on the screen, please, 119118. And
15 if we could scroll down, please.

16 Q. Mr. Byrnes, this a note of a conversation you had with the
17 Prosecution in December 2023. And you see in paragraph 2 there that
18 you "recalled that Krasniqi was reasonable and Byrnes trusted him."
19 That's a reference to Jakup Krasniqi, isn't it?

20 A. Yes, it is.

21 Q. And you had a good relation with him from your meetings during
22 the conflict?

23 A. Yes, I did. We -- over time, we developed, I thought -- I don't
24 know what he thought, but I thought -- I felt we had developed a
25 certain mutual trust. And in all those meetings throughout a range

1 of crises, he worked hard to cooperate with us. He worked hard to
2 resolve the crises. In part, as I indicated here, his motivation was
3 clearly that of the UCK leadership, and that was to keep the
4 United States on their side.

5 But I -- I had a sense of his humanity and his seriousness. He
6 was -- he had -- he was angry at what the Serbs had done to his
7 people, but he was basically a man of peace and he wanted this to
8 end. And he was also -- are you familiar with the Albanian term
9 *besa*? He was clearly an individual who lived by *besa*. And what I
10 meant by that was he was one of those people that if he gave us his
11 word that something would happen, we could walk away with full
12 confidence that it would happen. So there was a large measure of
13 trust.

14 Not to say that -- we had our moments. We had many
15 disagreements. I remember one occasion when he was so angry with me
16 he stomped out of the room, and I -- I can't tell you what the issue
17 was. It was too many years, too much time has passed, but I still
18 remember he stormed out. He was furious. But he came back. And we
19 worked through it. And whatever the problem was, we managed to fix
20 it to at least resolve something.

21 And the other important -- and you may want to talk about this
22 later, but let me talk about it now. The other important
23 manifestation of his desire to find resolutions was the famous
24 incident on 13 January at Likovac where the international principals,
25 and I mean Bill Walker, Ambassador Walker, and Ambassador Chris Hill

1 of the United States, and Ambassador Wolfgang Petritsch of Austria,
2 who was the Special EU Representative, met with the troika to try to
3 come to an agreement on an exchange of prisoners, the eight VJ
4 soldiers who had stumbled into a UCK encampment in Bajgora and been
5 captured and the nine UCK soldiers who had been captured by the Serb
6 forces trying to sneak into Kosovo from Albania. And that meeting
7 was quite contentious.

8 Nick Turnbull and I were there basically as experts. We did not
9 participate in the discussions. But at one point Ambassador Hill and
10 Ambassador Walker became so frustrated that they got up and walked
11 out, saying that this is -- they would never be able to work with the
12 UCK, that this was not -- that they were too obstinate, too
13 obstructionist, blah, blah, blah. And Jakup and I and David Meyer,
14 who was a British military officer but was Walker's -- one of his
15 aides, huddled together. We all agreed that we needed to solve this,
16 it was solvable, and let's just keep going. And Wolfgang Petritsch
17 stayed, and he and Jakup and Jakup's colleagues negotiated and
18 negotiated and negotiated, and they came to an agreement.

19 And ultimately the -- ultimately, the principal obstacle was a
20 sequencing of the prisoners' releases. The Serbs wanted a large time
21 gap between the sequencing for public relations purposes. And, of
22 course, the UCK wanted the swap to take place simultaneously. And
23 that was finally -- that was finally worked out, and Jakup played a
24 key role in that.

25 Q. Thank you for that answer.

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1 A. He -- he stayed the course.

2 Q. I'm going to come back to that --

3 A. Yeah.

4 Q. -- particular negotiation in more detail later. But what you're
5 telling us is that although there were some difficult negotiations,
6 Mr. Krasniqi was somebody you trusted, somebody you could work with.

7 A. Yes.

8 Q. And somebody you thought had a sense of humanity; correct?

9 A. Yes. And if I can say one other thing. In Likovac on
10 13 January, he came to me and told me -- as it was wrapped up, and
11 Walker had come into the meeting and then went out and read a
12 statement to the assembled press, Jakup came up to me and said that
13 the zone commander, who at that time was Sami Lushtaku, was holding
14 several Serbian peasants that they had abducted, I believe, the day
15 before. And he said, "If you want, we can get them released." And
16 he took the lead. Lushtaku did not want to release them, but Jakup
17 ordered them to be released and they were released to us. He didn't
18 have to do that.

19 Q. As I say, Witness, I'm going to come back to that in more
20 detail --

21 A. Okay.

22 Q. -- probably after the --

23 A. Okay.

24 Q. -- lunch adjournment. But it's right, isn't it, that at the
25 time, although your Albanian was limited, you could converse in

1 Serbian, Serbo-Croatian?

2 A. Yes.

3 Q. And there were times you spoke directly to members of the KLA in
4 Serbian?

5 A. We spoke virtually all the time in Serbian.

6 Q. So without hesitation, Mr. Krasniqi would --

7 A. Because I --

8 Q. -- converse with you --

9 A. Because I didn't speak Albanian at all. And when I had to
10 contact him on a satellite telephone to set up meetings or appeal for
11 help, it was not generally through an interpreter. When we met with
12 the troika, he and Rame Buja and Sokol Bashota, we brought an
13 interpreter along and those meetings were interpreted.

14 Q. Quite. So in telephone conversations, you would speak with
15 Mr. Krasniqi in Serbian?

16 A. Yes.

17 Q. He wouldn't hesitate to do that with you?

18 A. No, no.

19 Q. You would have been aware from your interactions that he was an
20 educated man. He'd been a history professor. That's right, isn't
21 it?

22 A. Yeah, we had a -- we had a common interest. I was a historian
23 by training, too.

24 Q. And you knew that he had been imprisoned by the Serbs as a
25 political prisoner in the 1980s?

1 A. I did.

2 Q. And you knew that he had been the chairperson of the LDK branch
3 in Drenas?

4 A. I did.

5 Q. And you knew his role as the KLA spokesperson; correct?

6 A. We understood him to be the -- yes.

7 Q. And when you met with Mr. Krasniqi, it was often with
8 Sokol Bashota and Rame Buja as well?

9 A. Usually, yes.

10 Q. And your understanding was that those three had been selected
11 internally and put forwards by the General Staff to meet with the
12 internationals?

13 A. That's right.

14 Q. Now, I think you already referred to it this morning, but your
15 understanding was that the operations chief of the KLA was
16 Bislím Zyrapi; correct?

17 A. I'm sorry?

18 Q. Your understanding was that Bislím Zyrapi was the operations
19 chief of the KLA?

20 A. Yes. He introduced himself in that -- as serving in that role.

21 Q. And so when operational matters were discussed, Bislím Zyrapi
22 would come to the meetings and speak to those issues?

23 A. Yes, but that was -- that was very infrequent. I actually saw
24 more of Bislím Zyrapi when we were in Tirana, Albania, during the
25 intervention. We did not remain in Kosovo once NATO started bombing

1 Serbia.

2 Q. Let's look then at some of the cables.

3 MR. ELLIS: The first one is P01072. If we could scroll down a
4 little so you can see which one it is. This is -- if we could scroll
5 down a little further, perhaps onto the next page.

6 Q. This is recording, I think, a meeting between Larry Rossin,
7 Sokol Bashota, Rame Buja, and Jakup Krasniqi on 22 December 1998.
8 And that was a meeting that you were at as well, I think.

9 A. Yes, sir.

10 Q. And the format of these cables is typically they start with a
11 short summary and then you find the supporting detail in later pages;
12 that's right?

13 A. Yeah, that's a format we copied from the British Diplomatic
14 Service.

15 Q. I thought it looked familiar. Now, if we could go to page -- in
16 the summary, it's on page 116681. It's right, isn't it, that in the
17 meeting Mr. Krasniqi said that "the KLA neither condoned nor used
18 terrorist tactics and he unhesitatingly condemned the recent murders
19 of Serbs in Pec and Velika Slatina." That's consistent with your --

20 A. Yes.

21 Q. -- recollection of the meetings? And, indeed, in your meetings
22 Mr. Krasniqi he would condemn attacks on civilians; correct?

23 A. Yes.

24 Q. If we could go down to page 116683, that provides the further
25 detail. And what it records Mr. Krasniqi saying is that both the

1 General Staff and Adem Demaci, its political representative, had
2 issued public statements condemning the recent murders.

3 Again, is that consistent with your recollection of the meeting?

4 A. Yes, it is.

5 Q. And Mr. Krasniqi suggested that the recent murders were either
6 the work of the Serbian secret police or their agents in an attempt
7 to discredit the KLA. That's what he said at the time in the
8 meeting, isn't it?

9 A. That's consistent.

10 Q. And if we look down a little further, in response to a question,
11 Mr. Krasniqi indicated that the KLA did not control all armed
12 Albanian civilians and charged that there were some rogue groups that
13 claimed to be KLA but were not under the General Staff's control.
14 And it's in that context that he referred to Tahir Zemaj.

15 A. Yes.

16 MR. ELLIS: Could we then have on the screen your witness
17 statement, which is 075522, and I'm looking at paragraph 62 on page
18 075535.

19 THE COURT OFFICER: For the record, this is P01066.

20 MR. ELLIS: Thank you.

21 Q. Now, of course, at the time that you -- at the time that the
22 statement was composed, it would be, what, 25 years after events.
23 But what's said in the statement is that:

24 "Krasniqi blamed this attack on the FARK, but we were sceptical
25 of this, and they also claimed that it was the work of the Serbian

1 secret police."

2 That's not quite what the cable we've just looked at said at the
3 time, is it? He was saying the attack was the work of the Serbian
4 secret police, and he then later identified the FARK as a group that
5 were not under KLA control.

6 A. Right.

7 Q. Correct?

8 A. That's right.

9 MR. ELLIS: Thank you. Could we then have on screen, please,
10 P00306, which I think is SPOE4000799. I think that is not the page
11 I'm looking for in the English. I'm looking for Political
12 Declaration 21. Is there a second page? Thank you.

13 Q. Now, Mr. Byrnes, looking at the fourth paragraph of this
14 political declaration, it says that:

15 "The Kosovo Liberation Army General Staff has distanced itself
16 many times until now from any form of violence against defenceless
17 and unarmed citizens ..."

18 Do you see that --

19 A. I do.

20 Q. -- in the political declaration? And it goes on to say that the
21 KLA is neither the perpetrator nor the instigator of the heinous
22 killing of Serbian youth at a café in Peje. Correct?

23 A. Yes.

24 Q. And, indeed, it says that:

25 "No killing ... will drive us to the point of taking revenge

1 against civilians, women, children, and elderly."

2 Is that what Mr. Krasniqi was referring to when -- at the
3 meeting we've looked at in the cable when he said the General Staff
4 has condemned --

5 A. He said what?

6 Q. Is this the political declaration that Mr. Krasniqi was
7 referring to when he said that the killings in Peje had been
8 condemned by the General Staff?

9 A. Yes.

10 Q. And you spoke a little about this with Mr. Misetic. And you
11 have -- I think you confirmed you have followed some of the more
12 recent developments in relation to the Panda café case; correct?

13 A. Yes.

14 Q. And it would appear from those that Mr. Krasniqi was telling you
15 the truth. He wasn't being self-serving when he said that Serbian
16 agents were behind those events.

17 A. Yes. And I -- and I have to say I was surprised, stunned by
18 Sasa Vucic's statement which we all saw prior to the break.

19 MR. ELLIS: Could we go back then to the cable, which was
20 P01072. I'm looking now at page 116682, paragraph 4.

21 Q. It's right, isn't it, that Mr. Krasniqi said the KLA wasn't in
22 principle against talks. Albeit, he said they had preconditions for
23 negotiations.

24 A. That's correct.

25 Q. And one of those preconditions was the release of ethnic

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1 Albanian political prisoners; correct?

2 A. Yes.

3 Q. And you would have been aware that there were a large number of
4 ethnic Albanian political prisoners held at that time?

5 A. Yes.

6 Q. And that was a concern for the Albanian delegation throughout
7 negotiations, wasn't it?

8 A. Yes.

9 MR. ELLIS: Could we then move, please, to P01069, which is the
10 cable from 18 December 1998.

11 Q. Again, it's a document you looked at a little earlier, I think,
12 with Mr. Misetic.

13 MR. ELLIS: And could we go, please, to page 075317. And scroll
14 down, please.

15 Q. You looked, I think, at the first bullet point, which is at the
16 top of the page, with Mr. Misetic. I'm looking at the second bullet
17 point now, which records the assessment that the KLA "is divided
18 along generational, geographic and political lines ..."

19 Do you recall that as an assessment --

20 A. Yes.

21 Q. -- made at the time? And in generational terms, it's right,
22 isn't it, that Mr. Krasniqi was older than many of the other KLA
23 representatives that you saw?

24 A. He was indeed.

25 Q. And you know from your time in Kosovo that Albanian society is

1 typically respectful of elders. That's right, isn't it?

2 A. That's correct.

3 Q. And you observed that when you were speaking with Mr. Krasniqi,
4 Mr. Bashota, and Mr. Buja, it would be Mr. Krasniqi who did most of
5 the talking; that's right, isn't it?

6 A. Yes, sir.

7 Q. You also had a good relationship with Mr. Bashota and had
8 conversations and meetings with him when Mr. Krasniqi wasn't there;
9 correct?

10 A. That's right. And I would add I had a very good -- we had a
11 very good relationship with Rame Buja as well.

12 Q. Now, Mr. Krasniqi was older than both Mr. Bashota and Mr. Buja,
13 wasn't he?

14 A. I'm sorry?

15 Q. Mr. Krasniqi was older than both Mr. Bashota and --

16 A. Oh, yes.

17 Q. -- Mr. Buja. And when they were together, it's normal in the
18 society that the older man would do the speaking, wasn't it?

19 A. Well, he certainly -- he certainly took the lead and did most of
20 the speaking. He was clearly the senior member of the troika.

21 Q. Well, he was the senior in years, and that was why he was the
22 speaker, wasn't it?

23 A. I -- yeah, yes. Our understanding was that he was the
24 principal, if -- the principal member of the troika, or *primus inter*
25 *pares*, if you will.

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1 Q. And he was the spokesperson --

2 A. Yes.

3 Q. -- of the KLA at that point in time; correct?

4 A. That's what we understood.

5 Q. And part of the responsibilities of a spokesperson is speaking
6 to international delegations; correct?

7 A. That's right.

8 MR. ELLIS: Now, if we could scroll down to the third bullet
9 point so we can see that clearly.

10 Q. You were aware or you were assessing by that time that there was
11 a divide, a distinction between what you've termed as moderates and
12 radicals within the KLA; is that correct?

13 A. That's right.

14 MR. ELLIS: And if we could move on to page 075328, at paragraph
15 11.

16 Q. The -- sorry, I'll give you a moment to read it.

17 So one of the distinctions was that the moderates favoured
18 acceptance of international agreements. That's right, isn't it?

19 A. Yes, sir.

20 Q. And the moderates also supported efforts to create a unified
21 Albanian negotiating position, didn't they?

22 A. That's right.

23 Q. And to that end, they supported contacts with the LDK; correct?

24 A. That's right.

25 Q. And you identified Mr. Krasniqi as one of those moderates

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1 that --

2 A. That's right.

3 Q. And you were aware that he had links with the United Democratic
4 Movement, the LBD; correct?

5 A. You mean the LDK?

6 Q. No, the LBD. The group with Rexhep Qosja, Mehmet Hajrizi?

7 A. The group with? I --

8 Q. Rexhep Qosja, Mehmet Hajrizi, the United Democratic Party, LBD.
9 Perhaps if I show you in the cable. I think it's on the next page.
10 If I just let you read the first paragraph there.

11 A. Yeah, okay.

12 Q. So what that seems to identify is a link between moderates Buja,
13 Krasniqi, and Bashota, and Qosja's United Democratic Movement.
14 That's right, isn't it?

15 A. That's right.

16 Q. And:

17 "Bashota maintains that most of the KLA pays little attention to
18 politics but finds the LBD's program the most attractive and
19 'democratic'."

20 That's what it records?

21 A. I'm sorry?

22 Q. That's what the cable records --

23 A. [Overlapping speakers] ...

24 Q. -- isn't it? And, indeed, it goes on that:

25 "Buja, Krasniqi and Bashota, as well as Podujevo Commander

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Cross-examination by Mr. Ellis

1 Isbishi ('Commander Leka'), clearly look up to Demaqi."

2 That was the position at the time?

3 A. Yes.

4 MR. ELLIS: Could we go then to paragraph 14, which is on page
5 075330.

6 Q. What's being identified there is an issue that the General Staff
7 had with the LPK, which was claimed to be pressing to adopt a more
8 radical posture. Do you recall that at the time?

9 A. May I read this --

10 Q. Sure.

11 A. -- first? Okay.

12 Q. Do you recall reporting that the LPK was pressing to adopt a
13 more radical posture?

14 A. Yes. And I spoke -- I believe I spoke to that yesterday
15 afternoon. But, yes, I do.

16 Q. And you'd be aware that Mr. Krasniqi was never a member of the
17 LPK? That's right --

18 A. Yes.

19 Q. -- isn't it? Jumping forwards in time a little, you actually
20 accompanied the KLA delegation on the flights to Rambouillet on
21 6 February 1999? That's right, isn't it?

22 A. That's right.

23 Q. Are you smiling because they believed the flight would be safer
24 if you were on it?

25 A. Yeah, they were -- they were worried that the flight would be

1 shot down by Serbian anti-aircraft units.

2 Q. But reassured by your presence, I think?

3 A. They didn't -- they didn't think the Serbs would shoot a plane
4 down with an American diplomat aboard.

5 Q. And Mr. Krasniqi was on the plane as part of that delegation;
6 correct?

7 A. Yes, he was.

8 Q. Now, you didn't stay throughout the negotiation, I think, but
9 you would have been kept informed as the negotiations, I imagine?

10 A. I'm sorry?

11 Q. Although you didn't stay throughout the negotiations, you would
12 have been kept informed of the progress?

13 A. I -- I think I stayed only for two or three days. The
14 department wanted me back in Kosovo *tout de suite*, just basically to
15 keep an eye on things and to continue reporting on developments. And
16 I was not involved in any serious way in the policy discussions that
17 were on the table and what Rambouillet was all about. I was aware of
18 those. But I played more -- more the role of a postman, if you will,
19 delivering papers from Chris Hill to UCK leaders in Kosovo.

20 And it was Chris and Wolfgang Petritsch and officials from
21 Washington and Brussels who represented, if you will, our side with
22 the Serbs.

23 Q. And did you hear from them how the negotiations were
24 progressing, how the KLA delegation was responding?

25 A. No. My source of information from Rambouillet was Florina

1 Krasniqi, who was our lead interpreter, and who the -- somebody at
2 Rambouillet, one of the administrators, asked if she would be willing
3 to stay because of her extraordinary interpretive skills. She spoke
4 Albanian, English, French. And she was -- she agreed to do so. So
5 she left -- so she stayed. And Florina and I would have
6 conversations -- I don't think it was every evening, but we talked on
7 the phone regularly, and she would run down -- she would give me sort
8 of a recap of what had happened that day. So I was kept informed in
9 that way.

10 And let me repeat: We did not have classified communications in
11 Prishtine. And we were -- so we -- the delegation couldn't have sent
12 us a classified bulletin, if you will, every day.

13 Q. Did you hear that the role Mr. Jakup Krasniqi played was a
14 constructive one?

15 A. I did.

16 Q. Now, he returned to Kosovo after the Rambouillet talks around
17 25 February 1999; is that right? 25th, 26th February 1999.

18 A. I think that's right.

19 Q. And once the delegation returned back to Kosovo, there were
20 considerable diplomatic efforts to find out what was going to happen,
21 whether this agreement was going to be signed; correct?

22 A. That's right.

23 Q. And at that time, the UK was part of the contact group and was
24 part of those diplomatic efforts; correct?

25 A. That's correct.

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1 Q. And you'd have been familiar with Sir Brian Donnelly who was the
2 ambassador at the time?

3 A. I was.

4 Q. And his -- and also David Slinn?

5 A. Yes.

6 MR. ELLIS: Could we go into private session for a moment,
7 Your Honour.

8 PRESIDING JUDGE SMITH: Into private session, please,
9 Madam Court Officer.

10 [Private session]

11 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

1 [Private session text removed]

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1 [Private session text removed]

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12 [Open session]

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

14 PRESIDING JUDGE SMITH: Thank you.

15 MR. ELLIS: Thank you. Could we go to P01080, which again is a
16 cable you've seen some of before. It's from 10 March 1999. And
17 could we go, please, to paragraph 3, which is on the second page.

18 Q. Now, you were asked some questions earlier about the first half
19 of that paragraph. I'm interested in the second half of the
20 paragraph, because what's being recorded in the cable is that:

21 "Political directorate members like Jakup Krasniqi and Rame Buja
22 are relatively well educated ... have a keener grasp of political
23 issues than most of the military commanders."

24 That's evidently the case, isn't it? That's right, isn't it?

25 A. That was my assessment.

1 Q. And your assessment in the final sentence was that the effect of
2 Rambouillet had been to deepen the difference in the political
3 outlook between them and the commanders; correct?

4 A. Yes.

5 MR. ELLIS: And if we can scroll down a little so that you can
6 see paragraph 4.

7 Q. What you're identifying and assessing in that paragraph is that
8 the zone commanders were largely KLA founding members who felt
9 intense pride in having taken up arms; that's right, isn't it?

10 A. Yes.

11 Q. But that in your assessment, there was a measure of resentment
12 towards Mr. Krasniqi and Mr. Buja because they weren't founding
13 members of the KLA and they, indeed, had previously been part of the
14 political establishment; correct?

15 A. That was the sense that we had. We were trying to be good
16 political officers and explain the differences.

17 MR. ELLIS: And can I go, I think in the same cable, to page
18 075398. If we could scroll down, please. Sorry, back up a little to
19 the start of paragraph 6. No.

20 Q. Now, at this stage, somebody has given you a pecking order in
21 the KLA which you're reporting back to Washington; correct?

22 A. That's right.

23 Q. And Jakup Krasniqi doesn't feature on that list at all, does he?

24 A. Yes.

25 MR. ELLIS: And if we could scroll back to the top of that page.

1 Q. What was happening at the time is that the KLA moderates like
2 Krasniqi and Buja were trying to provide a compromise that would
3 preserve the KLA's unity; correct?

4 A. Yes. I would add Thaci to -- in retrospect, I would add Thaci
5 to that list.

6 Q. Thank you. Now, I want to go over again --

7 MR. ELLIS: That cable can come down. Thank you.

8 Q. Now, one of the issues that you would have been dealing with
9 from the summer of 1998 onwards was the attempt to create a unified
10 -- single Albanian delegation to take part in negotiations; correct?

11 A. Beginning when?

12 Q. Well, beginning right from the start when you came in in August.

13 A. I don't recall that there was any effort at the start to put
14 together a delegation for talks. That didn't happen until basically
15 Rambouillet appeared on the horizon.

16 Q. Were you aware that in July 1998 there had been a proposal for a
17 unified government involving Mehmet Hajrizi as prime minister?

18 A. No.

19 Q. Very well.

20 MR. ELLIS: Could we go on then to P01072.

21 Q. I'm looking at paragraph -- sorry, for your background, this is
22 the cable from 26 December 1998, which you've seen before.

23 MR. ELLIS: And if we could go to paragraph 7 on page 116683.

24 Q. By this stage in December, the issue of a unified delegation or
25 stance was very much on the agenda; correct?

1 A. Yeah, that -- yes. This relates to the work that Chris Hill was
2 doing and his meetings with UCK leaders as well as President Rugova
3 and perhaps other -- I think he was -- he may have -- I'm not -- he
4 did not keep us generally in the loop, but I think he was also
5 meeting with other Kosovar Albanian political leaders.

6 Q. And at this point, Jakup Krasniqi was saying that the KLA seeks
7 a national assembly that would represent all of Kosovo's political
8 parties; correct?

9 A. Yes.

10 MR. ELLIS: And if we could go down to paragraph 8.

11 Q. And when you're ready, there's more of paragraph 8 over the
12 page.

13 A. Please.

14 MR. ELLIS: Could we turn the page, please.

15 Q. This, I think, goes back to the point you made right at the
16 start of my questions when you said that Mr. Krasniqi was somebody
17 who preferred a political track over violence; correct?

18 A. Yes.

19 Q. And he, in fact, criticised the European community for doing
20 little to help the LDK or support Dr. Rugova; correct?

21 A. Yes.

22 Q. And he acknowledged that the KLA and LDK work as one in many
23 places in the countryside; correct?

24 A. That's correct. And we witnessed that as well.

25 Q. So his observation was consistent with what you had seen in the

1 field; correct?

2 A. Yes. And what our people had seen in the field, yes.

3 Q. And he pointed out, I think, that there are many former members
4 of the LDK in the KLA, including all of himself, Mr. Buja, and
5 Mr. Bashota; correct?

6 A. That's right.

7 Q. And he said that the KLA was a non-ideological organisation that
8 welcomes the participation of all Albanians; correct?

9 A. That's right.

10 Q. And that accurately reflects what Mr. Krasniqi said at the time,
11 doesn't it?

12 A. Yes. This -- what is written here, a recap of what Krasniqi
13 told us, is basically a good description of what the moderate
14 position inside the UCK leadership was.

15 Q. Were you aware at the time that there had been contacts between
16 Adem Demaci and Dr. Rugova?

17 A. Yes.

18 Q. And so the General Staff was working discreetly to build bridges
19 with the LDK, even with Dr. Rugova; correct?

20 A. Yes. If I can back up for a minute. The UCK leaders -- the LPK
21 wing of the UCK reached out to Rugova even in 1997 to express an
22 interest in cooperation, and what I know is that Rugova rejected it.

23 Q. So where in this cable it records Mr. Krasniqi saying it's the
24 LDK that has difficulty working with the KLA, not the KLA with the
25 LDK, that would be consistent with what you just observed; no?

1 A. Yes.

2 Q. Can I try and wrap up on this point before lunch by saying that
3 you told the Prosecution yesterday that sometimes in your
4 conversations with him, Mr. Krasniqi was very critical of the LDK.
5 Do you remember saying that?

6 A. That Mr. Krasniqi was very critical of --

7 Q. With some --

8 A. -- the LDK?

9 Q. Correct.

10 A. Yes.

11 Q. And I think in your answer you sought to contextualise that in
12 relation to the political discussions about Mr. Hill's document. Do
13 you remember that part --

14 A. Yes.

15 Q. -- of your evidence? There were political disagreements between
16 KLA and LDK, weren't there?

17 A. Oh, yes.

18 Q. There are political disagreements in every system; correct?

19 A. Yes. And if I may, let me repeat, I think what I said is
20 that -- it seemed the principal -- from our point of view, the
21 principal disagreement was that the UCK leadership was concerned that
22 Rugova would accept a bad deal from the internationals, and a bad
23 deal would leave Kosovo inside Serbia but with limited or certainly
24 more -- self-governing authority.

25 While there were disagreements within the UCK leadership on

1 political matters, the one thing that there was general agreement on
2 was independence from Serbia.

3 Q. And what your cables from the time show is that Mr. Krasniqi was
4 also KLA working with the LDK, and indeed he was part of the
5 moderates that were calling for the KLA --

6 A. He was what?

7 Q. He was part of the group of moderates that were calling for the
8 KLA to work with the LDK --

9 A. Yes.

10 Q. -- on issues; correct?

11 A. That's my understanding.

12 MR. ELLIS: Your Honour, that would be a convenient point.

13 PRESIDING JUDGE SMITH: Witness, we'll -- it's time for a lunch
14 break. We will break from now until 2.30. You may leave the
15 courtroom with the Court Usher.

16 [The witness stands down]

17 PRESIDING JUDGE SMITH: Something else, Mr. Ellis?

18 MR. ELLIS: No, just standing out of politeness, Your Honour.

19 PRESIDING JUDGE SMITH: Okay.

20 [Microphone not activated].

21 --- Luncheon recess taken at 1.00 p.m.

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

23 PRESIDING JUDGE SMITH: Mr. Ferdinandusse, we've received the
24 e-mail. I assume you've shared that with everybody.

25 Anybody have an objection to the proposal for admission of the

1 transcript that Mr. Ferdinandusse has mentioned in his e-mail?

2 No objection?

3 MR. MISETIC: Well, I just need an extra minute, if I may,
4 Mr. President. I'm sorry.

5 PRESIDING JUDGE SMITH: Well ...

6 MR. MISETIC: Sorry.

7 PRESIDING JUDGE SMITH: Okay.

8 [Specialist Counsel confer]

9 MR. MISETIC: With apologies, Mr. President. It just wasn't
10 clear from the e-mail. Is it being replaced -- is the transcript
11 being replaced or is an additional transcript being added?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 A transcript is being added. Is that not correct,
14 Mr. Ferdinandusse?

15 MR. FERDINANDUSSE: It is a revised transcript, so --

16 PRESIDING JUDGE SMITH: Yeah.

17 MR. FERDINANDUSSE: -- I think it could be replaced, but I'm in
18 the hands of the Court Officer what's the best way to go here.

19 PRESIDING JUDGE SMITH: If there is no objection to replacing
20 it, that might be the simplest. There would only be one document on
21 file.

22 MR. MISETIC: That's what I was going to say, so -- okay.

23 PRESIDING JUDGE SMITH: All right. So it will be replaced as
24 suggested.

25 MR. FERDINANDUSSE: Thank you.

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1 PRESIDING JUDGE SMITH: We will consider that an oral order.

2 [Trial Panel and Court Officer confers]

3 MR. ELLIS: Your Honour, just while that's happening, can I
4 check, is it the plan to have a short break in an hour's time?

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. ELLIS: Thank you.

7 PRESIDING JUDGE SMITH: We will. Thank you.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: All right, Mr. Byrnes. We have now time
10 to continue with the cross-examination by Mr. Ellis.

11 Go ahead, Mr. Ellis.

12 MR. ELLIS: Thank you, Your Honour.

13 Q. Good afternoon, Mr. Byrnes.

14 MR. ELLIS: Could we please have another cable on the screen.
15 It's IT-05-87 6D01639. Thank you.

16 Q. And just to orientate you, Witness, that is a cable from
17 19 April 1999. And that, of course, would be during the NATO bombing
18 and whilst you yourself were outside Kosovo; correct?

19 A. Yes, we were.

20 MR. ELLIS: And could we move, please, to page 5 of the
21 document, and paragraph 11. Perhaps we could scroll so that the
22 whole of paragraph 11 can be seen. Thank you.

23 Q. First of all, Mr. Jakup Krasniqi was in Switzerland on 17 April.
24 That's right, isn't it? And were you aware that Mr. Krasniqi was in
25 western Europe at that time?

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Cross-examination by Mr. Ellis

1 A. Not until he called.

2 Q. I see. He called you from Switzerland late April 17th,
3 that's -- as recorded in this cable; correct?

4 A. Yes.

5 Q. And your understanding at that point in time was that he was
6 calling as the spokesperson; correct?

7 A. Yes.

8 MR. ELLIS: Now could we scroll down to paragraph 12, please.

9 Q. So he informed you in that call about his travel plans, and he
10 was on his way to Rome for meetings but intending to go to Tirana
11 around 20 April?

12 A. Yes.

13 Q. And what he said in the course of that call was that
14 Mr. Krasniqi "pledged to invite LDK representatives, as well as
15 politicians from other mainstream parties, to Tirana for discussions
16 with him as soon as he returns."

17 That's correctly recorded in the cable, isn't it?

18 A. Yes.

19 Q. And you were in Tirana yourself by the end of April 1999; is
20 that right?

21 A. Yes. We were booted out of Macedonia.

22 Q. And then you were in Tirana in May 1999 as well; is that right?

23 A. Yes, sir.

24 Q. And during that time, Mr. Krasniqi was in Tirana as well, wasn't
25 he?

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Cross-examination by Mr. Ellis

1 A. Yes.

2 Q. And there were meetings between you and Mr. Krasniqi and others
3 at the US embassy in Tirana; yes?

4 A. Or informally at the Rogner Hotel where they were staying. We
5 would often encounter them when we went there for lunch or coffee.

6 Q. And in those meetings, you updated him on the progress of the
7 NATO bombings. Is that a topic of discussion?

8 A. I don't think so because I didn't have much knowledge about the
9 progress. I mean, what I knew about the progress of NATO bombing was
10 generally coming from CNN.

11 Q. I see. And as well as meeting with Mr. Krasniqi and others --

12 A. Yeah.

13 Q. -- you were meeting with the LDK representatives in Tirana?

14 A. Yeah.

15 Q. Yes. It's right, isn't it, that as he had pledged in the cable,
16 Mr. Krasniqi did have meetings with representatives of the LDK in
17 Tirana at that time?

18 A. Yes.

19 Q. And the point of those meetings was to try and discuss the
20 formation of the provisional government?

21 A. That's what he told me. I was not, of course, involved in the
22 meetings.

23 Q. No. No, but you were involved in meetings both with
24 Mr. Krasniqi and with the LDK representatives separately. That's
25 fair, isn't it?

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1 A. Yeah, we kept in touch.

2 Q. Do you recall that Dr. Fehmi Agani, a very senior member of LDK,
3 was killed by Serbian forces at around that time?

4 A. I certainly do.

5 Q. And Jakup Krasniqi issued a public telegram expressing
6 condolences for Dr. Agani, didn't he?

7 A. I don't recall hearing that, but I'm not at all surprised.

8 Q. Very well.

9 MR. ELLIS: If we can show on screen, please, SPOE00227570. I'm
10 sorry. Whilst that's coming up, Your Honour, I should have
11 remembered to tender the previous document, the April 1999 cable.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 I have what you offered.

14 MR. ELLIS: I'm grateful. It was IT-05-87 6D01639.

15 PRESIDING JUDGE SMITH: Yes. Any objection?

16 IT-05-87 6D01639 is admitted. Please give it an identification
17 number, an exhibit number.

18 THE COURT OFFICER: Your Honours, this document will be assigned
19 Exhibit 4D00036. Classification is public.

20 PRESIDING JUDGE SMITH: Thank you. Go ahead.

21 MR. ELLIS: Thank you.

22 Q. Have you had the chance, whilst that conversation was going on,
23 to see the telegram which is now on your screen?

24 A. I just finished -- I'm just finishing to read it.

25 Q. Now that you've seen the telegram, do you recall seeing that at

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1 the time as a public statement of Mr. Krasniqi?

2 A. No, I don't.

3 Q. Very well. You see at the bottom, it's from the spokesperson of
4 PGK, Jakup Krasniqi.

5 A. Yes.

6 Q. That accords with your understanding that he was the
7 spokesperson --

8 A. Yes.

9 Q. -- at the time. And, indeed, that Mr. Krasniqi -- it's not a
10 surprise to you that Mr. Krasniqi expressed sadness and indignation
11 for the killing of Dr. Agani.

12 A. Yes, I would -- I was not surprised.

13 MR. ELLIS: Your Honours, I tender that document.

14 PRESIDING JUDGE SMITH: Any objection?

15 MR. FERDINANDUSSE: No objection.

16 PRESIDING JUDGE SMITH: SPOE00227570 is admitted and will be
17 given a number.

18 THE COURT OFFICER: Your Honours, SPOE00227570 and its English
19 translation will be admitted as 4D00037. Classification is
20 confidential.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. ELLIS: Your Honour, from our point of view, I think that
23 can be public.

24 PRESIDING JUDGE SMITH: Unless there is some objection.

25 MR. FERDINANDUSSE: No objection.

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

2 MR. ELLIS: Thank you, Your Honour.

3 Now could we next have on screen 019673.

4 PRESIDING JUDGE SMITH: Yeah, go ahead. We have a correction.

5 JUDGE BARTHE: Madam Court Officer, could you please put that
6 document, the two -- the Albanian and the English version again back
7 on the screen.

8 Excuse me for the interruption, Mr. Ellis, but I think I spotted
9 an error in the English translation of the document in the second
10 paragraph. In the English version of the document, it says "the
11 cruel act of killing Dr. Rugova" instead of "Dr. Agani" as in the
12 Albanian version.

13 MR. ELLIS: Yes, you're quite right, Your Honour. It's -- I
14 think it was originally an SPO translation, but it should be
15 corrected. It's clearly Dr. Agani, not Dr. Rugova. Yes.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. FERDINANDUSSE: I will certainly not argue on the language,
18 no.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. ELLIS: We can do, Your Honour, yes. Yes, I'm glancing
21 across, and we will, yes.

22 PRESIDING JUDGE SMITH: Thank you.

23 MR. ELLIS: Thank you. The next document was 019673.

24 Q. On 8 April 1999, were you still at that point in Macedonia or
25 were you already in Tirana?

1 A. I don't have my calendars here, but -- so I can't answer yes or
2 no.

3 Q. Very well. You would have been aware of the public statements
4 that were being made by Mr. Krasniqi and others about the situation
5 in Kosovo; correct?

6 A. Not -- not always. Only sometimes.

7 Q. Very well. Well, this one is a BBC article. And you'll see on
8 the screen it's reporting that Jakup Krasniqi was quoted as telling
9 the TV's reporter:

10 "We want to get to the point of holding free elections, ' ..."

11 And towards the bottom of the page, also that he said -- sorry,
12 it's on the screen now, that "there were 'five places' in the
13 provisional government for Kosovo Albanian leader Ibrahim Rugova's
14 party."

15 Are those statements that you recall as statements that
16 Jakup Krasniqi would have made at that time?

17 A. I've never seen that statement, but I don't recall him saying
18 that.

19 MR. ELLIS: Your Honour, we would tender that document. I
20 appreciate the witness didn't recall it, but it's a BBC article, so,
21 in our submission, it has the necessary indicia of authenticity.

22 PRESIDING JUDGE SMITH: Any objection, Mr. Ferdinandusse?

23 MR. FERDINANDUSSE: No objection.

24 PRESIDING JUDGE SMITH: 019673 is admitted in evidence.

25 THE COURT OFFICER: Your Honours, the document with ERN 019673

1 to 019674 will receive Exhibit 4D00038. Classification is public.

2 MR. ELLIS: And can I next show a clip from a video, which is
3 DJK00746. And the English translation is DJK00746-TR-ET.

4 [Trial Panel and Court Officer confers]

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 The Court Officer has asked me to ask you if this particular
7 clip can be played in public or is there some classification of
8 private?

9 MR. ELLIS: I think it can be public. Yes, it can be public,
10 Your Honours. Thank you for checking.

11 [Video-clip played]

12 THE INTERPRETER: [Voiceover] "'The objective of the KLA is the
13 withdrawal of the Serbian military and paramilitary forces from
14 Kosovo and after the signing of the peace agreement, we have appealed
15 to all our fighters to show restraint,' KLA spokesperson Jakup
16 Krasniqi told the AFP.

17 "Krasniqi expressed his pleasure in signing this agreement -
18 that represents new perspective not only for the Albanians of Kosovo
19 but for the whole region.

20 "'The agreement should have been signed during the Rambouillet
21 peace conference, without the bombing and the massacres,' he added.

22 "Krasniqi assured that the KLA will respect the rights of ethnic
23 minorities of Kosovo in accordance with international norms. Serbian
24 civilians of Kosovo have all the guarantees that all their rights
25 will be respected. For those that have cooperated with Serbian

1 forces in the massacres of the inhabitants of Kosovo, he added that
2 he thinks they need to leave the province, however, the KLA will not
3 seek revenge.

4 "In the end, Krasniqi stated that his organisation is ready to
5 discuss with the USA and NATO and transform into a professional army.
6 According to him, this army will be put under the command of NATO
7 during the presence in Kosovo."

8 MR. ELLIS:

9 Q. Now, this has moved forwards to 10 June 1999 when -- which I
10 think is in the period when both you and Mr. Krasniqi were in Tirana.
11 That's right, isn't it? And I think in your earlier answer you
12 referred to the hotel Rogner in Tirana which you perhaps recognised
13 in the --

14 A. Yeah.

15 Q. -- backdrop --

16 A. Yeah.

17 Q. -- to the press conference?

18 A. I do.

19 Q. And were you aware at the time that Mr. Krasniqi was making
20 public statements calling for restraint from KLA fighters and saying
21 that rights of ethnic minorities would be respected?

22 A. I was generally aware of that because in his -- in our meetings
23 he told me that he was doing so.

24 Q. So he told you that he was going to do so and you've --

25 A. Well, he --

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1 Q. -- now seen from the video that he, in fact, did.

2 A. Yeah, he's -- yeah --

3 Q. Is that fair?

4 A. Yes.

5 Q. Very well.

6 MR. ELLIS: Your Honour, we tender the video.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MR. FERDINANDUSSE: No objection, Your Honour. I do have a
9 question. If I'm correct, my colleague mentioned a date. I do not
10 see a date in the document. It's not --

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 I think you mentioned June 10, 1999.

13 MR. ELLIS: I did mention June 10. I think that is right. Is
14 it from YouTube? Yeah, it's a video found online. The date is
15 10 June. We can -- do you need an update to the TR-ET?

16 MR. FERDINANDUSSE: I'm not sure we need. I think it would be
17 helpful if the document would reflect the update but -- or would
18 reflect the date, unless it's reflected elsewhere.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 We'll list it as MFI, and then you can get the date and confirm
21 it.

22 MR. ELLIS: Thank you, Your Honour.

23 PRESIDING JUDGE SMITH: So give it an MFI number, please,
24 Madam Court Officer.

25 THE COURT OFFICER: Your Honours, video DJK00746, Albanian and

1 English transcript, will be assigned MFI number 4D00039, and they are
2 all marked as public.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. ELLIS:

5 Q. I'm sorry, Witness. I see I missed out a couple of points on
6 the cable that I showed you earlier. This was the one from April
7 1999. And the question is: Were you aware that Mr. Krasniqi had a
8 recent meeting with Secretary Albright at around that time?

9 A. I don't remember that.

10 Q. Very well. And that he also had meetings with the French and
11 British at around that time?

12 A. Likewise, I don't remember that.

13 Q. Very well. Now, after the end of the conflict, you returned to
14 Kosovo for a brief period in July -- until the end of July 1999; is
15 that right?

16 A. That's correct.

17 Q. Were you aware that Jakup Krasniqi was appointed as minister for
18 rebuilding and development in the provisional government?

19 A. I don't remember exactly -- I don't remember exactly that. I
20 remember that most -- many senior UCK officials were appointed to
21 positions in the provisional government. I simply don't remember
22 which one he was appointed to at this point.

23 Q. In the condition that Kosovo was at that time, rebuilding and
24 development was something that was sorely needed --

25 A. Yes.

1 Q. -- wasn't it? In particular, there was a concern at the time
2 that houses had been destroyed, and there was a need for people to
3 have somewhere to live before winter set in, wasn't there?

4 A. That's right. I recall on two occasions we had the Assistant
5 Secretary of the department for European Affairs of the Department of
6 State visited, and the US Army gave us a helicopter tour of the
7 province, where we saw clearly the extent of the damage. And then
8 later Senator Bob Dole came out. He was a great friend of Kosovo.
9 And we had another helicopter tour, and the damage was truly
10 extensive.

11 MR. ELLIS: Can I now show you 019662.

12 And if we could scroll down. Pause there.

13 Q. We looked at some cables before lunch -- we looked at some
14 cables before lunch in which you mentioned that you were aware of
15 connections between Mr. Krasniqi and others in the LBD, the United
16 Democratic Party. Were you aware that the minister of reconstruction
17 and development was at the time a post belonging to the LBD or
18 allocated to the LBD?

19 A. No, I was not.

20 Q. It could be, couldn't it, that Mr. Krasniqi was appointed
21 through the LBD, who he had connections with, not the KLA at that
22 time?

23 A. Interesting.

24 Q. That wasn't, therefore, something you were aware of at the time?

25 A. No.

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1 Q. No?

2 A. I don't remember that.

3 Q. Very well. Can we then move on to a different topic, please.

4 MR. ELLIS: To P01074, and just if we could see the first page.

5 Q. It's a cable from 4 February 1999, and the part I'd like to show
6 you is from the top of page 075337. And if I could give you a moment
7 to read that paragraph.

8 Now, this is recording information you received at that time
9 that the General Staff reportedly now has a fixed location. Do you
10 see that in the cable?

11 A. Yes, sir, I do.

12 Q. And that's a distinction, isn't it, from earlier reporting where
13 I think you had confirmed that you had heard that the General Staff
14 was on the move constantly?

15 A. That was our understanding.

16 MR. ELLIS: Now, if we could scroll down to the second paragraph
17 on that page.

18 Q. It appears somebody had reported to you that they were
19 "reportedly heavily computerised." Did you ever see any evidence at
20 that time that the KLA was heavily computerised, Witness?

21 A. I did not see any evidence at that time, but later, after the
22 conclusion of the conflict and NATO's entry into Kosovo I did.

23 Q. Now, there was a desire, of course, to appear to the
24 internationals to be organised, wasn't there?

25 A. I assume so.

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1 Q. Now, can I take you on down to the third paragraph there. Now,
2 you wouldn't have any direct knowledge yourself of how the
3 General Staff reached decisions, would you?

4 A. No.

5 Q. But what this records is that somebody had told you that
6 decision-making was done democratically and by consensus.

7 A. Yes.

8 Q. That's right, isn't it?

9 MR. ELLIS: Could we move on in the document to 075344.

10 Q. And if I could invite you to read the section on the Nerodime
11 zone, which is the paragraph on the screen now.

12 The reference there to the zone being the weakest militarily and
13 the KLA's worst equipped troops, is that something you recall,
14 Witness?

15 A. Yes.

16 Q. What was the basis for that assessment?

17 A. Contact with and visits by, at this point, both KVM and
18 remaining KDOM elements.

19 MR. ELLIS: And if we could move to a different document now,
20 which is P01080.

21 Q. You should see there a cable from 10 March 1999. And if we
22 could go, please, to paragraph 5 firstly, which is on the third page,
23 I think. Sorry, just give me a moment.

24 A. Sure.

25 Q. I'm sorry. It was the end of paragraph 4. My mistake, Witness.

1 MR. ELLIS: And if we could turn over the page, please, for the
2 rest of paragraph 4.

3 Q. Your assessment at that point in time was that restructuring had
4 been only partially successful and that the zone commanders clearly
5 retained considerable operational independence. That's right, isn't
6 it?

7 A. That's correct.

8 MR. ELLIS: If we could scroll down to paragraph 8, which is on
9 page 75400.

10 Q. This was an occasion when, I think for the first time, you're
11 invited to meet the General Staff, to meet Mr. Krasniqi and Mr. Buja
12 at Lladrovc; is that right?

13 A. That's right.

14 Q. And what you found there was a series of walled compounds
15 straddling a turn in a dirt road; correct?

16 A. Yes, sir.

17 Q. The workers were still creating a parking area while you were
18 there?

19 A. Yes.

20 MR. ELLIS: And if we could go over to the next page, please.

21 Q. You saw no signs of communications equipment, antennae, that
22 kind of thing, there?

23 A. As the cable reported, apparently we did not.

24 Q. And even this base was only 2 and a half kilometres away from a
25 Serbian checkpoint at Arllat; correct?

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1 A. Yeah, I remember that.

2 Q. I mean, you're a man of military experience yourself,
3 Mr. Byrnes, yes?

4 A. That's true.

5 Q. You say in your witness statement at paragraph 54 - we don't
6 need it on screen - that until the war was over, you never saw any
7 location that resembled a real headquarters. Do you recall saying
8 that?

9 A. I don't recall saying that, but that was certainly our
10 impression.

11 Q. This building that you saw in March 1999 didn't resemble what
12 you would have expected from a real headquarters; is that correct?

13 A. No, it did not. But I -- what I do remember is, I believe it
14 was Jakup, but it may have been Sokol Bashota, telling us that this
15 was the general -- this was the site of the general headquarters.

16 Q. Sorry, Witness. I'm just jumping a couple of sections in my
17 notes.

18 I want to talk to you a little bit about the LDK activists and
19 the Tanjug journalists. And I think you'll recall giving evidence
20 about that yesterday and perhaps a little bit today. It's right,
21 isn't it, that the two Tanjug journalists were detained in
22 mid-October, and the two LDK activists at the end of October 1998?

23 A. Yes.

24 Q. Now, there were periods of time during the conflict when you had
25 little or no contact with Jakup Krasniqi, weren't there?

1 A. During -- during the NATO intervention?

2 Q. No. During 1998, there were periods of time when you were in
3 Kosovo but you had no contact with Jakup Krasniqi.

4 A. My recollection was once we -- once we met the troika, we had
5 regular contact with them. I don't have my calendar in front of me.

6 Q. Well, let's look through a couple of things together then.

7 MR. ELLIS: Could we go, please, to P01067.

8 Q. And you'll see there a telegram dated 3 November 1998. So that
9 would be during the time that the Tanjug journalists and the LDK
10 activists were detained; correct?

11 MR. ELLIS: Could we go forwards then to page 075304. And can
12 we scroll down to the paragraph at the very bottom of this page,
13 Jakup Krasniqi.

14 Q. Now, it records there that you had "neither seen him nor heard
15 of his activities in some time." That's right, isn't it?

16 A. I wrote that. I'll stand by what I wrote, but I can't -- I
17 can't tell you what the term "some time" means here 25 years later.

18 Q. No, of course, 25 years one can't expect to recall that detail.
19 But it -- clearly significant enough for you to record in the cable
20 that you hadn't seen or heard of him for some time; correct?

21 A. Yes.

22 Q. Now, you said, I think on Monday, that you called the troika
23 when you heard about the detention of Cen Desku and Jakup Kastrati.

24 A. I called the troika when I heard what?

25 Q. About the detention of Cen Desku and Jakup Kastrati. Do you

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1 recall saying that?

2 A. Yeah. Yes.

3 Q. Now, it follows, doesn't it, that if you had not seen or heard
4 of Mr. Krasniqi for some time, that it wasn't Mr. Krasniqi that you
5 called on that occasion.

6 A. I would agree. In that event, I would have called
7 Sokol Bashota.

8 Q. Yeah. Because as you said, I think in answer to Mr. -- either
9 Mr. Misetic or Mr. Roberts, forgive me, your first go-to contact in
10 any of these crisis situations was always Sokol Bashota.

11 A. That's right.

12 Q. Correct.

13 A. He was the most accessible.

14 Q. And, of course, you also spoke to Bardhyl Mahmuti about this
15 event, didn't you?

16 A. I did.

17 Q. And it was Mr. Mahmuti, not anyone from the troika, who gave you
18 an explanation for the detention and said that they were being
19 treated well.

20 A. Yes.

21 Q. Were you aware that the detention of the Tanjug journalists was
22 also something that was being addressed by Adem Demaci?

23 A. I don't --

24 MR. FERDINANDUSSE: Objection, Your Honour. Vague.

25 PRESIDING JUDGE SMITH: Overruled.

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1 Go ahead. You may answer.

2 THE WITNESS: I don't remember that.

3 MR. ELLIS: If I can show you just a transcript then of a
4 conference, 061427-11-TR-ET Revised.

5 THE COURT OFFICER: Your Honours, for the record, this is
6 P00841_ET.

7 MR. ELLIS: I'm grateful. Thank you.

8 Q. You see it appears to be a transcript of a press conference with
9 Mr. Demaci. And if we go to page 3, and if we could go down, it
10 appears that Mr. Demaci was dealing with questions in a press
11 conference about the Tanjug journalists. Does that refresh your
12 memory, Mr. Byrnes?

13 A. I don't recall ever seeing this statement before.

14 Q. Very well.

15 MR. ELLIS: That can be taken down. Thank you.

16 Q. We have access now, I think, to your diary from the time.

17 A. Oh, good.

18 Q. And it was your practice to record important meetings in the
19 diary; correct?

20 A. Yes.

21 Q. And typically you'd write the names of the people that were
22 attending and perhaps -- sorry, I'd stepped back from the microphone.
23 You would typically record the names of the people you met and
24 sometimes the location; correct?

25 A. Typically, yes.

1 Q. Now, we can have an example of the page on screen.

2 MR. ELLIS: It's P01085 and page 119783. If we could perhaps
3 scroll down a little.

4 Q. So you can see an example would be the entry on 6 November where
5 you've recorded, I think: "1200: Dragobilje."

6 A. Yes.

7 Q. That would be the location where you held some of your meetings;
8 correct?

9 A. Yes.

10 Q. And the participants including Christopher Hill, Thaci,
11 Krasniqi, Buja, and Limaj I can read there; yes?

12 So we've obviously got more pages of your diary than are
13 displayed here. I'm happy to go through them all if you would wish,
14 but I don't see any reference to Jakup Krasniqi in the weeks
15 beginning 19 October or 26 October. Would that be consistent your
16 recollection?

17 A. You don't see any references to Jakup Krasniqi ...?

18 Q. In the previous two weeks, so the weeks of 19 October and 26
19 October.

20 A. I'll accept your -- if that's what the -- if that's what the
21 calendar reflects.

22 Q. And that would mean there were no important meetings with him on
23 those dates with you; correct?

24 A. Yeah, presumably.

25 Q. Very well.

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1 A. What were the dates again?

2 Q. Well, in fact, I don't see any meetings in your diary with

3 Mr. Krasniqi in October 1998 --

4 A. Okay.

5 Q. -- at all?

6 A. Okay.

7 Q. And you would confirm if they're not there in your diary, there
8 were no important meetings with him on those dates?

9 A. Most likely that's right.

10 Q. Now, you were at the meeting with Ambassador Hill and

11 Mr. Krasniqi and others on 6 November, weren't you?

12 A. Yes, I was.

13 MR. ELLIS: Now, can I have on screen, please, 019593 to 019594.

14 And perhaps we scroll down so that the witness can read the article.

15 Q. Have you had the chance to have a look at that, Witness?

16 A. No, I haven't.

17 Q. This correctly reflects that the discussion was a political
18 discussion about the draft agreement prepared by Ambassador Hill and
19 about the formation of a credible political body for Albanians in
20 Kosovo. That's right, isn't it?

21 A. That's right.

22 Q. And the KLA representatives were going to take the draft
23 agreement away and come back with their comments on it; correct?

24 A. That's correct.

25 Q. And that's something that they -- they ultimately did come back

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1 with comments on it, didn't they?

2 A. They did.

3 Q. Albeit, I think you say it took three weeks for them to respond
4 and by that time it was a little late; is that right?

5 A. I knew -- I remember it took a long time. It took a long time,
6 and Chris Hill was rather impatient about it.

7 Q. And was one of the reasons it took a long time that they were
8 consulting --

9 A. Yeah.

10 Q. -- a group of people on how to respond; correct?

11 A. Precisely.

12 Q. But it wasn't a meeting primarily about KLA detentions, was it?

13 A. I don't -- that's when -- I just don't remember.

14 MR. ELLIS: I tender the newspaper article, Your Honours.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. FERDINANDUSSE: No objection.

17 PRESIDING JUDGE SMITH: 019593 to 019594 is admitted. Please
18 assign it an exhibit number.

19 THE COURT OFFICER: Your Honours, the document will receive
20 Exhibit 4D00040, and it's classified as public.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. ELLIS: Your Honours, I see the time. Is it a convenient
23 moment?

24 PRESIDING JUDGE SMITH: We'll take a short break for about
25 15 minutes, Witness. Yes?

1 THE WITNESS: May I respond once again to his last question on
2 this meeting --

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 THE WITNESS: -- and the -- whether there was discussion or not
5 of the two -- the two abductees.

6 Very simply, the easiest way to check that is to go back. A
7 cable was surely written reporting on the discussions at this
8 meeting, and if there was any discussion of those two abductees, it
9 would have been recorded in that cable. I just don't remember. It
10 was 25 years ago.

11 MR. ELLIS: Thank you.

12 PRESIDING JUDGE SMITH: All right. You may join the Court --

13 THE WITNESS: Okay.

14 PRESIDING JUDGE SMITH: -- Usher, and we will see you back here
15 in 15 minutes.

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

17 [The witness stands down]

18 PRESIDING JUDGE SMITH: We're adjourned for 15 minutes.

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

20 --- On resuming at 3.46 p.m.

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

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right, Mr. Byrnes. We will continue
25 with the cross-examination by Mr. Ellis.

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Cross-examination by Mr. Ellis

1 Go ahead, Mr. Ellis.

2 MR. ELLIS: Thank you, Your Honour.

3 Q. I just had a couple more questions in relation to the Tanjug
4 journalists and the LDK activists, Mr. Byrnes. And I think it's
5 right that you were present for the release on 27 November 1998.
6 That's right, isn't it?

7 A. Yes.

8 Q. And Jakup Krasniqi was not present at the release. It was
9 Sokol Bashota who was there and made a short speech. That's right,
10 isn't it? I'm sorry, the question was Jakup Krasniqi was not present
11 at the release. It was Sokol Bashota who was there and made a short
12 speech.

13 A. That's what I remember.

14 Q. And it was Sokol Bashota who was dealing with this issue with
15 you, wasn't it?

16 A. Yes.

17 Q. Now, I want to go in the time we have left today to the -- to go
18 to the place where you started, which was with the VJ soldier
19 negotiations in January 1999.

20 It's right, isn't it, that when you heard about the -- when you
21 heard that the VJ soldiers had been captured, you contacted
22 Mr. Krasniqi and asked to meet with him?

23 A. Yes.

24 Q. You were taken to SPOE00229803 by the Prosecution on Monday
25 morning.

1 MR. ELLIS: And could we have that back on the screen for a
2 moment.

3 THE COURT OFFICER: For the record, Your Honours, this is
4 P01092.

5 MR. ELLIS: I'm sorry. Thank you.

6 PRESIDING JUDGE SMITH: Thank you.

7 MR. ELLIS:

8 Q. Now, you had agreed with Mr. Krasniqi that you would meet in
9 Dragobil the next morning. That's right, isn't it?

10 A. Yes, sir.

11 Q. Were you aware at the time that Mr. Krasniqi was in the Shala
12 zone when he received that telephone call?

13 A. I was not.

14 Q. Because what's set out in this document was that he needed to
15 leave the Shala zone at 10.00 in the evening to travel to Divjake,
16 and that they had to travel through Mitrovice in order to arrive at
17 Dragobil to meet you. Were you aware of that at the time?

18 A. No.

19 Q. I think you will confirm that Mitrovice at the time was
20 controlled by the Serbian forces, wasn't it?

21 A. Indeed it was.

22 Q. And they were well aware that Mr. Krasniqi was the spokesperson
23 of the KLA, weren't they?

24 A. Yes.

25 Q. It was a risk for him to travel through Mitrovice at night in

1 order to get to the meeting with you the next morning, wasn't it?

2 A. A huge risk.

3 Q. And that's typical, isn't it, of the relationship that you had
4 with Mr. Krasniqi? He was responsive to requests for meetings with
5 you.

6 A. Yeah, indeed he was.

7 Q. Now, the meeting in Dragobil was, I think, the first of three
8 meetings that you had about the VJ soldier release. That's right,
9 isn't it?

10 A. Yes.

11 Q. The first one on 9 January 1999 in Dragobil?

12 A. Yes.

13 Q. The second on 11 January 1999 in a village called Drenoc in
14 Malisheve municipality?

15 A. Yes, that's right.

16 Q. And the third one was on 13 January 1999 in Likoc?

17 A. Likovac, yes, or Likoc.

18 Q. And it's at that third meeting that Ambassador Walker was
19 present at along with Mr. Krasniqi, Mr. Bashota, Mr. Buja?

20 A. Yes.

21 Q. These were high-profile and difficult negotiations, weren't
22 they?

23 A. Yes.

24 Q. It's right, isn't it, that what you were hearing was that the
25 Serbian forces were threatening to attack the KLA in order to secure

1 the release by force?

2 A. Yes. And I'm sure the KLA was hearing that as well.

3 Q. And, in fact, there was a build-up of troops to back up that
4 threat?

5 A. Yeah, KVM -- KVM monitors were reporting that.

6 Q. Are you aware that there was also considerable pressure on
7 Mr. Krasniqi and the KLA coming from zone commanders and others not
8 to give in to pressure to release the soldiers?

9 A. I was not until right now.

10 MR. ELLIS: Well, could I show you DJK00751.

11 Q. This is an extract from a longer -- well, this is a long article
12 published later. But what I want to take you to is to page DJK00755.

13 MR. ELLIS: And if we could scroll down a little.

14 Q. What's reproduced here is, for example, I'll read you to the
15 telegram from OZ Drenica, amongst others. It's stated:

16 "We are with you, don't succumb to the unscrupulous pressure of
17 the international factor! Drenica will be a strong support."

18 And then at the bottom of the page, the operation zone of
19 Dukagjin in the support telegram sent to the operational zone of
20 Shala -- the zone of Dukagjin, you remember, is Ramush Haradinaj's
21 zone; correct?

22 A. That's right.

23 Q. "We are with you, the blackmail and the pressure do not frighten
24 us."

25 So what's happening at the time is that there's a significant

1 amount of pressure also coming from certain quarters on the KLA to
2 not release the soldiers or at least not release them without
3 securing an exchange.

4 A. Yeah, I -- yes, I -- I was unaware of this pressure or how it
5 was being expressed towards Rrahman Rama in the Shala zone.

6 Q. Although you weren't aware of these particular telegrams, you
7 were aware that Mr. Krasniqi and the others in the delegation were
8 under a significant amount of pressure in those negotiations. During
9 the meetings on the 9th, the 11th, and the 13th, there was a
10 significant amount of pressure on Mr. Krasniqi and the others.

11 A. I was not -- he never spoke of being under pressure, and, hence,
12 I was unaware that he was. One could -- I don't -- one could assume
13 he was under pressure because whenever we hit a decision point,
14 Mr. Krasniqi had to call somebody. He did not tell us who he was
15 calling, but he did have to call somebody.

16 But, again, to repeat, I was not aware directly that he was
17 under pressure.

18 Q. And it was a tense situation, wasn't it?

19 A. Yeah, it was tense in Shala Bajgore in the field because the
20 build-up of Serbian military forces. And it was tense particularly
21 on 13 January in Likovac.

22 Q. And at the same time, there were a number of KLA fighters who
23 had been detained and were in Serbian custody?

24 A. That's right.

25 Q. And there was a concern about the fate of those men and women,

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1 wasn't there?

2 A. Yes.

3 Q. And, indeed, that concern was reasonable at the time given that
4 they were in Serbian custody as KLA members; yes?

5 A. Yes.

6 Q. Could I show you, please --

7 MR. ELLIS: Before we take down the document currently on the
8 screen, I tender that newspaper article, Your Honours.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MR. FERDINANDUSSE: It doesn't look like a newspaper article to
11 me, but I have no objection.

12 PRESIDING JUDGE SMITH: DJK00751 is admitted.

13 THE COURT OFFICER: Your Honours, just a clarification. The
14 entire document or just one page?

15 PRESIDING JUDGE SMITH: Mr. Ellis, are you offering just page
16 755 or the entire document?

17 MR. ELLIS: Your Honour, can I review that and come back to you?
18 I don't want to admit the whole thing unnecessarily.

19 PRESIDING JUDGE SMITH: Okay. That's fine. Go ahead.

20 MR. ELLIS: Could we now have on screen, please, K050-8120.

21 Q. In fact, we may not need to, Witness. Were you aware that the
22 OSCE had been allowed to see the captured Serbian soldiers?

23 A. I don't recall.

24 MR. ELLIS: In that case, could we have, please, page 8126 from
25 this document on the screen. I'm sorry. I think I saw it flash up

1 for a moment.

2 Q. And I'm just looking at the paragraph fourth down, beginning:

3 "On Sunday ..."

4 So had you heard at the time that the -- from the OSCE that the
5 captive soldiers were being treated well in a heated building on a
6 mountainside near the village of Stari Trg?

7 A. I do not remember hearing that.

8 Q. Were you aware that there was a distinction here because the KLA
9 had allowed the OSCE to visit the VJ soldiers, whereas there hadn't
10 been a visit to the captured KLA fighters?

11 A. Again, I was unaware that the KVM had been allowed to visit the
12 captured soldiers, and I was certainly aware that neither KDOM nor
13 KVM had been allowed to visit the captured Albanian -- Kosovo -- UCK
14 soldiers.

15 Q. Now, I think you alluded to it earlier today, but one of the
16 issues was that the KLA sought a simultaneous exchange.

17 A. Right.

18 Q. Whereas the Serbian position was it had to be staggered. That's
19 right --

20 A. Yes.

21 Q. -- isn't it?

22 A. Absolutely.

23 Q. There's nothing unusual in an armed conflict in a prisoner
24 exchange taking place, is there?

25 A. Yes, as we've witnessed over the years.

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1 Q. As indeed we witness in Ukraine at the moment --

2 A. Yes.

3 Q. -- on a regular basis; yes?

4 A. Yes.

5 Q. And given the way in which Serbian forces had treated captured
6 Albanians in the past, at the very least it's not an unreasonable
7 starting position to ask for simultaneous exchange, is it?

8 A. That's right. And there was no precedent for that either.

9 Q. No precedent for what, sorry?

10 A. For simultaneous exchange between the UCK and the Serbs or the
11 VJ.

12 Q. And it was -- to an extent the Serbian side were trying to save
13 face, weren't they, and avoid the publicity of an exchange?

14 A. The Serbian side made that very clear.

15 Q. And ultimately it was the KLA who compromised, and there was a
16 staggered agreement with the VJ being released and then the -- ten
17 days later the KLA fighters being returned; correct?

18 A. That's right.

19 Q. Now, you've said in your witness statement, and I think just a
20 moment ago, that throughout these discussions the KLA representatives
21 were on their phones talking to people. That's right, isn't it?

22 A. That what?

23 Q. During these negotiations, the KLA representatives were on their
24 phones talking to individuals; correct?

25 A. Mr. Krasniqi, yes, was on the phone regularly.

1 Q. And I'll show you this part of your witness statement.

2 MR. ELLIS: It's P01066 at paragraph 131. No, that was the
3 right page. Sorry. I think if we can go to the next page. Yes, top
4 of this page.

5 Q. What you say there, Witness, is:

6 "Jakup Krasniqi in particular was always on the phone. He would
7 get off the phone and tell me this is what they were willing to do.
8 I would say this was not enough and he would go back to the phone."

9 That's how you recall it; correct?

10 A. Yes.

11 Q. And it continues at paragraph 132:

12 "Eventually, Krasniqi went into the kitchen and talked to an
13 unknown person with authority on the phone for about 15 minutes. He
14 finally came back and said, okay we can do it."

15 Is that your recollection?

16 A. Yes.

17 Q. So it's right, isn't it, that you didn't know who he was
18 speaking to on the telephone or, indeed, if he was speaking to more
19 than one different person in those conversations?

20 A. That's exactly right.

21 Q. But you did have the impression at the time that he was not the
22 decision maker?

23 A. You're absolutely right.

24 Q. And, again, one of the reasons these negotiations took place
25 over three days was because of a need on the KLA side to consult?

1 A. Yes.

2 Q. And you've said, I think in your second preparation note, that
3 Mr. Krasniqi did a really good job in that meeting. Is that your
4 recollection of events?

5 A. Yes. He wanted to get -- he wanted to get a positive result.
6 He wanted the exchange to work.

7 Q. And this was a clear example of what you started our -- our
8 questions by responding that Mr. Krasniqi was somebody who worked
9 hard to get to an agreed outcome.

10 A. Yes. I -- yes, he did. I thought of him as a pragmatist.

11 Q. Now, you've said that Mr. Krasniqi told you that he had told
12 Rrahman Rama to release the VJ soldiers. That's right, isn't it?

13 A. That's correct.

14 Q. You didn't actually hear the conversation between Mr. Krasniqi
15 and Mr. Rama?

16 A. No, I didn't, but I wouldn't have understood it had I heard it.

17 Q. Fair point. Of course, it would have been in Albanian.

18 A. Right.

19 Q. So you wouldn't know if the words used were phrased as a request
20 or an order or --

21 A. Exactly.

22 Q. -- quite what it was?

23 A. Exactly.

24 Q. But after all the telephone conversations, you understood that
25 Mr. Krasniqi was passing on what had been decided to Mr. Rama.

1 That's right, isn't it?

2 A. Yes, and he told me that he directed that.

3 Q. You've said, I think in your preparation note, paragraph 7, that
4 the General Staff had limited control over the zones, and that the
5 General Staff dealt with the political questions, and the zones were
6 prepared to accept that.

7 That's a fair summary, isn't it?

8 A. Yeah, I -- generally I think that's fair.

9 Q. And this was nothing if not a political situation that had
10 arisen in relation to the VJ. It was a high-level discussion, with
11 the ambassadors being involved and the General Staff being involved;
12 correct?

13 A. I regarded this as a political issue, high-level political
14 issue.

15 Q. So it would be the kind of issue that you would regard as
16 something that the General Staff could deal with?

17 A. Yes.

18 Q. Whereas, for example, detaining a person in a field would be a
19 military operational thing that would be dealt with lower down;
20 correct?

21 A. Yeah, my assumption -- and, again, it's -- let me emphasise it's
22 an assumption, that the detentions in the field were the
23 responsibility or were done at the direction of zone commanders.

24 Q. And as you've said, there was no precedent for this exchange
25 during the war in Kosovo, was there?

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1 A. We set -- this set a precedent.

2 Q. At the time it happened, it was a unique situation --

3 A. Yes.

4 Q. -- which had come up. You've also given some evidence about the
5 release of five Serbian civilians from Likoc, and I think it's right
6 that you say those civilians were held in a separate annex in Likoc;
7 is that right?

8 A. That's right.

9 Q. And you certainly weren't aware that they were there at all
10 until somebody mentioned it.

11 A. That's right.

12 Q. There was a discussion with the Prosecution about the date when
13 the five civilians were released, and I think you placed it at
14 13 January; is that right?

15 A. Yeah -- yeah. Yes, on the 13th.

16 Q. Because that's occasion when you remember being part of a very
17 long meeting in Likoc --

18 A. That's right.

19 Q. -- that Mr. Krasniqi and Ambassador Walker and others were at;
20 correct?

21 A. That's right.

22 Q. And you --

23 A. I -- if I can continue, I remember that we -- David Meyer and I
24 felt this -- a sense of almost euphoria coming out of that, that we
25 had -- not "we" personally, but an agreement to exchange prisoners

1 had finally been reached. And as a plus, we were taking -- KVM
2 actually was taking back home these Serbian peasants who had been
3 abducted a day or two before. It was a big day.

4 Q. Whereas I think for Mr. Krasniqi, there was a period of ten days
5 waiting to see whether --

6 A. Yeah.

7 Q. -- the KLA fighters were, indeed, going to be returned; correct?

8 A. That's right.

9 Q. Now, in your evidence on Monday, and this is from the draft
10 transcript on page 43, at lines 4 to 19, you said:

11 "My recollection is Jakup Krasniqi told me that Sami Lushtaku,
12 who was the Drenica zone commander, was holding five elderly Serbs."

13 Is that right? Is that your recollection?

14 A. I think it's a misrecollection or I misspoke. When I read this,
15 I think it was -- it was Sokol Bashota who told me that. Then I went
16 to Mr. Krasniqi, and he made it happen.

17 Q. Couldn't it be that it was Mr. Bashota who dealt with both,
18 telling you and release, Witness?

19 A. No. I remember Mr. Krasniqi ordered Sami Lushtaku to release
20 the prisoners to KVM.

21 Q. All right. Well, we'll carry on.

22 MR. ELLIS: Can I show you DJK00738, please.

23 Q. I should have asked, Witness, are you all right for me to carry
24 on? I think we have 15 minutes left in the day, but I appreciate
25 it's been a long day already.

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1 A. No, we can carry on.

2 Q. Great. Then I hope you see on the screen DJK00738.

3 A. Yes, I do.

4 Q. Can I give you a moment to look over that.

5 MR. ELLIS: Thank you.

6 Q. Clearly a *New York Times* article from 14 January about the
7 release of the VJ soldiers that we've been discussing, isn't it?

8 Sorry, for the transcript -- I think I saw you nodding, but for
9 the transcript --

10 A. Yes, I'm sorry.

11 Q. Thank you. And what the article states on the far right column
12 is that:

13 "The eight army soldiers were turned over to the monitors and
14 then to the army, and were back at their barracks within an hour of
15 Mr. Walker's announcement."

16 That's right, isn't it?

17 A. I think so, yes. I know that they were back at their barracks
18 soon.

19 Q. So that was on 13 January. And then the exchange with the KLA
20 fighters was to come ten days later on 23 January. That's right?

21 A. That's right.

22 MR. ELLIS: I tender that article, Your Honours.

23 PRESIDING JUDGE SMITH: No objection from the Prosecution, so
24 DJK00738 is admitted.

25 THE COURT OFFICER: Your Honour, the document will receive

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1 Exhibit 4D00041. Classification is not indicated at the moment in
2 Legal Workflow.

3 PRESIDING JUDGE SMITH: This can be a public --

4 MR. ELLIS: Yes, it's a newspaper article --

5 PRESIDING JUDGE SMITH: -- document?

6 MR. ELLIS: Yes.

7 PRESIDING JUDGE SMITH: Classify it as public then.

8 THE COURT OFFICER: Thank you.

9 MR. ELLIS: Could I next have on the screen, please,
10 SITF00385623.

11 Q. First question: Do you recognise this as the sort of format
12 that was used in KVM for recording updates on events that had
13 happened?

14 A. No, I don't.

15 Q. Very well. Do you see that on that first page it records that
16 on 22 January 1999 at 8:45:

17 "... HQ KVM was informed by MUP Pristina LTC Adamovic, that 5
18 Serb civilians were kidnapped today from the village of Nevoljani ...
19 near Vucitrn."

20 A. Yes.

21 Q. You've seen that?

22 A. I've read that.

23 MR. ELLIS: Can I take you next to the third page of this
24 document ending 625.

25 Q. And if I can invite you to have a look at 2a., and, sorry, if we

1 can scroll down a little bit, it records there that the KLA have
2 stated that they have the five Serbs and will release them provided
3 that no MUP action is taken against Vucitrn. And then at c., it
4 says:

5 "RC-2 is fully aware of the situation and is in touch with both
6 sides."

7 RC-2, would that be regional centre within the KVM?

8 A. That's what I assumed when I read it.

9 Q. So this would suggest that the second regional centre of KVM was
10 aware of the detention of five Serbs and was in touch with both
11 sides; correct?

12 A. Yes.

13 Q. And there was a hierarchy, if you like, within KVM so that the
14 regional centres would be in touch with their regional counterparts
15 in the KLA. You wouldn't have a regional centre being in touch with
16 General Staff, would you?

17 A. I don't know. My assumption was their regional centres in many
18 cases, but not all, were originally KDOM outstations. They added --
19 they had much -- they had many more resources, personnel resources,
20 and they added additional outstations or regional centres so they
21 could -- but -- but our outstations were in touch with local UCK
22 leaders and in most instances, most cases zone commanders. Not in
23 every case, but most cases.

24 My assumption was when KVM took over, they took over those
25 contacts as well. And in many cases, the KDOM personnel who manned

1 those stations were personnel who were transferred by the US
2 Government to KVM. So those centres would have had responsibilities
3 to be in touch with both the local Serbian authorities and, if
4 possible, UCK officials in the area.

5 Q. So what appears to be going on here then is that --

6 A. And they say that:

7 "RC-2 is fully aware and in touch with both sides."

8 Q. Exactly. So the detention of five Serb civilians at that time
9 was something KVM were aware about. It had been reported --

10 A. Clearly.

11 Q. -- to them by the MUP, and they were in touch with both sides
12 already; correct?

13 A. Right.

14 Q. And "in touch with both sides" is probably the regional centre
15 being in touch with the local command in Likoc; correct?

16 A. Yes.

17 MR. ELLIS: I tender that document, Your Honours.

18 MR. FERDINANDUSSE: No objection.

19 PRESIDING JUDGE SMITH: SITF00385623 is admitted. Please assign
20 an exhibit number.

21 THE COURT OFFICER: Your Honours, document with ERN SITF00385623
22 to 00385626 will be admitted as 4D00042. Classification is
23 confidential.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. ELLIS: I believe coming from KVM it should be confidential,

1 but I'll be corrected if I'm wrong. Yeah, confidential, please.

2 PRESIDING JUDGE SMITH: It will remain confidential then.

3 MR. ELLIS: Thank you.

4 Could I next have on the screen P00864. And if we could scroll
5 down a little, please. Sorry, can we go back up just a fraction.

6 Q. So on -- this is recording the minutes of a meeting, and it --
7 the header at the top being "OSCE." And it begins by recording on 23
8 January 1999, an OSCE patrol was conducting a meeting with the
9 commander of KLA and his liaison officer in the village of Likovac.

10 "The topic of the meeting was the release of 5 people."

11 Correct?

12 A. Yes.

13 Q. And it seems from that that the participants of the meeting
14 were, for the KVM, a Mr. Nilsson and a Mr. Ciarka. Are they people
15 you're familiar with --

16 A. No.

17 Q. -- from regional centre 2?

18 A. No.

19 Q. Very well. And the people mentioned from the KLA are the
20 commander and his liaison officer in the village of Likoc. That's
21 right, isn't it?

22 A. I'm sorry?

23 Q. The people that are mentioned from the KLA there are the
24 commander of KLA and his liaison officer in the village of Likoc;
25 correct?

1 A. Yeah, that's -- yeah, that's pretty unspecific.

2 Q. Indeed.

3 A. Likoc was the headquarters of the Drenica zone. So when I read
4 this, the question that arose was were they dealing with
5 Sami Lushtaku or were they dealing with somebody farther down the
6 food chain. And that's not clear.

7 Q. Now, just on that point. Of course, we're still in January 1999
8 here, so the commander of the Drenica zone would still be
9 Sylejman Selimi, wouldn't it, at that point in time?

10 A. No, I -- I don't think so. I think it was Sami Lushtaku, but I
11 may be -- that may be a misunderstanding on my part.

12 Q. But isn't it right that what you've described is a palace coup
13 which led to Sylejman Selimi becoming the commander was in between
14 Rambouillet and Paris -- or at the time of Rambouillet, in fact?

15 A. No, you're absolutely right. But it goes back to the general
16 point that if Sultan Selimi was, in fact, the commander -- zone
17 commander for Drenica, was he the fellow that these two gentlemen
18 from the KVM mission were dealing with, or was it somebody -- a
19 lower-level official who was responsible just for the village of
20 Likovac.

21 Q. Quite.

22 A. That memo doesn't make that clear.

23 Q. No, no. It could be the commander of the zone or somebody
24 below --

25 A. Right.

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1 Q. -- that level --

2 A. Right.

3 Q. -- in Likoc; correct?

4 A. Yeah.

5 Q. I see.

6 MR. ELLIS: Can we scroll down to paragraphs 4 and 5. I'll just
7 give you a moment to read those. Sorry, there is fine.

8 Q. So the assertion from the KLA commander, whose name we don't
9 have, was that they did have the five people, they were in good
10 condition, and that they'd been arrested due to the fact they were
11 carrying heavy weapons. Had you heard that at the time, Witness?

12 A. I don't remember hearing that.

13 Q. All right. And in the penultimate paragraph on that page, the
14 commander seems to have taken the OSCE representatives to the place
15 where the prisoners were staying, and the prisoners said they had
16 been treated well. Do you see that in the document?

17 A. I did.

18 Q. At that point, they say, at the final paragraph:

19 "At approx. 1200hrs the meeting where interrupted by a man from
20 the USKDOM. He demanded to speak to one of the KLA Commander."

21 Do you know who the person from US KDOM involved in that would
22 be?

23 A. I have no idea.

24 Q. Very well.

25 A. That's ... is there more to this?

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1 Q. Yeah, there's a second page.

2 MR. ELLIS: Could we go to the second page.

3 THE WITNESS: Maybe that would refresh my memory. And this
4 occurred in January?

5 MR. ELLIS:

6 Q. 23 January 1999, yes.

7 A. We were -- KDOM was much reduced. I think we were down to 15 --
8 14 or 15 officers and five vehicles, so we were doing reduced
9 patrols.

10 Q. Very well. Now, you should see a paragraph three down dealing
11 with the time being approximately 1300 hours. And what seems to be
12 going on there is that the KLA commander, whoever it was, has already
13 promised that the prisoners would be released but wanted to show the
14 weapons before releasing them. Do you see that?

15 A. Yes.

16 Q. And ultimately at the fifth paragraph down --

17 MR. ELLIS: Sorry, if we can go down a little. Yes. The
18 paragraph beginning: "The time went on and nothing happened ..."

19 Q. So approximately by 6.00:

20 "Approx. 1800hrs the weapons was arrived and the 5 prisoners
21 (Serb) was taken in to the room to stand behind the weapons."

22 You see that?

23 A. I do.

24 Q. Presumably they intended to demonstrate that they did have
25 weapons at the time; correct? I mean, that would be the reason.

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1 A. I'm sorry?

2 Q. Presumably that was intended to show them with the weapons to
3 the observers, to --

4 A. Yes.

5 MR. ELLIS: And sorry, if we could just scroll up again, I
6 missed a point on an earlier paragraph.

7 Q. In fact, yes -- what the KLA commander said then was "that they
8 could released them already yesterday but he wanted to release them
9 together with the OSCE to show that they have been treated well."

10 Do you see that in the document?

11 A. I do.

12 Q. Then what happens --

13 MR. ELLIS: If we could go down to -- if we can scroll down a
14 little bit further.

15 Q. Can I just invite you to have a look at the next -- the three
16 paragraphs beginning with: "Approx. 1800hrs ..."

17 A. Okay.

18 Q. So what seems to happen is that there's an arrival of the high
19 representatives from OSCE, including General DZ and Ambassador Keller
20 with the nine KLA prisoners who were being released pursuant to this
21 exchange; right?

22 A. Right.

23 Q. And you were there for that release, were you?

24 A. I remember being present when the nine UCK prisoners were
25 released, but I -- what's described here does not -- to be very

1 honest, does not ring any bells.

2 Q. No. So what's described here is that --

3 A. In this memo.

4 Q. What's described in this memo is that the local KLA had moved
5 the five Serb prisoners back to where they had been in order to have
6 a meeting in the main room with --

7 A. Yeah.

8 Q. -- the high representatives; right?

9 A. Yeah. I -- as one of the other memos showed, I -- I had the
10 responsibility for ten days to drive to Nis every day to visit the
11 KLA prisoners in the army prison in Nis on the VJ base, and I did
12 that. I think that was one of the reasons the UCK felt some
13 assurances that they'd get the prisoners back. And then I went out
14 and welcomed them back.

15 I don't remember any meeting. I remember Ambassador Keller
16 and Drewienkiewicz, DZ, being there as well. But this meeting, with
17 speeches and everything else, it might have happened, but that was 25
18 years ago and it's completely gone from my memory.

19 Q. Of course. And finally in this document, what's described in
20 this last paragraph is that whilst the meeting was going on with the
21 release of the nine KLA prisoners, the OSCE representatives drive up
22 and collect the five Serbian prisoners and take them away?

23 A. Yeah.

24 Q. Yes? So that's all happening, isn't it --

25 A. Yeah.

1 Q. -- out of sight of the main meeting about the nine returning KLA
2 soldiers.

3 A. I just don't remember that.

4 PRESIDING JUDGE SMITH: Mr. Ellis, we've passed the time.

5 MR. ELLIS: I apologise, Your Honour. Yes, I have a little bit
6 more to go, so I think it would probably be best --

7 PRESIDING JUDGE SMITH: You'll have to do it tomorrow.

8 MR. ELLIS: -- if we continue tomorrow. Thank you.

9 PRESIDING JUDGE SMITH: Witness, we're finished for today.

10 THE WITNESS: Thank you, Your Honour.

11 PRESIDING JUDGE SMITH: You can leave the courtroom with the
12 Court Usher. Thank you for being with us today. We will begin
13 tomorrow again at 9.00. We don't anticipate you staying over after
14 tomorrow. Thank you for being with us.

15 THE WITNESS: [Microphone not activated].

16 PRESIDING JUDGE SMITH: Remember not to speak to anybody about
17 your testimony.

18 [The witness stands down]

19 MR. ELLIS: I'm sorry. I lost track of time there. I think I
20 have less than half an hour to go, Your Honours will be relieved.

21 PRESIDING JUDGE SMITH: Mr. Emmerson, I wanted to get to you
22 today, but it looks like that didn't happen.

23 MR. EMMERSON: Yes. And as you know, I indicated to the Court
24 yesterday that I was going to cut my two-hour estimate down to an
25 hour. I fear I may have been slightly optimistic. I won't be two

1 hours, but I may be more than an hour, I think, without -- and that's
2 avoiding all duplication.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. ELLIS: And, Your Honours, I promised to come back to you on
5 the tender.

6 We would seek just the two pages, 755 and 756, DJK.

7 PRESIDING JUDGE SMITH: Madam Court Officer, do you have that
8 for the tender? Okay. It is admitted under those circumstances.

9 Thank you everybody for your attention. We'll see you tomorrow
10 at 9.00.

11 We are adjourned.

12 --- Whereupon the hearing adjourned at 4.35 p.m.

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